

CODIFIED ORDINANCES OF HILLIARD
PART SEVEN - BUSINESS REGULATION CODE

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CODIFIED ORDINANCES OF HILLIARD
PART SEVEN - BUSINESS REGULATION CODE

CHAPTER 705
General Licensing Provisions (Repealed)

EDITOR'S NOTE: Former Chapter 705 was repealed by Ordinance 12-22.

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CHAPTER 709
Alarm Systems

709.01	Definitions.	709.06	Liability of City.
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709.03	Automatic dialing devices.	709.08	Unlawful operation; false alarms.
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CROSS REFERENCES
False alarms - see GEN.OFF. 509.07

709.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (a) "Alarm permit" means a permit issued by the Chief of Police to any owner or other person in control of a building, property or part thereof located in the City to install and maintain an alarm system.
- (b) "Alarm permit holder" means any person, organization or company who has a permit issued to him by the Chief of Police.
- (c) "Alarm system" means any assembly of equipment and devices which signals so as to be seen or heard outside the protected building or space the presence of robbery, burglary, fire, vandalism or unauthorized intrusion.
- (d) "Automatic dialing device" means a device which is interconnected to a telephone line and is programmed to select a predetermined telephone number by voice message or code to signal an emergency indicating a need for emergency response.
- (e) "False alarm" means any alarm signal or message initiated and transmitted either automatically or manually through an alarm system to the City soliciting response by police or fire, when robbery, burglary, fire, vandalism or unauthorized intrusion does not in fact exist but does not include an alarm signal caused by hurricanes, tornadoes or other catastrophic acts of God not reasonably subject to control by the alarm manufacturer, installer or alarm permit holder.
- (f) "Interconnected alarm system" means any alarm system which directly or indirectly, automatically or manually uses a telephone line to transmit an alarm or message on activation of the alarm system, to include an automatic dialing device.

- (g) "Local alarm system" means any alarm system that when activated only sounds a horn, bell, buzzer or other type of audible or visible alarm that is designed to be audible or visible beyond the premises being served but which does not result in the transmission of a signal to any other location.
(1980 Code 98.01)

709.02 ALARM PERMITS.

(a) Any residence or building or part thereof located within the City may be equipped with an alarm system for the purpose of detecting and signaling the presence of unauthorized intrusion or fire.

(b) Before a local alarm system or inter-connected alarm system is installed in a residence or building the owner shall apply for a permit from the Chief of Police. The Chief shall prescribe the form of the application and request such information as is necessary to evaluate and act on the permit application. The information contained in an alarm permit application shall be securely maintained and restricted to inspection only by the Chief of Police or his designated representative. (1980 Code 98.02)

(c) An alarm permit fee shall be charged every two years for a permit issued under the provisions of this chapter. See Chapter 190 for fees. The initial and biennial renewal fee shall be waived for permit holders who are sixty-five years of age or older for alarm systems installed within their homes. An alarm permit shall be deemed renewed when the initial or renewal permit fee is remitted to the City and the system has been approved by the Chief of Police.
(Ord. 08-35. Passed 8-25-08.)

(d) Any person, organization or business which currently has a local alarm system or interconnected alarm system installed in their residence or place of business shall apply for an alarm permit within thirty days of the effective date of this section.

(e) When there has occurred any material change in the information previously submitted with respect to such alarm system, it shall be the duty of the occupant of a building, served by an alarm system, within ten days after a change of information previously submitted to the City to file an application supplement containing accurate, current information with respect to the data required by the Chief of Police.
(1980 Code 98.02)

709.03 AUTOMATIC DIALING DEVICES.

(a) The City may subscribe to one or more telephone lines for burglar alarms or for similar purposes. When any line is designated as provided for the above, persons may on proper applications and compliance with applicable laws, be granted a permit to install a device or devices which automatically select the designated telephone line with the purpose of playing a recorded message or to otherwise report an intrusion or other emergency. The permit fee shall be established by the Mayor in such amount as to reimburse the City for the cost of any telephone lines dedicated to automatic dialing devices. Such fee shall be revised at the beginning of each fiscal year to reflect the most recent cost experience.

