

CODIFIED ORDINANCES OF WESTLAKE
PART SEVEN - BUSINESS REGULATION CODE

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CODIFIED ORDINANCES OF WESTLAKE
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CHAPTER 707
Outdoor Dining Facilities

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CROSS REFERENCES

Alcoholic beverages - see GEN. OFF. Ch. 529
Noise control - see GEN. OFF . 531

707.01 PURPOSE.

The purpose of this chapter is to protect the health, safety and welfare of persons residing in areas adjacent to or contiguous with commercial establishments which provide outside dining facilities and to protect the health, safety and welfare of persons using public roadways in areas adjacent to such establishments by regulating the manner and hours of operation of outside dining facilities. It is not the purpose of this chapter to prohibit all outside dining facilities within the City, but simply to regulate the hours, location and manner in which such facilities are used within the City.

(Ord. 1986-151. Passed 10-16-86.)

707.02 DEFINITIONS.

As used in this chapter:

- (a) "Outdoor dining facility" means an area located adjacent to an existing restaurant in compliance with all zoning and building ordinances of the

City, including the provisions of this chapter and not in excess of thirty three and one third percent (33 1/3%) of the total square footage of the existing restaurant, and which shall not front onto a public street or roadway of the City, unless adequately buffered as determined by the Director of Inspections in light of the placement and setback of such facility.

- (b) "Restaurant" means a commercial establishment for the serving and consumption of food and beverages on the premises, which establishment shall serve both food and beverages and shall have, as its primary consumption facility, an indoor dining area, and whose patrons are served at each table by a waiter or waitress.
(Ord. 1986-151. Passed 10-16-86.)

707.03 APPROVAL.

(a) No person, firm, partnership or corporation shall operate an outdoor dining facility, as defined within Section 707.02, without having first obtained approval from the Building Department or other appropriate City department regarding compliance with all applicable zoning, building and other provisions of the Codified Ordinances.

(b) Any outdoor dining facility, as defined, currently existing at the time of the passage of this chapter, all of which facilities have previously been impermissible under the Codified Ordinances, may continue to operate provided, however, that application shall be made to the Building Department within thirty days for review and approval of the existing and hitherto impermissible outdoor dining facility. If upon review by the Building Department it is determined that the facility is not in compliance with the relevant provisions of this chapter, operation of such facility shall cease until it is brought into compliance or a variance is granted by the Board of Zoning Appeals. (Ord. 1986-151. Passed 10-16-86.)

707.04 STRUCTURAL REQUIREMENTS.

In addition to the relevant provisions of the Zoning or Building Codes, approval of any outdoor dining facility shall not be granted unless the following further conditions are met prior to the construction of such facility:

- (a) Lighting. Lighting of outdoor dining facilities shall be such as to minimize the intrusive effect of glare and illumination upon any abutting residential areas and shall be approved only after review by the Building Department.
- (b) Buffering. Buffering shall be provided as required under the applicable code provisions to shield abutting residents from the view and noise attendant upon such business establishments. Further, all outdoor dining facilities shall be surrounded by an ornamental fence constructed of stone, wood, vinyl, wrought iron, hedges or shrubbery and shall be of a minimum height of four feet.
(Ord. 1998-204. Passed 9-3-98.)

- (c) Flooring. The floor space of any outdoor dining facility and any walkway connecting such facility with the restaurant proper, the parking lot or any sidewalk shall be hard-surface and constructed of either wood, brick, slate, tile or concrete. (Ord. 1986-151. Passed 10-16-86.)

707.05 HOURS OF OPERATION.

(a) An outdoor dining facility shall operate only between the hours of 8:00 a.m. and midnight weekdays, 1:00 a.m. weekends.

(b) Any outdoor weather protection utilized in the operation of outdoor dining facilities including canopies, wind/rain screens or other such devices shall not be used between January 1 and March 15. Any user of such outdoor weather protection shall first obtain approval of the Planning Commission as to their use, material, and appearance. Outdoor weather protection shall be properly stored upon close of each business day.

(c) Notwithstanding the provisions set forth herein, restrictions set forth in a development plan for any outdoor dining facility shall also apply to that outdoor dining facility. (Ord. 2006-184. Passed 12-20-07.)

707.06 NOISE REGULATION.

Entertainment, whether by band, orchestra, instrument, musician, singer, radio, television, loudspeaker, microphone, recital or any other individual, group or mechanical device shall not be permitted in any outside dining facility nor within any food or beverage serving establishment if the noise from such entertainment is of such a volume so as to cause a disturbance to abutting property owners, in accordance with Section 531.02 of the Westlake Codified Ordinances. (Ord. 2010-90. Passed 6-17-10.)

707.07 SERVICE OF ALCOHOLIC BEVERAGES.

Alcoholic beverages may be served in outdoor dining facilities only in conjunction with the service of food and meals and only if such beverages are served by the glass so as to protect adjacent property owners from excessive litter and trash and so as to protect the public roadways from inadvertent or purposeful deposit of glass or metal containers within such roadways thereby imperiling the public health, safety and welfare. (Ord. 1986-151. Passed 10-16-86.)

707.08 PROHIBITIONS.

Any area proposed for outdoor dining facilities not within the definition of such outdoor dining facilities as set forth in Section 707.02 is hereby prohibited. (Ord. 1986-151. Passed 10-16-86.)

707.99 PENALTY.

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

CHAPTER 711
Fortunetelling and Clairvoyancy

711.01 License required.

711.99 Penalty.

711.01 LICENSE REQUIRED.

No person unless legally licensed to do so shall represent himself to be an astrologer, fortuneteller, clairvoyant or palmist.

711.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a minor misdemeanor. Each day's continued violation shall constitute a separate offense.

CHAPTER 713
Gas and Oil Wells

<p>713.01 Definition; permit required; fee.</p> <p>713.02 Permit application.</p> <p>713.03 Plot plan required.</p> <p>713.04 Referral to Planning Commission.</p> <p>713.05 Permit issuance; bond required.</p> <p>713.06 Duration of bond; insurance in lieu of bond.</p> <p>713.07 Limitation on permit issuance; termination for failure to drill.</p> <p>713.08 Drilling near buildings, rights of way; fire extinguishers required.</p>	<p>713.09 Operation of existing wells.</p> <p>713.10 Abandonment and plugging of wells; permit and fee.</p> <p>713.11 Types of wells required to be plugged.</p> <p>713.12 Plugging requirements.</p> <p>713.13 Discovery of abandoned well.</p> <p>713.14 Maintenance of wells; leakage.</p> <p>713.15 Drilling hours.</p> <p>713.16 Prescribing methods where provisions ineffective.</p> <p>713.17 Gas and oil well plugging.</p> <p>713.99 Penalty.</p>
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CROSS REFERENCES

Regulations by Ohio Division of Mines - see Ohio R.C. 4151.03, and regulations adopted by Chief of the Division of Mines pursuant thereto, effective May 10, 1964
Oil and gas wells - see Ohio R.C. Ch. 1509
Disturbing the peace - see GEN. OFF. 509
Abandoned excavations - see GEN. OFF. 521.03

713.01 DEFINITION; PERMIT REQUIRED; FEE.

"Person" as used in this chapter, means any person, firm or corporation.

No person shall drill or cause to be drilled a well for gas or oil within the City, without first obtaining a permit issued by the Director of Inspections, as hereinafter provided for each well to be drilled. The fee for such permit shall be five hundred dollars (\$500.00). (Ord. 1973-56. Passed 6-21-73.)

713.02 PERMIT APPLICATION.

No person shall drill a gas or oil well within the City without first securing a permit to do so. For each well to be drilled application for a permit shall be made to the Director of Inspections, upon such forms as he may prescribe. (Ord. 1973-56. Passed 6-21-73.)

713.03 PLOT PLAN REQUIRED.

Every person who makes application for a permit to drill a gas or oil well shall submit a plot plan by a licensed surveyor, showing thereon the exact location of the well to be drilled. Such plot plan shall remain on file with the Director of Inspections.
(Ord. 1973-56. Passed 6-21-73.)

713.04 REFERRAL TO PLANNING COMMISSION.

(a) The Director of Inspections, upon receipt of a plot plan and an application for a permit to drill a gas or oil well, will cause an investigation to be made of the premises for which such permit is sought. Upon completion of the investigation, the Director shall submit a report of such investigation, and the application for the permit and the plot plan, to the Planning Commission for its recommendation. The Commission may recommend approval or disapproval of the application, depending upon compliance or noncompliance thereon with the provisions of this chapter.

(b) The Commission shall have the right to recommend rejection of any application for a permit where, by reason of the location of the proposed well and the character and value of the permanent improvements already erected, and the use to which the land and surrounding areas is adapted for civic purposes or for sanitary reasons, the drilling of an oil or gas well will constitute a serious disadvantage to the City and its residents. When a permit is refused the deposit of cash required to be made with the application shall be returned to the applicant. Appeal from the denial of a permit shall be to the Board of Zoning Appeals as provided by the City Charter and these Codified Ordinances.

(Ord. 1973-56. Passed 6-21-73.)

713.05 PERMIT ISSUANCE; BOND REQUIRED.

The Director of Inspections shall issue a permit to drill a gas or oil well upon receipt of an application, duly approved by the Planning Commission, and upon the applicant's furnishing a surety bond in the sum of two hundred thousand dollars (\$200,000) approved by the Mayor and conditioned upon the following:

- (a) The faithful observance of all provisions of law relating to drilling a gas or oil well;
- (b) Restoration of streets, sidewalks, utilities, public grounds and private grounds and all other places in the City which may be damaged, to their former condition;
- (c) Clearing the area of all litter, machinery, derricks, buildings, oil or other substances accumulated in the drilling operation;

- (d) Paying any and all damages for property damages or personal injuries arising out of the drilling operation; and
- (e) Saving and holding the City free and harmless from any and all liability arising out of the granting of such permit and operation of the drilling thereunder.
(Ord. 1973-56. Passed 6-21-73.)

713.06 DURATION OF BOND; INSURANCE IN LIEU OF BOND.

The bond, as provided for in Section 713.05, shall be in force and effect during the entire drilling operation and until such time as the well is capped, and for thirty days thereafter, at which time the applicant may discontinue the bond if he has complied with all the conditions thereof. In the event the applicant chooses to discontinue his bond as herein provided, he must deposit with the Director of Inspections, in lieu of the two hundred thousand dollar (\$200,000) bond, his insurance policies or certificates of insurance covering liability for property damage and personal injury. Such insurance must be maintained for such period of time as the well is in operation or is producing gas and oil.

(Ord. 1973-56. Passed 6-21-73.)