(b) No person shall use or cause to be used any telephone device or telephone attachment that automatically selects any telephone line allocated by the telephone company to the City or any of its departments or divisions without notification of the Chief of Police.

(c) In the event that police numbers are changed or an alarm line is designated all automatic dialing devices shall be reprogrammed to use the designated telephone line within ten days of notification of the designation by the Mayor. Additionally, the message format shall be approved by the Chief of Police prior to inter-connection.
(1980 Code 98.03)

709.04 MAINTENANCE AND INSPECTION.

(a) Industry Standards. All equipment used in installations for which a permit is required shall meet the applicable standards of the Underwriter's Laboratory of the United States and of Canada, Factory Mutual, or other recognized industry standard. The applicant may be required to submit evidence of the reliability of the equipment to be installed.

(b) Right of Entry.

(1) The Chief of Police or his designated representative shall have the authority, at reasonable times and on oral notice, to enter on any premises within the City to inspect only the installation and operation of an alarm system the purpose of which is to report an emergency to the Police or Fire Department.

(2) In the event the premises to be inspected is a private dwelling, the inspection shall only be done between the hours of 8:00 a.m. and 8:00 p.m. and only if the notice is in written form addressed to the permit holder and presented to a responsible adult. Under this chapter, such residences are only subject to the above inspection after three false alarms have originated from them. The written notice shall cite the specific false alarm history of that permit. Failure to allow reasonable inspection of the alarm system may be grounds for revocation of the alarm permit.

(c) Repairs or Adjustments. The Chief of Police may require that repairs or adjustments be made whenever he has determined that such are necessary to assure proper operation. Failure to make repairs or adjustments may be grounds for revocation of the alarm permit.
(1980 Code 98.04)

709.05 SUSPENSION, REVOCATION AND APPEALS.

(a) Before a permit issued pursuant to this chapter may be suspended or revoked for any reason except as prescribed in Section 709.08, a hearing shall be held before the Chief of Police. A notice setting forth the time, place and nature of the hearing shall be sent to the alarm permit holder no less than seven days prior to the hearing.

(b) After the hearing the Chief of Police shall either dismiss the case or shall forward a recommendation of revocation or suspension to the Safety Director. Within ten days after receiving a recommendation, the Safety Director shall approve or disapprove the recommendation and notify the permit holder accordingly.

(c) Any decision made by the Director, pursuant to this section, may be appealed by filing a written notice of appeal with the Clerk of Council within five days of the receipt of the Safety Director's decision. Such appeal shall be heard by Council within thirty days after the filing of the appeal. That body may affirm, amend or reverse the decision or take other action deemed appropriate.

(d) At the end of the revocation or suspension period the alarm permit holder shall be required, if the holder intends to continue using his or her alarm system, to first refile an application and have it approved by the Chief of Police.
(1980 Code 98.05)

709.06 LIABILITY OF CITY.

The issuance of any permits in conjunction with this chapter shall not constitute acceptance by the City of any liability to maintain any equipment, to answer alarms or for anything in connection therewith.
(1980 Code 98.06)

709.07 EXEMPTIONS.

The provisions of this chapter are not applicable to home burglar or fire alarms not intended to be heard outside the dwelling unit, nor to local alarm systems or audible alarms affixed to automobiles, boats, boat trailers, house trailers and recreational vehicles or other motor vehicles.
(1980 Code 98.07)

709.08 UNLAWFUL OPERATION; FALSE ALARMS.

(a) Permit Required. No person shall operate an alarm system without first obtaining a permit as required by this chapter. No person shall after having a permit revoked or suspended and having exhausted the right of appeal, fail to disconnect the alarm system. Each day of unpermitted use shall constitute a separate violation.

(b) False Alarms.

(1) No alarm permit holder shall allow more than two chargeable false alarms to be transmitted to the Police or Fire Department during the immediately preceding one-year period. An alarm shall be classified as false if the responding police or fire personnel see no evidence of robbery, burglary, fire, vandalism or unauthorized intrusion.