713.07 LIMITATION ON PERMIT ISSUANCE; TERMINATION FOR FAILURE TO DRILL

No permit shall be issued for the drilling of a well except upon the ground owned by the applicant or held by the applicant under an oil and gas lease or drilling contract from the owner, giving permission to drill the well. Nothing contained herein, nor any permit issued hereunder, shall be deemed to grant any right or license to the permittee to enter upon or occupy, in any respect, for drilling or production operations, any land except by written permission of the owner.

When a permit is issued, the same shall terminate and become inoperative without any action on the part of the City, unless, within sixty days from the date of issuance, actual drilling of the well has commenced. The cessation of the drilling operation for sixty days shall operate to terminate and cancel the permit, and the well shall be deemed abandoned. Thereafter, no person shall drill or operate any such well within the City without the issuance of another permit.
(Ord. 1973-56. Passed 6-21-73.)

713.08 DRILLING NEAR BUILDINGS, RIGHTS OF WAY; FIRE EXTINGUISHERS REQUIRED.

No person shall erect or use any drilling rig within 300 feet of any buildings in the City, without first obtaining, in writing, the consent of all the owners of such buildings within that radius as measured from the center of the proposed well. Every drilling rig shall be equipped with a fire extinguisher maintained in good condition. Further, no person shall drill any gas or oil well within 300 feet of any railroad right of way, street or highway as measured from the center of the proposed well to the nearest point of the right of way or dedicated portion of the street or highway.

(Ord. 1973-56. Passed 6-21-73.)

713.09 OPERATION OF EXISTING WELLS.

(a) No person shall clean, repair, extend, deepen or enlarge any existing gas or oil well without first obtaining a permit from the Director of Inspections. Application for such permit shall be made to the Director upon such forms as he may prescribe, and such application shall be accompanied by a fee of fifty dollars (\$50.00). A separate application shall be filed for each well to be cleaned, repaired, extended, deepened or enlarged..

(b) No person shall use, erect or construct any drilling rig within 300 feet of any building, for the purpose of cleaning, repairing, extending or deepening any existing gas or oil well, without obtaining written permission from the owner of such building.

(c) No person shall extend, deepen or enlarge any existing gas or oil well within 300 feet of the nearest point of a dedicated portion of any street, highway or railroad right of way.

(d) A permit is not required in order to swab, bail or remove debris from any existing gas or oil well.
(Ord. 1973-56. Passed 6-21-73.)

713.10 ABANDONMENT AND PLUGGING OF WELLS; PERMIT AND FEE.

(a) Permit Required. No person shall abandon or cause to be abandoned a gas or oil well without first obtaining a permit from the Director of Inspections. The fee for such permit shall be five dollars (\$5.00).

(b) Procedure. No person shall cause a gas or oil well to be abandoned or plugged without first notifying the Director of Inspections and Fire Chief of the intent to abandon or plug such well. Such person, after notification, shall furnish the Director a plot plan by a licensed surveyor indicating thereon the exact location of the well to be abandoned or plugged. Upon compliance with the notification and furnishing of a plot plan, application for a permit to abandon or plug may be obtained from the Director.
(Ord. 1973-56. Passed 6-21-73.)

713.11 TYPES OF WELLS REQUIRED TO BE PLUGGED.

Gas or oil wells, including, but not limited to, the following, must be plugged:

- (a) All abandoned wells;
- (b) All wells under parking lots, in storage or lumber yards and like installations, and under streets, roads, highways or rights of way;
- (c) Wells located within 200 feet of the proposed construction of a new building;

- (d) Wells located within the geographic confines of a new subdivision;
- (e) Wells located in sewer or water line rights of way;
- (f) Any water wells that are or were used in conjunction with the operation of gas oil wells; and
- (g) Wells located on a permanent parcel undergoing development or construction.
(Ord. 1987-149. Passed 7-2-87.)

713.12 PLUGGING REQUIREMENTS.

(a) All abandoned gas or oil wells must be plugged in a manner prescribed by the Ohio Division of Mines, State statutes and this chapter.

(b) In addition to requirements set forth by the Division of Mines, the following shall be required:

- (1) All wells to be plugged which are located under parking lots, roads, streets or highway rights of way or other areas to be used for public purposes, shall be enclosed in a brick or masonry manhole fitted with a steel cover not less than thirty inches in diameter. Such cover shall be plainly marked, "Abandoned Gas Well" and shall be used for access for inspection of the well.
- (2) All plugged wells must be vented by a vent pipe not less than two inches in diameter and of such height as prescribed by the Division of Mines, the State and the City Fire Chief and the City Director of Inspections. Such vent pipe shall have a drilled and tapped inspection hole with hole plug not less than one-half inch in diameter and not more than four feet above grade.
- (3) It shall be the duty of any person, in the drilling of a well or the cleaning of an abandoned well preparatory to the plugging of such abandoned well, to provide for a drilling-in control gate, which shall be so constructed as to effectually cut off the flow of gas to the top of the well and which can be operated at a remote point from the well.
- (4) All abandoned wells to be plugged must be cleaned out to a point approximately 100 feet below the top of the Niagara lime, then bridged solid and one or more lead plugs set and driven until all gas, oil and water are shut off, and then pressure cemented to within twenty feet of the existing eight inch casing. If the eight inch casing is not of sufficient quality and quantity, it should be removed and the ten-inch hole be reamed to the 200 foot level, and a like amount of good grade of eight inch casing be pressure

cemented to the surface to make sure that the vent will be of a more permanent nature. In the event it is a shallow well, it should be treated in the usual manner and filled with prepared fire clay to the surface and vented.

(Ord. 1973-56. Passed 6-21-73.)

713.13 DISCOVERY OF ABANDONED WELL.

(a) Any person being the owner or lessee of land, who discovers an abandoned gas or oil well, shall immediately notify the Fire Department and/or the Director of Inspections.

(b) Any person who discovers an abandoned gas or oil well during the development of any land or the construction of any building shall immediately cease all operations until notification is given to the Director of Inspections and the Fire Chief and such well is treated in accordance with the provisions of this chapter.

(c) No person engaged in any phase of construction shall remove any casing or piping of any abandoned well until such well has been reported to the Director of Inspections and the Fire Chief and to the representative of the State Division of Mines. No construction shall take place either over or near an abandoned gas or oil well until such well has been inspected and the recommended type of treatment has been made by the Chief in conformity with the laws of the State and the provisions of this chapter.

(Ord. 1973-56. Passed 6-21-73.)

713.14 MAINTENANCE OF WELLS; LEAKAGE.

No person being the owner of land or lessee of gas or oil well rights upon the land of another, shall permit a gas or oil well to become deteriorated, damaged or in such disrepair as to cause leakage of gas or oil. Such leakage of gas or oil shall constitute a nuisance, and repair shall be made forthwith.

(Ord. 1973-56. Passed 6-21-73.)

713.15 DRILLING HOURS.

Drilling is permitted twenty-four hours a day, but no driller may dress tools, sharpen bits or operate his forge between the hours of 9:00 p.m. and 6:00 a.m. in any area where there are inhabited dwellings within 1,000 feet of any drilling operations.

(Ord. 1973-56. Passed 6-21-73.)

713.16 PRESCRIBING METHODS WHERE PROVISIONS INEFFECTIVE.

If the provisions of this chapter cannot be applied, or if applied, would be ineffective in carrying out the protection which this chapter is meant to give, then the Director of Inspections, the Fire Chief and the Ohio Division of Mines may designate the method to be used.

(Ord. 1973-56. Passed 6-21-73.)

713.17 GAS AND OIL WELL PLUGGING.

Gas and oil wells, as defined in Section 713.11, shall be plugged prior to the issuance of any certificate of occupancy for a new building, structure or addition. Furthermore, no person shall occupy any new building or addition before gas or oil wells are plugged.
(Ord. 1987-148. passed 7-16-87.)

713.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the first degree.

**CHAPTER 715
Gasoline Stations**

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|---------------|---|---------------|-----------------|
| 715.01 | Posting current gasoline prices. | 715.99 | Penalty. |
| 715.02 | Contents, size and placement of signs. | | |

CROSS REFERENCES

Power to regulate advertising - see Ohio R.C. 715.65
Signs - see ZON. Ch. 1223

715.01 POSTING CURRENT GASOLINE PRICES.

No person engaged in the retail sale of gasoline to the general public shall fail to post on the premises from which such gasoline is sold the current selling price per gallon of gasoline offered for sale. In the event gasoline is dispensed or sold at varying prices, the price to be so displayed shall be the lowest price at which gasoline is offered for sale to the motoring public. (Ord. 1974-75. Passed 6-13-74.)

715.02 CONTENTS, SIZE AND PLACING OF SIGNS.

(a) Posting of prices as required in Section 715.01 shall include the type and grade of gasoline sold or offered for sale at retail on the premises. Posting, within the meaning of this section, shall be deemed accomplished where there is one sign twenty-two inches by twenty-eight inches attached to a pole sign of not more than two signs, twenty-two inches by twenty-eight inches placed on top of the gas pumps at each island of pumps. The signs shall be of a permanent nature, constructed from durable material, either wood, plastic or metal. The signs shall be clear, visible and legible to motorists traveling the streets and roadways immediately adjacent to the gasoline station. The signs shall have numerals of a minimum height of six inches. No commodity other than gasoline shall be advertised on the signs permitted in this section.

(b) The requirements for posting signs specified in Section 715.01 shall in no way be considered to be in violation of Part Twelve - the Zoning Code where a gasoline service station has already used the maximum allowable sign area permitted by the Zoning Code.
(Ord. 1977-32. Pased 5-19-77.)

715.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a minor misdemeanor for the first offense, and a misdemeanor of the fourth degree for each subsequent offense.

**CHAPTER 717
Christmas Tree Sales**

717.01	Permit required.	717.05	Lights.
717.02	Location restricted.	717.06	Clearance of lots.
717.03	Proximity of trees to lot lines, buildings.	717.07	Burning of trees.
717.04	Advertising signs.	717.08	Deposit.
		717.99	Penalty.

CROSS REFERENCES

Transportation of Christmas trees - see Ohio R.C. Ch. 4551

717.01 PERMIT REQUIRED.

No person shall place or offer for sale upon any lot or parcel of land within the City cut or live Christmas trees without first obtaining from the Director of Inspections a permit therefor. Cut or live Christmas trees may only be sold during the months of November and December. (Ord. 1994-147. Passed 7-7-94.)

717.02 LOCATION RESTRICTED.

The sale or display of Christmas trees at retail shall be permitted only by established nursery businesses within the City and charitable or non-profit organizations within the City. (Ord. 1994-147. Passed 7-7-94.)

717.03 PROXIMITY OF TREES TO LOT LINES, BUILDINGS.

No trees or other items permitted shall be stored or placed closer to the front lot line than five feet and no closer to any side lot line or rear lot line than five feet, nor closer to any frame building or an adjacent lot or parcel of land than thirty feet. (Ord. 1994-147. Passed 7-7-94.)

717.04 ADVERTISING SIGNS.

No sign advertising the sale of the items herein permitted to be sold shall exceed twenty square feet in area and all such signs shall be removed at the expiration of the Christmas tree permit. A temporary sign permit must be obtained from the Director of Inspections before any signs may be erected. (Ord. 1994-147. Passed 7-7-94.)

717.05 LIGHTS.

No flashing lights shall be permitted upon the premises where the trees are sold. All lights shall be shielded from shining upon any public highway, road or street or any adjacent buildings. Should lights be used, an electrical permit must be obtained from the Director of Inspections. (Ord. 1994-147. Passed 7-7-94.)

717.06 CLEARANCE OF LOTS.

Any lot or parcel of land upon which cut or live Christmas trees are sold, displayed or stored in conformity with the requirements of this chapter shall be cleared of all items for sale, as well as lights, signs and temporary shelters, on or before December 31, of each year. (Ord. 1994-147. Passed 7-7-94.)

717.07 BURNING OF TREES.

No burning of excess, damaged or surplus trees or other items shall be allowed. (Ord. 1994-147. Passed 7-7-94.)

717.08 DEPOSIT.

Any person applying for a permit as herein required shall pay ten dollars (\$10.00) to the City for said permit. (Ord. 1994-147. Passed 7-7-94.)

717.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a minor misdemeanor. (Ord. 1994-147. Passed 7-7-94.)

CHAPTER 719
Home Sales

<p>719.01 Home sale defined.</p> <p>719.02 Intent.</p> <p>719.03 Permit required; compliance; maximum number of sales.</p> <p>719.04 Permit application; fee; display.</p>	<p>719.05 Hours and merchandise permitted.</p> <p>719.06 Advertising signs.</p> <p>719.99 Penalty.</p>
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CROSS REFERENCES

Fraud by deception - see GEN. OFF. 545.05
 Advertising, billposting and handbills - see GEN. OFF.
 Ch. 503.
 Sidewalk obstructions - see GEN. OFF. 521.09
 Peddlers, solicitors and canvassers - see BUS. REG.
 Ch. 751

719.01 HOME SALE DEFINED.

As used in this chapter, "home sale" means a sale of personal property to the general public conducted on any portion of a resident's property within a Residential Zoning District, including but not limited to, garage sales, patio sales, yard sales, carport sales, basement sales, porch sales, driveway sales and the like, and the sale or offering for sale of any motor vehicle or recreational vehicle as defined in Section 1211.30 of the Zoning Code. (Ord. 1984-162. Passed 12-20-84.)

719.02 INTENT.

(a) It is the intent of this chapter to regulate, restrict and control home sales conducted on premises within Residential Zoning Districts.

(b) This chapter shall not apply to:

- (1) Nonprofit corporations, churches, temples or recognized fraternities, sororities, clubs or lodges conducting home sales, provided that such nonprofit corporations, churches, temples or recognized fraternities, sororities, clubs or lodges conduct their sales on real estate owned and/or occupied by such organizations; or

- (2) Sales conducted by nonconforming businesses located in Residential Zoning Districts.
(Ord. 1976-121. Passed 10-21-76.)

719.03 PERMIT REQUIRED; COMPLIANCE; MAXIMUM NUMBER OF SALES.

- (a) No person shall conduct a home sale within a Residential Zoning District or residential use in the City without first obtaining a permit from the Director of Inspections.
- (b) No person who has obtained a permit shall violate any of the provisions of this chapter.
- (c) No home sale shall be conducted by the same resident or a member of the family of such resident on such resident's property or on another resident's property more than twice each twelve-month period.
(Ord. 1976-176. Passed 11-4-76.)

719.04 PERMIT APPLICATION; FEE; DISPLAY.

- (a) The Director of Inspections shall provide applications for permits for home sales. Such an application shall include the name of the applicant, who shall be a resident of the City, his address, telephone number, the date of the sale and the hours and duration of the sale.
(Ord. 2004-81. Passed 6-17-04.)
- (b) The applicant shall apply for such permit ten days before the date of the sale. The Director may issue such permit seven days before such sale.
- (c) The application for such permit shall be submitted by the Director to the Police Chief. The Chief may approve the application and shall regulate the hours of such sale as provided in Section 719.05(a)
- (d) An applicant for such permit shall pay to the Director a fee of two dollars (\$2.00) for such permit.
- (e) Every permittee conducting a home sale shall keep posted in a prominent place, upon the licensed premises, the permit certificate and shall exhibit the same upon request.
(Ord. 1976-121. Passed 10-21-76.)

719.05 HOURS AND MERCHANDISE PERMITTED.

No person shall conduct a home sale except between the hours of 8:00 a.m. and 7:00 p.m. or as regulated by the Police Chief or a person designated by him, because of traffic or weather conditions. No home sale shall last more than three consecutive days, except that the display and offering for sale of any automobile, van or pick-up truck or recreational vehicle shall be permitted to continue for a period of not more than two weeks in any six-month period. Such a vehicle must be parked on a hard surface, as defined in Section 1221.09.
(Ord. 2004-81. Passed 6-17-04.)

719.06 ADVERTISING SIGNS.

No resident shall post more than one temporary sign advertising a home sale. Such temporary sign shall be located only on the lot on which the sale is to be conducted. Such home sale sign shall not exceed six square feet in area and such sign shall not be illuminated or animated.

(Ord. 2004-81. Passed 6-17-04.)

719.99 PENALTY.

Whoever violates or fails to comply with any provision of this chapter is guilty of a minor misdemeanor for a first offense; for a second offense, such person is guilty of a misdemeanor of the fourth degree.

CHAPTER 739
Mechanical Amusement Devices

739.01	Definitions.	739.08	license fees.
739.02	License required.	739.09	License expiration.
739.03	Application for license.	739.10	Unlicensed devices.
739.04	License issuance; reasons for denial.	739.11	Operation by minors.
739.05	Exemptions.	739.12	Records; disposition of moneys.
739.06	License transferability.	739.99	Penalty.
739.07	License display.		

CROSS REFERENCES
Gambling - see GEN. Off. Ch. 517

739.01 DEFINITIONS.

As used in this chapter, unless the context clearly requires a different meaning:

- (a) "Exhibitor" means any person owning or exhibiting a mechanical amusement device or contracting for or permitting such device to be installed, used or exhibited in his place of business.
- (b) "Mechanical amusement device" or "device" means a machine, device or instrument that, upon the insertion of a coin, token or slug, operates or may be operated for use as a game, contest of skill or amusement of any description and that in no way tends to encourage gambling, as that term is used in Chapter 517 of these Codified Ordinances. This definition includes coin-operated pool tables. This definition does not include merchandise vending machines or juke boxes. (Ord. 1976-199. Passed 12-16-76.)

739.02 LICENSE REQUIRED.

No exhibitor shall install or permit the use of any mechanical amusement device without first obtaining an exhibitor's license for each such device from the Mayor. (Ord. 1976-199. Passed 12-16-76.)

739.03 APPLICATION FOR LICENSE.

Application for a license to display a mechanical amusement device must be made upon such forms as are prescribed by the Mayor. Such application must be made by the owner or proprietor of the business or place at which such mechanical amusement device is to be displayed.

The application shall state the name of the owner of such place of business, the address of the place for which the license is applied, the residence address of the owner, the serial number and name of the manufacturer of the mechanical amusement device, the owner of such device, the name and address of the distributor or vendor of such device, the nature of the business in conjunction with which such device is to be displayed and such other and further information as may be required by the Mayor.

(Ord. 1976-199. Passed 12-16-76.)

739.04 LICENSE ISSUANCE; REASONS FOR DENIAL.

(a) The Mayor is hereby authorized to establish, adopt and enforce or cause to be enforced, such rules and regulations governing the issuance of the license required under this chapter, as he may deem reasonable and necessary and not inconsistent with the provisions of this chapter.

(b) Applications for a license may be denied by the Mayor:

- (1) If the mechanical amusement device is in any manner violative of Chapter 517 of these Codified Ordinances or Ohio R.C. Chapter 2915;
- (2) If the applicant or any partner or other person associated with the applicant who has a proprietary interest in the mechanical amusement device, the revenue it generates or the premises in which it is situated is of bad moral character, which, for purposes of this chapter, means having been convicted of or pleaded guilty to a crime involving moral turpitude within five years preceding the date of the application; or
- (3) For any other reason that the Mayor deems consistent with the provisions of this chapter and that is set out in writing in the rules and regulations established by the Mayor to implement this chapter.

(Ord. 1976-199. Passed 12-16-76.)

739.05 EXEMPTIONS.

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

(Ord. 1976-199. Passed 12-16-76.)

739.06 LICENSE TRANSFERABILITY.

The license required by this chapter is nontransferable.

A new license is required whenever a mechanical amusement device is moved to a different premises within the City or is purchased or otherwise acquired by a different exhibitor.
(Ord. 1976-199. Passed 12-16-76.)

739.07 LICENSE DISPLAY.

It shall be the duty of the exhibitor to display conspicuously any license issued pursuant to this chapter.
(Ord. 1976-199. Passed 12-16-76.)

739.08 LICENSE FEES.

Fees for licenses shall be paid at the time of the issuance thereof and shall be as follows:

- (a) One-cent (1¢) to four cents (4¢) mechanical amusement devices - five dollars (\$5.00) each per year or part thereof; and
- (b) All other mechanical amusement devices - ten dollars (\$10.00) each per year or part thereof.

(Ord. 1976-199. Passed 12-16-76.)

739.09 LICENSE EXPIRATION.

All licenses issued under this chapter shall expire on December 31 of each year unless earlier revoked by the Mayor.
(Ord. 1976-199. Passed 12-16-76.)

739.10 UNLICENSED DEVICES.

No exhibitor shall keep, maintain, permit or allow an unlicensed device to be in or upon a public place or place of business under the control, supervision or direction of such exhibitor.
(Ord. 1976-199. Passed 12-16-76.)

739.11 OPERATION BY MINORS.

No person shall permit any mechanical amusement device to be played by any minor under the age of seventeen years unless such minor is accompanied by a parent, guardian or other adult relative.
(Ord. 1976-199. Passed 12-16-76.)

739.12 RECORDS; DISPOSITION OF MONEYS.

(a) The Mayor shall keep and maintain on file in his office a complete list of all licenses issued pursuant to this chapter.