- (2) If the permit holder proves that the alarm was caused by an event not reasonably foreseeable and which could not have been prevented by the proper adjustment or presetting of the sensor threshold or proper owner/operator use or other condition beyond his reasonable control, the alarm shall be designated a nonchargeable false alarm.
 - (3) After two officially chargeable false alarms in any permit year, the Chief of Police shall review the alarm holder's permit and recommend to the Safety Director's continuance of the permit or revoking of the permit for up to a maximum of six months. Within ten days after receiving a recommendation, the Safety Director shall approve or disapprove the recommendation and notify the permit holder accordingly.
 - (4) The alarm permit holder may appeal the Safety Director's decision to Council as provided for in this chapter. Council's decision shall be final.
 - (5) The Chief of Police may order the disconnection of any alarm system upon forwarding a recommendation of suspension or revocation of an alarm permit to the Safety Director pending his review and any appeals.
 - (6) No permit holder shall fail to disconnect his alarm system on order of the Chief of Police as set forth herein.
- (c) Allowing False Alarms. No alarm holder shall knowingly allow his alarm system to be used by any person to create a false alarm as defined in this chapter.
- (d) Violation.
- (1) Whoever violates subsection (a) or (b) hereof is guilty of a minor misdemeanor.
 - (2) Whoever violates subsection (c) hereof is guilty of a misdemeanor of the fourth degree in addition to any other penalty prescribed in this chapter. The alarm permit held by such permit holder may be suspended or revoked for up to one year.
(1980 Code 98.08)

CHAPTER 717
Amusement Arcades (Repealed)

EDITOR'S NOTE: Former Chapter 717 was repealed by Ordinance 18-27.

NOTE: The next printed page is page 17.

CHAPTER 723
Community Antenna Television Systems (Repealed)

EDITOR'S NOTE: Former Chapter 723 was repealed by Ordinance 07-55, passed November 13, 2007.

CROSS REFERENCES
Theft of services - see GEN. OFF. 545.05

CHAPTER 727
Garage Sales

<p>727.01 Definition.</p> <p>727.02 Frequency and hours of operation.</p> <p>727.03 Advertising sign.</p>	<p>727.04 Applicability.</p> <p>727.99 Penalty.</p>
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727.01 DEFINITION.

As used in this chapter "garage sale" means the display or advertisement for sale of five or more articles of tangible personal property in any residential zoning district within the City. (Ord. 04-24. Passed 6-14-04.)

727.02 FREQUENCY AND HOURS OF OPERATION.

No more than two garage sales may be conducted at any one residence within a 12-month period. Garage sales may operate for no more than three consecutive days. Garage sales may operate between the hours of 9 a.m. and 6 p.m. from October 1 through March 31 and between 9 a.m. and 8 p.m. from April 1 to September 30, local time. (Ord. 04-24. Passed 6-14-04.)

727.03 ADVERTISING SIGN.

A sign announcing these sales may be erected only if it is in compliance with Chapter 1129, Graphics and Sign Code. (Ord. 04-24. Passed 6-14-04.)

727.04 APPLICABILITY.

The provisions of this chapter shall not apply to sale of tangible personal property made under any valid court order. (Ord. 04-24. Passed 6-14-04.)

727.99 PENALTY.

Any person who violates this chapter shall be guilty of a minor misdemeanor. Each day on which a violation occurs or continues shall be considered a separate offense. (Ord. 04-24. Passed 6-14-04.)

CHAPTER 729
Registration of Contractors

729.01 Definitions. 729.02 Registration requirements.	729.03 Insurance requirements. 729.99 Penalty.
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CROSS REFERENCES
Licensing of contractors - see Ohio R.C. 715.27

729.01 DEFINITIONS.

The following definitions shall apply to this Chapter.