(b) The Mayor shall make payment of all fees and fines collected pursuant to this chapter to the Director of Finance, who shall place them to the credit of the General Fund.
(Ord. 1976-199. Passed 12-16-76.)

739.99 PENALTY.

Whoever violates 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 occurs or continues.
(Ord. 1976-199. Passed 12-16-76.)

CHAPTER 751
Peddlers, Solicitors and Canvassers

751.01	Definitions.	751.05	Display of license.
751.02	Sales on public property prohibited.	751.06	Mutilating or defacing license.
751.03	Sales on private property.	751.99	Penalty.
751.04	Organizational liability.		

CROSS REFERENCES

Power to inspect food products - see Ohio R.C. 715.46
 Power to regulate peddlers - see Ohio R.C. 715.61 et seq.
 Charitable solicitations - see Ohio R.C. Ch. 1716
 Merchandise display in streets - see GEN. OFF. 521.09
 Selling in streets and parks - see GEN. OFF. 521.08

751.01 DEFINITIONS.

(a) "Peddler" means any person who travels door to door either by foot, automobile, truck, or any other type of conveyance and calls upon private residences, including any house, apartment or other dwelling within the 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 or performed immediately or in the future. (Ord. 2000-65. Passed 4-20-00.)

(b) "Solicitor" means any person who obtains or 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 obtain or seek to obtain funds for any cause whatsoever. (Ord. 1999-183. Passed 12-16-99.)

751.02 SALES ON PUBLIC PROPERTY PROHIBITED.

No person shall on any public street, alley, drive, lane, thoroughfare, right-of-way, court, highway, boulevard or on the sidewalks thereof, solicit the sale of any merchandise, wares, goods, foods, periodicals or other articles of value for present or future delivery. (Ord. 2000-65. Passed 4-20-00.)

751.03 SALES ON PRIVATE PROPERTY.

(a) License or Registration Required. No peddler or solicitor shall peddle or solicit within the City, unless he or she is the holder of a valid license issued pursuant to this chapter. (Ord. 1999-183. Passed 12-16-99; Ord. 2002-137. Passed 1-16-03.)

(b) Application; Fee; License; Registration.

(1) Any person seeking a license in conformity with this chapter shall obtain an application for same from the Chief of Police and shall submit the completed application, along with the appropriate fee, to such office, on a form supplied by the Chief which shall contain the following information: (Ord. 2000-65. Passed 4-20-00.)

- A. Full name of the applicant;
- B. Date of birth of the applicant;
- C. Local address, if any; (Ord. 1999-183. Passed 12-16-99.)
- D. Permanent home address verified by State drivers' license, State identification card or like form of identification; (Ord. 2002-137. Passed 1-16-03.)
- E. A physical description of the applicant, setting forth age, height, weight, color of hair and eyes, and sex;
- F. Social security number;
- G. A description of the nature of the business and the goods, wares, merchandise, property and/or services to be sold;
- H. Telephone number of the applicant; (Ord. 1999-183. Passed 12-16-99.)
- I. Name and address of organization the peddler or solicitor represents; (Ord. 2000-65. Passed 4-20-00.)
- J. Whether the applicant has ever been convicted of a crime and, if so, where and the nature of the offense and the punishment or penalty imposed therefor, if any;
- K. Such other information as the Chief may require in order to protect the public health, safety and/or general welfare. (Ord. 1999-183. Passed 12-16-99.)

(2) All license applications shall be referred to the Chief who shall, within five (5) days after receipt of the completed application, issue a license unless he finds that:

- A. The applicant has provided false, misleading or deceptive information in his application; and/or
- B. The applicant or any solicitor or peddler named on the license application has been convicted of a felony violation or misdemeanor violation involving weapons, theft, moral turpitude or violence within the past five (5) years.

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

(3) Each applicant shall pay a nonrefundable license application fee of fifteen dollars (\$15.00), which fee shall be paid at the time the application is submitted.

- (4) Once issued, a license may be used only in conformity with the laws of the City and the State of Ohio; may not be assigned or transferred; must be carried by the licensee at all times; and may be revoked or suspended by the Chief of Police for any of the following causes:
(Ord. 2000-65. Passed 4-20-00.)
- A. The licensee or person preparing the application on behalf of the licensee provided false, misleading or deceptive information in the license application;
 - B. The licensee is convicted of a felony or of a misdemeanor involving fraud or moral turpitude; or
 - C. The licensee violates any provision of this chapter or peddles or solicits in an unlawful manner.
(Ord. 1999-183. Passed 12-16-99.)
 - D. Upon written complaint being filed with the Police Department, that the licensee has made himself obnoxious to the public by the use of indecent, profane or insulting language or has made or perpetrated any misstatement, deception or fraud in connection with any solicitation or sale, and if said complaint is found to be true, the license of such solicitor or peddler shall be revoked.
(Ord. 1999-183. Passed 12-16-99; Ord. 2002-137. Passed 1-16-03.)

(c) Individuals or corporations soliciting or peddling on behalf of an educational, religious, civic or charitable organization shall be required to register with the Chief of Police before soliciting or peddling within the City. Said individuals or corporations shall supply the name and address of the organization and of a representative of the organization. No fee shall be charged. Any registration hereunder shall be valid for 180 days.

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

(Ord. 2002-137. Passed 1-16-03.)

- (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 (the time of which shall be designated by the Plain Dealer) 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 license application.
- (4) No peddler, solicitor or canvasser shall by any device make unlawful noises, nor shall any peddler, solicitor or canvasser remain at the residence, house, apartment or other dwelling in the City without the consent of any adult occupant of the residence, house, apartment or other dwelling in the City.

(e) **Resident Prohibition by Notice.** Notwithstanding any other provision of this chapter, no peddler, solicitor or canvasser, while peddling, soliciting or canvassing, shall call upon, knock at the door or ring the door bell of any residence, house, apartment or other dwelling in the 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 prohibit peddlers, solicitors and canvassers on the premises, unless such peddler, solicitor or canvasser has previously been invited upon the premises by the owner, lessee or an adult occupant thereof.
(Ord. 1999-183. Passed 12-16-99.)

751.04 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. 1999-183. Passed 12-16-99.)

751.05 DISPLAY OF LICENSE.

Any peddler or solicitor shall, at all times while soliciting or peddling, display said license on the outside of their person in such a manner so as to be clearly visible to residents. Upon request by any resident, police officer or City official, a solicitor or peddler shall present said license for further inspection.
(Ord. 2002-137. Passed 1-16-03.)

751.06 MUTILATING OR DEFACING LICENSE.

No peddler or solicitor shall alter, mutilate or deface said license.
(Ord. 2002-137. Passed 1-16-03.)

751.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a minor misdemeanor and, in addition, may have his license revoked by the Mayor or the Chief of Police.
(Ord. 1999-183. Passed 12-16-99.)

753.02 LIGHTS DURING CLOSED PERIOD.

No person being the owner or in charge or control of any store or other place of business, subject to and as defined in Section 753.01, shall cause or permit the parking lot, show window or interior display lights to burn or be operated during any time when the store business operation is required by this Business Regulation Code to be closed, except that exterior electric lights may be operated in the area of each entrance, exit and loading dock for purposes of and to the wattage necessary for security.

(Ord. 1993-118. Passed 9-2-93.)

753.03 LIGHTED SIGNS.

No person, being the owner or in charge of any sign or advertising device lighted or illuminated by electricity, or any electric light illuminating any building or structure from the outside, which sign or advertising device or flood light is utilized by or in conjunction with a store or other business operation which is subject to and defined in Section 753.01, shall operate or illuminate any such sign, advertising device or electric light during any time when the store or other place of business is required to be closed by Section 753.01, except as permitted by Section 753.02.

(Ord. 1993-118. Passed 9-2-93.)

753.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a minor misdemeanor for a first offense and a misdemeanor of the fourth degree for each subsequent offense.

CHAPTER 755
Licensing and Operation of Sexually Oriented Businesses

755.01	Purpose and findings.	755.13	Suspension.
755.02	Definitions.	755.14	Revocation.
755.03	Classification.	755.15	Appeal rights.
755.04	Sexually oriented business license required.	755.16	Transfer of license.
755.05	Sexually oriented business employee license required.	755.17	Prohibition of adult motels.
755.06	Sexually oriented business license application.	755.18	Regulations of exhibition of sexually explicit films, videos or live entertainment in viewing booths.
755.07	Issuance of sexually oriented business license.	755.19	Additional regulations for operation of sexually oriented businesses.
755.08	Sexually oriented business employee license application.	755.20	Loitering and exterior lighting and monitoring requirements.
755.09	Issuance of sexually oriented business employee license.	755.21	Injunction.
755.10	Fees.	755.22	Effect of partial invalidity.
755.11	Inspection.	755.99	Penalty.
755.12	Expiration and renewal of license.		

CROSS REFERENCES

Location of sexually oriented businesses - see ZON. CODE Ch. 1213

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

755.01 PURPOSE AND FINDINGS.

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

(b) Findings. Based on evidence concerning the adverse secondary effects of sexually oriented businesses on the community presented in hearings before the Council; on findings incorporated in the cases of the City of Renton v. Playtime Theaters, Inc., 475 U.S. 41 (1986), Young v. American Mini Theaters, 426 U.S. 50 (1976); and on studies in other cities including New York, New York; Islip, New York; Los Angeles, California; Indianapolis, Indiana; Whittier, California; Austin, Texas; and Phoenix, Arizona; along with Manatee County, Florida; New Hanover County, North Carolina; and the State of Minnesota; this Council finds:

- (1) Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities.
- (2) Sexual acts, including masturbation and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or rooms for viewing films, videos, or live sexually-oriented entertainment. Such activities may result in spreading communicable diseases such as syphilis, gonorrhea, and human immunodeficiency virus (HIV).
- (3) Offering sexually oriented entertainment under conditions that encourage such activities creates unhealthy conditions.
- (4) Sanitary conditions in some sexually oriented businesses are unhealthy, in part because of the failure of owners and operators to regulate those activities and maintain their facilities.
- (5) Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view sexually oriented films.
- (6) The findings noted in subsections (b)(1) through (5) hereof raise substantial governmental concerns.
- (7) Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.
- (8) A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and operators of sexually oriented businesses. Further, such a licensing procedure will place a heretofore nonexistent incentive on operators to see that sexually oriented businesses are run in a manner consistent with the health, safety and welfare of patrons and employees, as well as the citizens of the City. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business, and fully in possession and control of the premises and activities occurring therein.
- (9) The regulation of nudity in sexually oriented businesses will further the substantial governmental interests in preventing prostitution and other sex related crimes, including illegal sex acts, and protecting the public health, safety, and welfare.
- (10) Removal of doors on viewing booths in sexually oriented businesses and requiring sufficient lighting on premises with viewing booths will advance the substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult arcades and theaters and will facilitate enforcement of the provisions of this chapter and other federal, state and local laws, thereby furthering the substantial governmental interest in protecting the public health, safety, and welfare.

- (11) Requiring sufficient lighting in all sexually oriented businesses will advance the substantial governmental interest in curbing illegal sexual activity on the premises of sexually oriented businesses, and will facilitate enforcement of the provisions of this chapter and other federal, state and local laws, thereby furthering the substantial governmental interest in protecting the public health, safety, and welfare.
- (12) The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of sexually oriented businesses, and by employees of such businesses, will facilitate the enforcement of the provisions of this chapter and other federal, state and local laws, and will thereby further the substantial government interest in protecting the public health, safety, and welfare.
- (13) A person who recently has been convicted of a sexually related crime is not an appropriate individual to operate or be employed in a sexually oriented business or adult motel.
- (14) Barring such individuals from the management of and employment in sexually oriented businesses for a period of years serves as a deterrent to and prevents the commission of sexually related criminal acts, including conduct which leads to the transmission of sexually transmitted diseases. (Ord. 1998-220. Passed 3-4-99.)

755.02 DEFINITIONS.

For purposes of this chapter:

- (a) "ADULT ARCADE" means any place to which the public is permitted or invited where either or both:
 - (1) Motion picture machines, projectors, video or laser disc players, or
 - (2) Other video or image-producing devices are available, run via coin, token, or any form of consideration, to show images to five or fewer persons at one time; and where the images shown and/or live entertainment presented is characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- (b) "ADULT BOOKSTORE, ADULT NOVELTY STORE, OR ADULT VIDEO STORE" means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:
 - (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or
 - (2) Instruments, devices, or paraphernalia, other than prophylactics, that are designed for use in connection with specified sexual activities.
- (c) "ADULT CABARET" means a nightclub, bar, restaurant, or similar commercial establishment that regularly features:
 - (1) Persons who appear in a "state of semi-nudity" or "state of nudity;" or
 - (2) Live entertainment characterized by the depiction, description, or exposure of specified anatomical areas or by specified sexual activities;

- (3) Live entertainment of an erotic nature including exotic dancers, strippers, male or female impersonators, or similar entertainment; or
 - (4) Films, motion pictures, video cassettes, slides or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- (d) "ADULT MOTEL" means a hotel, motel or similar commercial establishment which:
- (1) Offers accommodations to the public for any form of consideration; and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right of way which advertises the availability of this sex-oriented type of photographic reproductions; or
 - (2) Offers a sleeping room for rent for a period of time that is less than ten (10) hours: or allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten (10) hours.
- (e) "ADULT MOTION PICTURE THEATER" means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, digital projection, laser projection, computer reproduction, or similar visual reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- (f) "ADULT THEATER" means a theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear in a state of semi-nudity, live performances which are characterized by the depiction or description of specified anatomical areas, specified sexual activities, or live entertainment of an erotic nature including exotic dancers, strippers, male or female impersonators, or similar entertainment.
- (g) "COVERING" means any clothing or wearing apparel, including pasties, but does not include any substance that can be washed off the skin, such as paint or make-up, or any substance designed to simulate the appearance of the anatomical area beneath it.
- (h) "EMPLOYEE" means a person who performs any service or work on the premises of a sexually oriented business, including but not limited to providing entertainment, performing work of a management or supervisory nature, or performing support functions, on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. "Employee" does not include a person on the premises exclusively for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.
- (i) "EMPLOYEE STATION" means an area on the premises of a Sexually Oriented Business designated for occupancy exclusively by one or more employees whose duties include assuring compliance with the provisions of this chapter.

- (j) "HEALTH COMMISSIONER" means the Cuyahoga County Commissioner of Health or his authorized representative.
- (k) "LICENSE" means, with respect to a sexually oriented business license issued under this chapter, a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual(s) designated on the license application as principally responsible for the operation of the sexually oriented business. With respect to a sexually oriented employee license issued under this chapter, licensee means a person in whose name a license has been issued authorizing employment in a sexually oriented business.
- (l) "LIVE VIEWING BOOTH" means any private or semi-private booth, or any viewing room of less than one hundred fifty (150) square feet of floor space, to which the public may gain admittance, wherein a live performance is presented.
- (m) "NUDE MODEL STUDIO" means any place where a person who appears semi-nude or who displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.
Nude Model Studio shall not include:
- (1) A proprietary school licensed by the State of Ohio, or a college, junior college or university supported entirely or in part by public taxation.
 - (2) A private college or university that offers educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
 - (3) An establishment holding classes in a structure that has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; where in order to participate in a class a student must enroll at least three days in advance of the class; and where no more than one semi-nude model is on the premises at any one time.
- (n) "NUDITY" or "NUDE" means exposing to view the genitals, pubic area, vulva, perineum, anus, anal cleft or cleavage, or pubic hair with less than a fully opaque covering; exposing to view any portion of the areola of the female breast with less than a fully opaque covering; exposing to view male genitals in a discernibly turgid state, even if entirely covered by an opaque covering; or exposing to view any device, costume, or covering that gives the appearance of or simulates any of these anatomical areas.
- (o) "OPERATE" means to control or hold primary responsibility for the operation of a sexually oriented business, either as a business entity, as an individual, or as part of a group of individuals with shared responsibility. "Operate" or "Cause to be Operated" shall mean to cause to function or to put or keep in operation. "Operator" means any persons on the premises of a sexually oriented business who is authorized to exercise overall operational control or hold primary responsibility for the operation of a sexually oriented business or who causes to function or who puts or keeps in operation the business. 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" means an individual, proprietorship, partnership, firm, association, joint stock company, corporation, limited liability corporation, or combination of individuals of whatever form or character.
- (q) "SEMI-NUDITY" or "SEMI-NUDE" means exposing to view, with less than a fully opaque covering, any portion of the female breast below the top of the areola or any portion of the buttocks. This definition shall include the entire lower portion of the female breast, but shall not include any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other clothing, provided that the areola is not exposed in whole or in part.
- (r) "SEXUAL ENCOUNTER CENTER" means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:
- (1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
 - (2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is semi-nude.
- (s) "SEXUALLY ORIENTED BUSINESS" means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, nude model studio, or sexual encounter center. "Sexually oriented business" does not include an adult motel as defined above.
- (t) "SPECIFIED ANATOMICAL AREAS" means:
- (1) The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
 - (2) Less than completely and opaquely covered human genitals, pubic region, buttocks or female breast below a point immediately above the top of the areola.
- (u) "SPECIFIED CRIMINAL ACTIVITY" means any of the following offenses:
- (1) Prostitution or promoting prostitution; soliciting; loitering to engage in solicitation; sexual performance by a child; public lewdness; indecent exposure; indecency with a child; sexual assault; molestation of a child; disseminating material harmful to juveniles, displaying the materials harmful to juveniles, pandering obscenity, pandering obscenity involving a minor, pandering sexually oriented material involving a minor; or any similar offenses to those described above under the criminal or penal code of any local jurisdiction, state, or country;
 - (2) For which:
 - A. Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense; or
 - B. Less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense.
 - (3) The fact that a conviction is being appealed shall not prevent such conviction from constituting a specified criminal activity as defined in this section.

- (v) "SPECIFIED SEXUAL ACTIVITIES" means any of the following:
 - (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
 - (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or
 - (3) Excretory functions as a part of or in connection with any of the activities set forth in subsection (v)(1) or (2) hereof.
- (w) "VIDEO BOOTH" means any private or semi-private booth or any viewing room of less than one hundred fifty (150) square feet of floor space or area to which the public may gain admittance, wherein a still or motion picture machine, projector, video monitor, or similar equipment is available for the purpose of showing still or motion pictures, videos, or similar images or photographic reproductions.
- (x) "VIEWING BOOTH" means live viewing booth or video booth, and "VIEWING BOOTHS" means live viewing booths, video booths, or any combination thereof.
- (y) "TRANSFER OF OWNERSHIP OR CONTROL" of a sexually oriented business shall mean of the following:
 - (1) The sale, lease, or sublease of the business;
 - (2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
 - (3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.(Ord. 1998-220. Passed 3-4-99.)

755.03 CLASSIFICATION.

- (a) Businesses subject to adult business licensing are classified as follows:
 - (1) Adult arcades;
 - (2) Adult bookstores, adult novelty stores, or adult video stores;
 - (3) Adult cabarets;
 - (4) Adult motion picture theaters;
 - (5) Adult theaters;
 - (6) Nude model studios;
 - (7) Sexual encounter centers; and
 - (8) Any combination of classifications set forth in subsections (a)(1) through (7) hereof.(Ord. 1998-220. Passed 3-4-99.)

755.04 SEXUALLY ORIENTED BUSINESS LICENSE REQUIRED.

- (a) No person shall:
 - (1) Operate a sexually oriented business without a valid sexually oriented business license issued by the City pursuant to this chapter.
 - (2) In connection with operating a sexually oriented business, retain the services of a person as an employee, as defined in Section 755.02, who is not licensed as a sexually oriented business employee by the City pursuant to this chapter.

(b) Any person who violates subsection (a)(1) or (a)(2) hereof shall be guilty of a misdemeanor of the first degree.
(Ord. 1998-220. Passed 3-4-99.)

755.05 SEXUALLY ORIENTED BUSINESS EMPLOYEE LICENSE REQUIRED.

(a) No person shall act as an employee, as defined in Section 755.02, on the premises of a sexually oriented business without having secured a sexually oriented business employee license pursuant to this chapter.

(b) Any person who violates this section shall be guilty of a misdemeanor of the third degree.
(Ord. 1998-220. Passed 3-4-99.)

755.06 SEXUALLY ORIENTED BUSINESS LICENSE APPLICATION.

(a) An application for a sexually oriented business license shall be submitted to the Director of the Department of Buildings, Structures, and Inspections on a form provided by the Department. The application may request and the applicant shall provide such information as reasonably necessary (including fingerprints) to enable the City to determine whether the applicant meets the qualifications established in this chapter.

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

- (1) If the business entity is owned by an individual, that individual.
- (2) If the business entity is owned by a corporation, each officer or director of the corporation and each individual with a ten percent (10%) or greater ownership interest in the corporation.
- (3) If the business entity is owned by a partnership, each partner and each individual with a ten percent (10%) or greater ownership interest in the partnership.

(c) An application for a sexually oriented business license must designate one or more individuals who are to be principally responsible for the operation of the proposed sexually oriented business, if a license is granted. At least one person so designated must be involved in the day-to-day operation of the proposed sexually oriented business on a regular basis. Each person so designated, as well as the business entity itself, shall be considered a license applicant, must qualify as a licensee under this chapter, and shall be considered a licensee if a license is granted.