- (a) "Demolition Contractor" means a person or entity that provides work involving the demolition of any building, structure, or site, which shall include one-, two-, and three-family dwellings and buildings, structures, or sites associated therewith governed by the Ohio Building Code (OBC). Such work shall be only transacted by a demolition contractor duly registered with the City.
- (b) "General Contractor" means either of the following:
 - (1) Any person or entity that functions either on the behalf of, or as an agent for, an owner of a building, structure, or site for the purpose of obtaining building permits for the structural addition, alteration, repair, and/or new construction of any appurtenance, building, structure, or site, or a portion thereof, governed by the Ohio Building Code (OBC) and/or the new construction of one-, two-, and three-family dwellings and those new appurtenances directly associated therewith as regulated by this Building Code; or
 - (2) Any person or entity that offers to provide and/or provides the means, processes, and procedures for the structural addition, alteration, repair, and/or new construction of any appurtenance, building, structure or site, or a portion thereof, governed by the Ohio Building Code (OBC). In addition, such registration shall also include the new construction of one-, two-, and three-family dwellings and those new appurtenances directly associated therewith as regulated by this Building Code.

- (c) "Home improvement" means the repair, replacement, remodeling, alteration, conversion, modernization, improvement, or addition to any land or building, or that portion thereof which is used or designed to be used as a private residence or dwelling place for not more than three families; and shall include, but not be restricted to, the construction, replacement, or improvement of driveways, swimming pools, porches, garages, fallout shelters and other improvements to structures or upon land which is adjacent to a dwelling house "Home improvement" shall not include (i) the construction of a new home building or work done by a contractor in compliance with a guarantee of completion of a new building project, or (ii) the sale of goods or materials by a seller who neither arranges to perform nor performs directly or indirectly any work or labor in connection with the installation of or application of the goods or materials
- (d) "Home improvement contractor" means any person who owns or operates a home improvement business or who undertakes or offers to undertake or agrees to undertake or agrees to perform any home improvement whether or not such person is a prime contractor. "Home improvement contractor" includes any person or entity who negotiates or offers to negotiate a home improvement contract to be performed by another, unless such person is the employee or authorized representative of a registered home improvement contractor.
- (e) "Sewer builder, layer or tapper" means any person that constructs, reconstructs, connects or reconnects with the public sewer system or that lays sewer pipe in the City limits.
(Ord. 12-22. Passed 5-14-12.)

729.02 REGISTRATION REQUIREMENTS.

(a) Within the corporation limits of Hilliard, no person shall act as or claim to be a heating-ventilating-air conditioning contractor, refrigeration contractor, plumbing contractor, electrical contractor, or hydronics contractor unless that person holds or has been assigned an Ohio Construction Industry Licensing Board (OCILB) specialty contractor's license pursuant to Chapter 4740 of the Ohio Revised Code (ORC) for the type of contractor that person is acting as or claiming to be. In addition, any person engaged in, or wanting to be engaged in, any of the specific contractor types listed above shall have a current, valid OCILB specialty contractor license and apply for, and be duly registered with the City of Hilliard, in order to apply for and obtain permits to perform work of their specific OCILB licensed craft or trade. No specialty contractors holding a valid OCILB license shall perform any work or services within the City unless they have first secured a Certificate of Registration as provided in subsection (c) below.

(b) No general contractor, demolition contractor, home improvement contractor, sewer line layer (builder or tapper), or any business or individual offering the aforementioned services, for a fee other than as an employee of a registered contractor with the City, shall perform any work within the City unless they have first secured a Certificate of Registration from the City as provided in subsection (c) below.

(c) Any person desiring to conduct, carry on or engage in any of the work or provide the services listed in subsection (a) or (b) above, shall make written application for registration on forms made available by the City's Building Department. Upon submission of a complete application and the required fee, and contingent upon meeting requirements of this Chapter, registrations shall be issued by the City Manager or his/her designee.

- (1) Registrations shall be issued for a calendar year, effective January 1 through December 31 for those registrations authorized and required in subsection (a) above.
- (2) The expiration of an OCILB licensed specialty contractor registration, required in subsection (b) above, shall coincide with the specialty license issued by the OCILB.
- (3) A person or business entity whose registration has expired shall not perform any work governed by this Chapter until a renewal registration has been applied for and issued by the City, nor shall the City issue a permit for any work in the City to a registrant whose registration has expired.
- (4) A registration holder, or his or her registered business, which fails to correct work which does not comply with the pertinent Building Code governing that type of work, shall be denied the renewal of his/her registration until compliance with the Building Code shall have been verified by the City.
- (5) A person whose OCILB licensed specialty contractor registration has expired shall not perform any work governed by this Chapter until a renewal of the OCILB licensed specialty contractor registration by the City is issued, nor shall the City issue a permit to a registrant with an expired licensed specialty contractor registration.
- (6) Suspension or revocation of a Certificate of Registration, or refusal by the City to issue or renew a registration, shall be appealable by the Applicant/Registrant to the City's Board of Zoning Appeals pursuant to Chapter 1106.

(d) Registration as a licensed specialty contractor with the City requires that the applicant have a current, valid specialty contractor license issued by the OCILB in the specific category of registration listed above for which the application is being made, and evidence thereof shall be provided to the City as part of the application.

(e) Registration fees shall be charged and collected as provided in Chapter 190.

(f) Those contractors that are issued Certificates of Registration from the City shall be listed on the City's website. The Building Department shall make available hard copies of registered contractors to anyone requesting a copy.
(Ord. 19-31. Passed 12-9-19.)

729.03 INSURANCE REQUIREMENTS.

(a) All applicants seeking registration under this Chapter shall provide proof of liability insurance, which shall be maintained at all times thereafter, issued by an insurance company licensed to do business in the State of Ohio, with the following minimum limits: comprehensive general liability coverage, including premises and operations, products and completed operations coverages with minimum policy limits of three hundred thousand dollars (\$300,000) combined single limit; or, three hundred thousand dollars (\$300,000) bodily injury and three hundred thousand dollars (\$300,000) property damage.

(b) Failure to maintain liability insurance coverage in good standing as required shall be cause for immediate suspension by the City of the contractor registration.

(c) In addition to the insurance requirements above, each registration holder, under the provisions of this chapter, shall save, indemnify and hold harmless the City, its officers, employees and agents, against any and all liabilities, judgments, damages, costs and expenses which may in any case accrue against the City in consequence of the granting of any registration or which may arise from operations under such registration whether such operations be by the registration holder or by any person directly or indirectly employed or hired by the registration holder.

(Ord. 12-22. Passed 5-14-12.)

729.99 PENALTY.

Whoever violates any of the provisions of this chapter shall be guilty of a minor misdemeanor. Each day during which the violation continues shall constitute a separate offense.

(Ord. 12-22. Passed 5-14-12.)

CHAPTER 731
Hotels, Motels and Bed and Breakfast Establishments

731.01	Definitions.	731.06	Appeals.
731.02	Permits.	731.07	Transfer of ownership.
731.03	Fees.	731.08	Sanitation standards.
731.04	Inspections.	731.99	Penalty for noncompliance.
731.05	Staffing.		

731.01 DEFINITIONS.

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

- (a) "Bed and Breakfast" means a dwelling which is:
 - (1) The residence of the owner or operator,
 - (2) Contains no more than five (5) guest rooms,
 - (3) Provides lodging for guests for a period not exceeding two (2) weeks per guest for compensation, and
 - (4) Has one kitchen used to provide meals for the guests and owners.
- (b) "Hotel" means any structure consisting of one or more buildings with five (5) or more guest rooms kept, used, maintained or held out to the public to be a place where sleeping accommodations are offered for pay to transient guests for a period of thirty (30) days or less in which access to each guestroom is provided by interior hallways. (Ord. 05-73. Passed 11-28-05.)
- (c) "Extended Stay Hotel" means a facility specifically constructed, kept, used, maintained, advertised or held out to the public to offer temporary residence to persons either relocating their residence to the area or on temporary work assignment in the area, for a minimum stay within the units in the facility of more than thirty days; provided, however, that an "Extended Stay Hotel" shall not permit a patron to stay more than fifteen months within a consecutive twenty-four month period. For purposes of this Chapter, all references to "hotel" include Extended Stay Hotels. (Ord. 09-60. Passed 1-25-10.)
- (d) "Motel" means a building or group of buildings providing five (5) or more guestrooms used for transient guests for a period of thirty days or less in which access to each guest room is provided directly through an exterior door or by an entrance connected to a covered hallway or walkway on the exterior of the building.