(d) An application for a sexually oriented business license shall be completed according to the instructions of the application form, which shall require the following:

- (1) If the applicant is:
 - A. An individual, state the legal name and any aliases of such individual;
 - B. A partnership, state the complete name of the partnership and all of its partners and whether the partnership is general or limited, and provide a copy of the partnership agreement, if any;
 - C. A corporation, state the complete name of the corporation and the date of its incorporation, provide evidence that the corporation is in good standing under the laws of its state of incorporation, and state the names and capacity of all officers and directors, the name of the registered corporate agent, and the address of the registered office for service of process.
- (2) If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, state the fictitious name to be used and submit copies of documentation evidencing the registration of the business name under applicable laws.
- (3) State whether any applicant has been convicted of a specified criminal activity as defined in Section 755.02, and if so, the specified criminal activity involved and the date, place, and jurisdiction of each such conviction.
- (4) State whether any applicant has had a previous license under this chapter or other similar regulation of another jurisdiction denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation; and state whether the applicant has been a partner in a partnership or an officer, director or ten percent (10%) or greater owner of a corporation licensed under this chapter whose license has previously been denied, suspended or revoked, including the name and location of the business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.
- (5) State whether any applicant holds any other licenses under this chapter or other similar regulation from this or another jurisdiction and, if so, the names and locations of such other licensed businesses.
- (6) State the classification of license under this chapter for which the applicant is filing.
- (7) State the location of the proposed sexually oriented business, including a legal description of the property (i.e., block and lot), street address, and telephone number(s), if any. The applicant shall submit a site plan complying with all relevant provisions of the Codified Ordinances of the City of Westlake.
- (8) State the mailing address and residential address of each applicant and each person signing the application.
- (9) Submit a recent photograph of each applicant who is a natural person, taken by the City of Westlake Police Department which clearly shows the applicant's face.

- (10) Submit the fingerprints of each applicant who is a natural person, recorded by the City of Westlake Police Department.
- (11) For any applicant who is a natural person, describe and identify the location of any tattoos on such person's face, arms, legs, or hands, or any other anatomical area that normally would be visible when such person is on the premises of the proposed sexually oriented business.
- (12) State the driver's license number and Social Security number of each applicant who is a natural person and each person signing the application, or, for an applicant that is not a natural person, the applicant's federally issued tax identification number.
- (13) Submit proof that each applicant who is a natural person is at least eighteen (18) years old.
- (14) Submit a sketch or diagram showing the configuration of the premises of the sexually oriented business, including the location of all stages and customer seating and a statement of total floor space occupied by the business. The diagram shall also designate the place at which the adult business license will be conspicuously posted, if granted. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.
- (15) If an applicant wishes to operate a sexually oriented business, which shall exhibit on the premises, in a booth, as defined in Section 755.02, films, video cassettes, other video or image reproduction, or live entertainment which depicts "specified sexual activities" or "specified anatomical areas," then the applicant shall comply with the additional application requirements set forth in Section 755.18.
(Ord. 1998-220. Passed 3-4-99.)

755.07 ISSUANCE OF SEXUALLY ORIENTED BUSINESS LICENSE.

(a) Within five (5) regular business days of receipt of a completed application for a sexually oriented business license, the Director of the Department of Buildings, Structures, and Inspections shall notify the City of Westlake Police Chief, the City of Westlake Fire Chief, and the Health Commissioner of such application. In making such notification, the Director of the Department of Buildings, Structures, and Inspections shall request that the Police Chief promptly investigate the information provided in the application concerning the criminal background of the applicant(s), and shall request that the Fire Chief and Health Commissioner promptly inspect the premises for which the adult business license is sought to assess compliance with the regulations under their respective jurisdictions.

The Police Chief and the Fire Chief shall begin their respective investigations and inspection processes promptly upon receipt of notice of an application from the Director of the Department of Buildings, Structures, and Inspections. The Police Chief shall provide the results of his investigation to the Director of the Department of Buildings, Structures, and Inspections, in writing, within ten (10) days of receipt of notice of the application. The Fire Chief shall provide to the Director of the Department of Buildings, Structures, and Inspections a written certification of whether the premises are in compliance with the Fire Code within ten (10) days of receipt of notice of the application.

The Director of the Department of Buildings, Structures, and Inspections shall commence the inspection of the premises for which a sexually oriented business license is sought promptly upon receipt of the application, and shall complete a written certification of whether the premises are in compliance with the Building Code, the Planning and Zoning Code, and the provisions of this chapter related to physical characteristics of the premises within fifteen (15) days after receipt of the application.

(b) Within twenty-one (21) days after receipt of a completed sexually oriented business license application, the Director of the Department of Buildings, Structures, and Inspections shall approve or deny the issuance of the license. The Director of the Department of Buildings, Structures, and Inspections shall approve the issuance of a license to an applicant unless he determines that one or more of the following findings is true:

- (1) An applicant who is a natural person is under eighteen (18) years of age.
- (2) An applicant has failed to provide information reasonably necessary for issuance of the license as requested on the application form, or has falsely answered a question or request for information on the application form.
- (3) An applicant has been denied an adult business license or has had a license to operate a sexually oriented business revoked within the preceding twelve (12) months by any jurisdiction.
- (4) An applicant has been convicted of a specified criminal activity as defined in Section 755.02.
- (5) The proposed sexually oriented business would violate or fail to be in compliance with any provisions of Chapter 1213 of the Planning and Zoning Code, the General Offenses Code of the City, or State statute or regulation.
- (6) The application and investigation fee required by this chapter has not been paid.
- (7) An applicant is in violation of or is not in compliance with any provision of this chapter, except as provided in subsection (c)(1) hereof.

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

- (1) The results of inspections of the premises by the Fire Chief, the Health Commissioner, and/or the Director of the Department of Buildings, Structures, and Inspections indicate that the premises are not in compliance with applicable laws and regulations under their respective jurisdictions, including the provisions of this chapter related to characteristics of the physical premises. This subsection shall not apply to premises that are in violation of any law or regulation that is identified or referenced in subsections (b)(1) through (b)(7) hereof.
- (2) An applicant is overdue in payment to the City of taxes, fees, fines, or penalties assessed against or imposed upon him or her in relation to any business, which are not the subject of a pending appeal or other legal challenge.

(d) If the Director of the Department of Buildings, Structures, and Inspections determines that no other grounds for denial of a license exist under subsection (b) hereof, the Director of the Department of Buildings, Structures, and Inspections shall not delay approval of the application past the end of the twenty-one (21) day period provided in this section solely because the Fire Chief or the Health Commissioner has not provided the Director of the Department of Buildings, Structures, and Inspections with the results of his inspection of the premises; the results of the Director of the inspection of the premises are not available; and/or the Police Chief has not provided the results of his investigation of the criminal background of the applicant(s). If, after approving the issuance of a license, the Director of the Department of Buildings, Structures, and Inspections receives information from the Police Chief concerning his investigation, which the Director of the Department of Buildings, Structures, and Inspections determines constitutes grounds for denial of a license under subsection (b) hereof, then the sexually oriented business license issued pursuant to this subsection (d) hereof shall be immediately revoked. If after approving the issuance of a license, the Director of the Department of Buildings, Structures, and Inspections receives information concerning the results of inspections of the premises by the Fire Chief or the Health Commissioner's own inspection, which the Director of the Department of Buildings, Structures, and Inspections determines constitutes grounds for the issuance of a license subject to a requirement to correct deficiencies under subsection (c) hereof, then a requirement shall be added to the terms of the sexually oriented business licenses issued pursuant to this subsection (d) hereof to correct all deficiencies noted within 120 days of the date such requirement is added.

(e) A sexually oriented business license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the licensed sexually oriented business, and the classification for which the license is issued pursuant to Section 755.03. All sexually oriented business licenses shall be posted in a conspicuous place at or near the entrance to the business so that they may be easily read at any time.

(f) The Director of the Department of Buildings, Structures, and Inspections shall advise the applicant in writing of the reasons for any license denial.
(Ord. 1998-220. Passed 3-4-99.)

755.08 SEXUALLY ORIENTED BUSINESS EMPLOYEE LICENSE APPLICATION.

(a) An application for a sexually oriented employee license shall be submitted to the Director of the Department of Buildings, Structures, and Inspections on a form provided by the Department of Buildings, Structures, and Inspections. The application may request and the applicant shall provide such information as reasonably necessary (including fingerprints) to enable the City to determine whether the applicant meets the qualifications established in this chapter.

(b) An application for a sexually oriented business employee license shall be completed according to the instructions of the application form, which shall require the following:

- (1) State the applicant's name and any other names (including "stage" names) or aliases used by the applicant.
- (2) State the applicant's date and place of birth.

- (3) State the applicant's height, weight, and hair and eye color.
- (4) Submit a recent photograph of the applicant, taken by the City of Westlake Police Department, which clearly shows the applicant's face.
- (5) Submit the applicant's fingerprints, recorded by the City of Westlake Police Department.
- (6) Describe and identify the location of any tattoos on the applicant's face, arms, legs, or hands, or any other anatomical area that normally would be visible when the applicant is on the premises of the proposed sexually oriented business.
- (7) State the applicant's present residence address and telephone number.
- (8) State the applicant's present or intended business address and telephone number.
- (9) State the applicant's driver's license number and Social Security number.
- (10) Submit proof that the applicant is at least eighteen (18) years old.
- (11) Provide a statement detailing the sexually oriented business-related license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate a sexually oriented business, in this or any other jurisdiction, and whether the applicant has ever had a sexually oriented business-related license, permit, or authorization to do business denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name of the issuing or denying jurisdiction and describe in full the reason for the denial, revocation, or suspension. Attach a copy of any order of denial, revocation, or suspension.
- (12) State whether the applicant has been convicted of a specified criminal activity as defined in Section 755.02 and, if so, the specified criminal activity involved and the date, place and jurisdiction of each such conviction.
(Ord. 1998-220. Passed 3-4-99.)

755.09 ISSUANCE OF SEXUALLY ORIENTED BUSINESS EMPLOYEE LICENSE.

(a) Upon the filing of a completed application for a sexually oriented business employee license, the Director of the Department of Buildings, Structures, and Inspections shall issue a temporary license to said applicant immediately.

(b) Within five (5) days of receipt of an application for a sexually oriented business employee license, the Director of the Department of Buildings, Structures, and Inspections shall notify the Police Chief of such application. In making such notification, the Director of the Department of Buildings, Structures, and Inspections shall request that the Police Chief promptly investigate the information provided in the application concerning the criminal background of the applicant. The Police Chief shall begin his investigation promptly upon receipt of notice of an application from the Director of the Department of Buildings, Structures, and Inspections, and shall provide the results of his investigation to the Director of the Department of Buildings, Structures, and within ten (10) days of receipt of notice of the application.

(c) Within twenty-one (21) days after receipt of a completed sexually oriented employee license application, the Director of the Department of Buildings, Structures, and Inspections shall approve or deny the issuance of the license. The Director of the Department of Buildings, Structures, and Inspections shall approve the issuance of a license to an applicant unless he determines that one or more of the following findings is true:

- (1) The applicant has failed to provide information reasonably necessary for issuance of the license as requested on the application form, or has falsely answered a question or request for information on the application form.
- (2) The applicant is under eighteen (18) years of age.
- (3) The applicant has been convicted of a specified criminal activity as defined in Section 755.02.
- (4) The sexually oriented business employee license is to be used for employment in a business prohibited by local, state, or federal law, statute, rule or regulation.
- (5) The applicant has been denied a sexually oriented business employee license or has had a sexually oriented business employee license revoked within the preceding twelve (12) months by any jurisdiction.

(d) If the sexually oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void. The Director of the Department of Buildings, Structures, and Inspections shall advise the applicant in writing of the reason(s) for any such denial.

(Ord. 1998-220. Passed 3-4-99.)

755.10 FEES.

(a) Every application for a new sexually oriented business license shall be accompanied by a five hundred dollar (\$500.00) non-refundable application and investigation fee.

(b) Every application for renewal of a sexually oriented business license shall be accompanied by a one hundred fifty dollar (\$150.00) non-refundable application and investigation fee.

(c) In addition to the application and investigation fee required in subsection (a) or (b) hereof, every applicant that is granted a sexually oriented business license (new or renewal) shall pay to the City an annual, non-refundable license fee of three hundred dollars (\$300.00) within thirty (30) days of license issuance or renewal.

(d) Every application for a new sexually oriented business employee license shall be accompanied by an annual, nonrefundable application, investigation, and license fee of one hundred dollars (\$100.00).

(e) Every application for renewal of a sexually oriented business employee license shall be accompanied by an annual, nonrefundable application, investigation, and license fee of thirty-five dollars (\$35.00).

(Ord. 1998-220. Passed 3-4-99.)

755.11 INSPECTION.

(a) The Police Department shall, from time to time and at least four times a year, inspect each sexually oriented business licensed under the provisions of this chapter in order to assess compliance with the provisions of this chapter.

(b) The Director of the Department of Buildings, Structures, and Inspections shall, from time to time and at least four times a year, request that the Health Commissioner inspect each sexually oriented business licensed under the provisions of this chapter in order to assess compliance with the provisions of this chapter.

(c) An applicant or licensee shall permit the City of Westlake Department of Buildings, Structures, and Inspections and representatives of the City of Westlake Police Department, Fire Department, or other City departments or agencies, or the Health Commissioner, to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time that it is occupied or open for business.

(d) A person who operates a sexually oriented business or his agent or employee commits a misdemeanor of the first degree if he refuses to permit such lawful inspection of the premises.

(e) All employee licenses shall be kept on the licensed premises and readily available for review.
(Ord. 1998-220. Passed 3-4-99.)

755.12 EXPIRATION AND RENEWAL OF LICENSE.

(a) Each license issued pursuant to this chapter shall expire one year from the date of issuance and may be renewed by making application as provided in this section. Application for renewal shall be made no more than ninety (90) days and no less than thirty (30) days before the expiration date. If application is made less than thirty (30) days before the expiration date, the license will not be extended pending a decision on the application, but will expire on its normal expiration date.

(b) An application for renewal of a sexually oriented business license shall be submitted to the Director of the Department of Buildings, Structures, and Inspections on a form provided by the Department of Buildings, Structures, and Inspections. The renewal application may request and the applicant shall provide such information as reasonably necessary to enable the City to determine whether the applicant meets the qualifications established in this chapter. The completed renewal application shall describe any changes or additions to, or deletions from, the information provided in the applicant's initial license application pursuant to Section 755.07. The completed renewal application shall be accompanied by copies of any document or material submitted in connection with the initial license application that has been revised or requires revision to reflect any change in circumstances or conditions. Sketches or diagrams submitted with an initial sexually oriented business license application may be resubmitted with subsequent renewal applications, provided that the applicant certifies in writing that the sketch or diagram skill depicts the premises accurately.

(c) The Director of the Department of Buildings, Structures, and Inspections shall make determinations concerning the approval of license renewals based on the same criteria used to evaluate applications for new licenses under Section 755.07.

(d) The Director of the Department of Buildings, Structures, and Inspections shall advise the applicant in writing of the reason(s) for any denial of a license renewal.

(e) An application for renewal of a sexually oriented business employee license shall be submitted to the Director of the Department of Buildings, Structures, and Inspections on a form provided by the Department of Buildings, Structures, and Inspections. The renewal application may request and the applicant shall provide such information as reasonably necessary to enable the City to determine whether the applicant meets the qualifications established in this chapter. The completed renewal application shall describe any changes or additions to, or deletions from, the information provided in the applicant's initial license application pursuant to Section 755.09. The completed renewal application shall be accompanied by copies of any document or material submitted in connection with the initial license application that has been revised or requires revision to reflect any change in circumstances or conditions.

(f) The Director of the Department of Buildings, Structures, and Inspections shall make determinations concerning the approval of license renewals based on the same criteria used to evaluate applications for new licenses under Sections 755.07 and 755.09.

(g) The Director of the Department of Buildings, Structures, and Inspections shall advise the applicant in writing of the reason(s) for any denial of a license renewal.

(h) When the City denies an application for renewal of a license, the applicant shall not be issued another license for one year from the date of denial. If the City finds, subsequent to denial, that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the denial was issued. (Ord. 1998-220. Passed 3-4-99.)

755.13 SUSPENSION.

(a) The City shall suspend a sexually oriented business license for a period not to exceed thirty (30) days if it determines that a licensee:

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

(b) The City shall suspend a sexually oriented business license for a period not to exceed thirty (30) days if it determines that a licensee or his employee or agent has refused to allow an inspection of the licensed sexually oriented business premises as authorized by this chapter.

(c) The City shall suspend a sexually oriented business employee license for a period not to exceed thirty (30) days if it determines that a licensee has violated or is not in compliance with any section of this chapter.

(d) The Director of the Department of Buildings, Structures, and Inspections shall advise the licensee in writing of the reason(s) for any suspension.
(Ord. 1998-220. Passed 3-4-99.)

755.14 REVOCATION.

(a) The Department of Buildings, Structures, and Inspections shall revoke a sexually oriented business license or sexually oriented business employee license if a cause of suspension under Section 755.13 occurs and the license has been suspended two times within the preceding twelve (12) months.

(b) The Department of Buildings, Structures, and Inspections shall revoke a sexually oriented business license if it determines that:

- (1) A licensee gave false or misleading information in the material submitted during the application process; or
- (2) The licensee(s) failed to comply with any requirement stated in the license, pursuant to Section 755.07, to correct specified deficiencies within 120 days;
- (3) A licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;
- (4) A licensee has knowingly allowed prostitution, solicitation, or the commission of a felony on the premises;
- (5) A licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;
- (6) A licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the licensed premises;
- (7) A licensee has been convicted of a specified criminal activity, as defined in Section 755.02, during the term of the license; or
- (8) A licensee is delinquent in payment to the City, County, or State for any taxes or fees past due that were assessed or imposed in relation to any business.

(c) The Department of Buildings, Structures, and Inspections shall revoke a sexually oriented business employee license if it determines that:

- (1) The licensee gave false or misleading information in the material submitted during the application process;
- (2) The licensee has knowingly acted as an employee on the premises of a sexually oriented business during a period of time when the licensee's license was suspended; or
- (3) The licensee has been convicted of a specified criminal activity, as defined in Section 755.02 during the term of the license.

(d) The Director of the Department of Buildings, Structures, and Inspections shall advise the licensee in writing of the reason(s) for any revocation.

(e) When the City revokes a license, the licensee shall not be issued another license for one (1) year from the date the revocation became effective. If the City finds, subsequent to revocation, that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective.

(Ord. 1998-220. Passed 3-4-99.)

755.15 APPEAL RIGHTS.

(a) Any denial, suspension, or revocation of a new or renewal license under this chapter may be appealed to the Board of Building Appeals by written notice within ten (10) days of such denial, suspension, or revocation. Unless the applicant requests a longer period, the Board must hold a hearing on the appeal within fourteen (14) days and must issue a decision affirming or reversing the denial, suspension, or revocation within five (5) days after the hearing.

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

(c) In the event that an applicant or licensee seeks judicial review of a decision issued pursuant to this chapter, the applicant or licensee shall provide written notice of such appeal to the Board of Building Appeals within three (3) days of the filing of the appeal. Within ten days of receiving such written notice of appeal, or within such shorter time as may be ordered by the court, the Board shall transmit to the court in which appeal was sought a copy of the full administrative record for the matter, including a complete transcript of all the original papers, testimony and evidence offered, heard, and taken into consideration in issuing the final order. The Board and all other departments or agencies of the City shall provide any further information, assistance, or cooperation requested by the reviewing court without delay.

(d) Subject to the provisions of subsection (f) hereof, any licensee lawfully operating a sexually oriented business prior to the denial of a license renewal application, or the suspension or revocation of a license, may continue to operate said business during the pendency of an appeal to the Board of Building Appeals or to a court.

(e) Subject to the provisions of subsection (f) of this section, any licensee lawfully acting as an employee in a sexually oriented business prior to the denial of a license renewal application, or the suspension or revocation of a license, may continue to serve in such capacity during the pendency of an appeal to the Board of Building Appeals or to a court.

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

- (1) Will allow an applicant for a sexually oriented business license to operate the sexually oriented business named in the license application under the same terms as a normal sexually oriented business issued pursuant to Section 755.07 for the period of time specified in subsection (g) hereof; and
- (2) Will allow an applicant for a sexually oriented business employee license to act as an employee on the premises of a sexually oriented business under the same terms as a normal sexually oriented business employee license issued pursuant to Section 755.09 for the period of time specified in subsection (g) hereof; and
- (3) Will be subject to the same requirements as a normal sexually oriented business license or sexually oriented business employee license issued under Section 755.07 or Section 755.09.