- (e) "Owner " means any person, operator, firm or corporation, or an agent of any person, operator, firm or corporation who is authorized to act on the Owner's behalf, and being one or more of the following:
 - (1) Having a legal or equitable interest in the property;
 - (2) Recorded in the official records of the State, County, or Municipality as holding title to the property; or
 - (3) Otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.
- (f) "Employee" means any person working in the hotel, motel or bed and breakfast, including clerks, managers, housekeeping staff and maintenance personnel.
- (g) "Utensils" means drinking glasses, pitchers, and other equipment that is designed to come into contact with potable water, food or beverages during storage, transportation, washing, serving or normal usage.
- (h) "Code Enforcement Officer" means that person or persons authorized by the City to enforce the provisions of this Chapter.
- (i) "Premises" means the site upon which the hotel, motel or bed and breakfast is located, including the land and all buildings.
- (j) "Establishment" means a hotel, motel or bed and breakfast.
(Ord. 05-73. Passed 11-28-05.)

731.02 PERMITS.

(a) No person directly or indirectly, shall construct, operate or maintain a hotel, motel or bed and breakfast within the City of Hilliard without first obtaining a Permit to Operate for the current year's operation. The Permit to Operate shall be displayed to the public in a conspicuous location on the premises. The Permit to Operate shall not be transferable or assignable and shall automatically become invalid upon a change in ownership. Failure to obtain a permit as required herein, including yearly renewal, shall subject the Establishment to the penalties and procedures outlined in Section 731.99 herein.

(b) The City of Hilliard shall issue a Permit to Operate to the Owner of all hotel, motel, and bed and breakfast establishments upon application and compliance with the provisions of this Chapter.

(c) All Permits to Operate shall be issued on a calendar year basis (January 1 to December 31) or any part thereof and shall expire on December 31 following the date of issuance

(d) Every Owner that operates a hotel, motel, or bed and breakfast within the City of Hilliard shall apply for a renewal of the Establishment's Permit to Operate, on forms provided by the City, no later than thirty days prior to the expiration of the current Permit to Operate. No renewal of a Permit to Operate shall be issued to the Owner unless the following documents are provided to the City with the application for renewal:

- (1) A copy of a license issued by the State Fire Marshal for the Premises;
- (2) A copy of the latest inspection report for the Premises from the State Fire Marshal;

- (3) A copy of the latest inspection report for the Premises from the local fire inspector.
- (4) A letter designating the responsible person at the Establishment to whom a Notice of Violation(s) can be delivered and accepted, and the person or persons that have authority to act on behalf of the Owner in the Owner's absence or unavailability.

(e) All hotels, motels and bed and breakfast establishments within the City of Hilliard shall be in compliance with all local and state laws and regulations, including, but not limited to, Building and Fire Codes, and tax and permitting laws.

(f) Every Owner shall maintain a log of complaints from guests at the Establishment. Such records shall be available for inspection by the Code Enforcement Officer during normal business hours.

(g) Any person, firm, association or corporation who, subsequent to January 1 of any year, proposes to operate a hotel, motel or bed and breakfast during any remaining part of the year shall apply for a Permit to Operate not less than thirty (30) days before the Establishment is to open.

(h) The Owner shall display the Permit to Operate in a prominent location within the Establishment. (Ord. 05-73. Passed 11-28-05.)

731.03 FEES.

The Owner shall pay an annual permit application fee, based upon the number of rooms in the establishment. The application fee is listed in Chapter 190. (Ord. 08-35. Passed 8-25-08.)

731.04 INSPECTIONS.

(a) The Code Enforcement Officer shall inspect all hotels, motels and bed and breakfasts within its jurisdiction twice a year to determine if the Establishment is in compliance with all applicable provisions of the City's Codified Ordinances, including the receipt of a Permit to Operate from the City.