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

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

(h) In the event that judicial review of the denial of a new license application is still pending thirty (30) days before the expiration date of a provisional license, the provisional licensee may file a renewal license application with the Director of the Department of Buildings, Structures, and Inspections pursuant to Section 755.12 (b). The Director of the Department of Buildings, Structures, and Inspections shall grant an application for renewal of a provisional license unless he determines that new grounds exist for denial of a license application pursuant to Section 755.07 or Section 755.09, which did not exist at the time of the original license application. In the event that an application for renewal of a provisional license is denied and the applicant seeks judicial review of that denial, the City has the right to consolidate such review with the pending judicial appeal of the previous license denial.
(Ord. 1998-220. Passed 3-4-99.)

755.16 TRANSFER OF LICENSE.

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

(b) A sexually oriented business employee license is not transferable from one licensee to another, but the use of the license by the individual to whom it was issued may be transferred from one licensed sexually oriented business to another such licensed establishment during the term of the license, provided that the licensee gives written notice of such transfer to the Director of the Department of Buildings, Structures, and Inspections within fifteen (15) days of such transfer.

(Ord. 1998-220. Passed 3-4-99.)

755.17 PROHIBITION OF ADULT MOTELS.

- (a) No person shall operate an adult motel within the City.
- (b) Evidence that a sleeping room in a hotel, motel, or similar commercial establishment has been rented and vacated two or more times in less than ten (10) hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in Section 755.02.
- (c) Evidence that a person in control of a sleeping room in a hotel, motel, or similar commercial establishment has rented or subrented a sleeping room to a person and, within ten (10) hours from the time the room was rented, has rented or subrented the same sleeping room again, creates a rebuttable presumption that the establishment is an adult motel as that term is defined in Section 755.02.
- (d) For purposes of subsection (b) hereof, the terms "rent" or "subrent" mean the act of permitting a room to be occupied for any form of consideration.
- (e) Any person who operates a hotel, motel, or similar commercial establishment that is found to be an adult motel, as defined in Section 755.02, commits a misdemeanor of the first degree.
(Ord. 1998-220. Passed 3-4-99.)

755.18 REGULATIONS OF EXHIBITION OF SEXUALLY EXPLICIT FILMS, VIDEOS OR LIVE ENTERTAINMENT IN VIEWING BOOTHS.

- (a) No person may operate or cause to be operated a sexually oriented business which exhibits on the premises in a viewing booth, as defined in Section 755.02, films, video cassettes, other video or image reproduction, or live entertainment which depict or depicts "specified sexual activities" or "specified anatomical areas," without complying with the following requirements:
- (1) The sexually oriented business license application required under this chapter shall be accompanied by a diagram of the premises showing a plan thereof which specifies the location of one or more employee's stations and the location of all overhead lighting fixtures, and which designates any portion of the premises in which patrons will not be permitted. The diagram shall also designate the place at which the sexually oriented business license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches.

- (2) The interior of the premises shall be configured in such a manner that there is an unobstructed view from an employee's station of every area of the premises to which any patron is permitted access for any purpose, including the interior of all viewing booths and excluding restrooms. Restrooms may not contain video reproduction equipment, and no entertainment of any kind may be offered in restrooms. If the premises has two or more employee'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 employee's stations. The view required in this subsection must be by direct line of sight from the employee's station.
- (3) No alteration in the configuration or location of an employee's station shall be made without the prior approval of the Director of the Department of Buildings, Structures, and Inspections.
- (4) At least one employee shall be on duty and situated in each employee's station at all times that any patron is present inside the premises.
- (5) An employee's station shall not exceed thirty-two (32) square feet of floor area, and no single dimension of an employee's station shall exceed eight (8) feet.
- (6) The view from the employee's station(s) shall remain unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials.
- (7) No patron may at any time be permitted access to any area of the premises which has been designated in the license application filed pursuant to this chapter as an area in which patrons will not be permitted.
- (8) No viewing booth may be occupied by more than one person at any time.
- (9) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access, including both the interior of viewing booths and restrooms, at an illumination level of not less than five (5.0) footcandles as measured at floor level.
- (10) The illumination described above shall be maintained at all times that any patron is present in the premises. In the event of a power failure, the business shall stop operating immediately and all patrons shall be cleared from the premises. The premises shall not be reopened until the minimum illumination level can be assured.
- (11) No openings of any kind shall be permitted to exist between viewing booths or in any wall of a viewing booth.
- (12) No person shall make or attempt to make an opening of any kind between viewing booths or in any wall of a viewing booth.
- (13) The walls of each viewing booth shall be inspected regularly during each business day to determine if any openings or holes exist.
- (14) All floor coverings in viewing booths shall be nonporous, easily cleanable surfaces, with no rugs or carpeting.
- (15) All wall surfaces, ceiling surfaces and seating surfaces in viewing booths shall be constructed of, or permanently covered by, nonporous, easily cleanable material.

(b) A person who operates a sexually oriented business or his agent or employee shall be guilty of a misdemeanor of the third degree if he operates a sexually oriented business in violation of subsection (a) hereof.
(Ord. 1998-220. Passed 3-4-99.)

755.19 ADDITIONAL REGULATIONS FOR OPERATION OF SEXUALLY ORIENTED BUSINESSES.

(a) Nudity, Sexual Activity, Live Entertainment and Performances.

- (1) No employee on the premises of a sexually oriented business may appear in a state of "nudity," as defined in Section 755.02, or engage in "specified sexual activities" in a state of "nudity," as defined in Section 755.02.
- (2) Any employee appearing on the premises of a sexually oriented business in a state of semi-nudity, as defined in Section 755.02, must be on a stage that is at least forty-five (45) inches from the floor, and at a distance at least seventy-two (72) inches from all parts of a clear designated area in which patrons will be present.
- (3) All live entertainment and performances in a sexually oriented business must take place on a stage that is at least forty-five (45) inches from the floor and a distance of at least seventy-two (72) inches from all parts of a clear designated area in which patrons will be present.
- (4) The stage shall be separated from the area in which patrons may be present.
- (5) No employee, as defined in Section 755.02, appearing on the premises of a sexually oriented business in a state of semi-nudity, may intentionally or knowingly touch a customer or a customer's clothing or knowingly permit himself or herself to be touched by a customer or a customer's clothing.
- (6) Any live entertainment that is provided on the premises of a sexually oriented business, in a private or semi-private room, must take place in the direct, unobstructed line of sight of an employee's station at which at least one employee is on duty and stationed at all times during which such entertainment takes place, with all doors to such room completely open and ajar, if such room is not considered a "viewing booth" under Section 755.02 and therefore is not subject to the provisions of Section 755.18.

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

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

(c) Minors Prohibited. No person under the age of 18 years shall be permitted on the premises of a sexually oriented business.

(d) Hours of Operation. No sexually oriented business shall remain open at any time between the hours of 2:30 a.m. and 7:00 a.m. on weekdays and Saturdays, and 2:30 a.m. and noon (12:00 p.m.) on Sundays, nor shall any entertainment, service, or product be provided to a customer on the premises of a sexually oriented business during those hours.

(e) Minimum Lighting Level.

- (1) The premises of every sexually oriented business shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access, including restrooms, at an illumination level of not less than five (5.0) footcandles as measured at floor level.
- (2) The illumination described in subsection (a) above shall be maintained at all times that any patron is present in the premises. In the event of a power failure, the business shall stop operating immediately and all patrons shall be cleared from the premises. The premises shall not be reopened until the minimum illumination level can be assured.

(f) Exterior Display. No sexually oriented business shall be operated in any manner that permits the observation from outside the premises of any material or entertainment depicting or describing specified sexual activities or specified anatomical areas, as defined in Section 755.02, or any person in a state of nudity or semi-nudity, whether by means of display, decoration, sign, window or any other means.

(g) Except as otherwise provided in this subsection, any person who violates subsection (a) hereof, or any person who operates a sexually oriented business and knowingly permits a violation of subsection (a) hereof on the premises; shall be guilty of a misdemeanor of the fourth degree. If the offender previously has been convicted of or pleaded guilty to one violation of subsection (a) hereof, a violation of subsection (a) hereof will be considered a misdemeanor of the third degree. If the offender previously has been convicted of or pleaded guilty to two violations of subsection (a) hereof, a violation of subsection (a) hereof will be considered a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to three or more violations of subsection (a) hereof, a violation of subsection (a) will be considered a misdemeanor of the first degree.

(h) Any person who operates a sexually oriented business and knowingly permits a violation of subsection (f) hereof on the premises shall be guilty of a misdemeanor of the first degree.

(i) Any person who operates a sexually oriented business in violation of subsection (b), (d) or (e) hereof shall be guilty of a misdemeanor of the fourth degree.

(j) Any operator of a sexually oriented business or his agent or employee who recklessly violates, or operates a sexually oriented business in violation of subsection (c) hereof commits a misdemeanor of the second degree. Mistake of age is not a defense to a charge under this section, unless the person under age eighteen (18) who was permitted on the premises exhibited to the operator or his agent or employee a draft card, driver's license, birth record, or other official or apparently official document purporting to show that the person was eighteen (18) years of age or over, and the person to whom that document was exhibited did not otherwise have reasonable cause to believe that the person seeking admittance was under eighteen years old. (Ord. 1998-220. Passed 3-4-99.)

755.20 LOITERING AND EXTERIOR LIGHTING AND MONITORING REQUIREMENTS.

- (a) It shall be the duty of the operator of a sexually oriented business to:
- (1) Initiate and enforce a no loitering policy within the external boundaries of the real property upon which the sexually oriented businesses are located;
 - (2) Post conspicuous signs stating that no loitering is permitted on such property;
 - (3) Designate one or more employees to monitor the activities of persons on such property by visually inspecting such property at least once every thirty (30) minutes or inspecting such property by use of video cameras and monitors; and
 - (4) Provide adequate lighting of the exterior premises to provide for visual inspection or video monitoring to prohibit loitering. The video cameras and monitors shall operate continuously at all times that the premises is open for business. The monitors shall be installed within a manager's station.

(b) It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.
(Ord. 1998-220. Passed 3-4-99.)

755.21 INJUNCTION.

Any person who operates or causes to be operated a sexually oriented business in violation of this chapter is subject to a suit for injunction as well as prosecution for criminal violations under Chapter 755 of the Codified Ordinances of the City of Westlake.
(Ord. 1998-220. Passed 3-4-99.)

755.22 EFFECT OF PARTIAL INVALIDITY.

If any section, subsection or clause of this chapter shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected.
(Ord. 1998-220. Passed 3-4-99.)

755.99 PENALTY.

(a) Any violations of any provision of this chapter shall be a misdemeanor of the first degree punishable by fine up to and including one thousand dollars (\$1,000) and imprisonment up to and including one hundred eighty (180) days.

(b) Each day that a sexually oriented business, or person operates in violation of this chapter is a separate offense or violation.
(Ord. 1998-220. Passed 3-4-99.)