(b) The Owner of an Establishment in the City shall allow the Code Enforcement Officer to inspect the Establishment at any reasonable time. The Owner of the Establishment shall provide the Code Enforcement Officer unlimited access to all areas of the Premises at all reasonable times for the purpose of such inspections. Every guest of an Establishment shall provide the Owner or manager thereof with access to their guest room for the purpose of cleaning, maintenance, inspection and compliance with the City's Codified Ordinances.

(c) The City's Code Enforcement Officer shall have the authority to inspect and examine the register containing a record of all guests who have used or who are using the Establishment. (Ord. 05-73. Passed 11-28-05.)

731.05 STAFFING.

Every hotel, motel, or bed and breakfast operating within the City of Hilliard shall be adequately staffed to maintain the Establishment in a safe and sanitary condition at all times (Ord. 05-73. Passed 11-28-05.)

731.06 APPEALS.

Any Owner of a hotel, motel or bed and breakfast may appeal the denial of a Permit to Operate to the City's Board of Zoning Appeals within twenty (20) days of notification that a Permit to Operate has been denied. (Ord. 05-73. Passed 11-28-05.)

731.07 TRANSFER OF OWNERSHIP.

It shall be unlawful for the Owner of any hotel, motel, or bed and breakfast establishment who has received a Notice of Violation or order and who is not in compliance with the notice or order, to sell, transfer, or lease the Establishment until it has been brought into compliance with this Chapter; provided, that the Owner may sell, transfer or lease the Establishment if the Owner furnishes the buyer, transferee or lessee with a true copy of the Notice of Violation or order, and provides to the Code Enforcement Officer a signed and notarized statement from the buyer, transferee or lessee acknowledging receipt of such Notice of Violation or order and fully accepting responsibility without condition for making the corrections required to bring the Establishment into compliance with the provisions of this Chapter. (Ord. 05-73. Passed 11-28-05.)

731.08 SANITATION STANDARDS.

Every Owner of an Establishment shall comply with the following sanitation standards.

(a) Premises Exterior.

- (1) The grounds surrounding a hotel, motel or bed and breakfast shall be maintained in a clean and sanitary condition at all times.
- (2) The exterior premises of a hotel, motel or bed and breakfast shall be free from accumulations of refuse, garbage and rubbish. The Owner shall arrange for the collection of solid waste as is necessary so as to avoid the creation of a nuisance but in no event less frequently than once per week.
- (3) All solid waste shall be stored in closed containers or dumpsters until it is disposed.
- (4) All solid waste collection and storage containers that are maintained outside of the building shall be cleanable, leak proof and equipped with tightly fitting covers that shall be closed at all times. Such containers shall be placed on a paved surface at least twenty-five (25) feet from any sleeping room.
- (5) Litter on the premises shall be collected and disposed of daily.
- (6) The surface of the ground around the Establishment shall be graded so as to minimize standing water. Gutters and downspouts shall be maintained in good condition and shall divert water away from the building.
- (7) All windows which have a sash that can be opened to the outside of the building shall be equipped with 16-mesh screens that are secure and in good condition.
- (8) Weeds and brush shall be kept cut, and shall not be permitted to grow beyond ten (10) inches tall so as to prevent creating a habitat for rodents.
- (9) Any Establishment which was built before 1978, and which exterior surfaces may contain lead based paint shall maintain such surfaces in good condition, to minimize flaking, peeling and chipping paint.

- (b) Common Restrooms.
- (1) The floors, walls, doors, toilets, lavatories, and modesty panels in all restrooms shall be smooth, easily cleanable, in good repair, and composed of durable, non-absorbent material.
 - (2) Restrooms shall be kept clean and sanitary at all times. Restroom fixtures, including toilets, urinals, and sinks shall be cleaned and disinfected daily. Restroom floors shall be mopped and sanitized daily. Door handles, switch covers and other tactile surfaces shall be cleaned and disinfected daily. Restroom walls, doors, doorframes, and toilet stalls shall be maintained in a clean and sanitary condition.
 - (3) All electrical outlets within six (6) feet of water shall be protected by a Ground Fault Current Interrupter.
 - (4) Restroom lavatories shall be smooth and easily cleanable, and provide hot and cold water in sufficient pressure and quantity to permit thorough hand washing.
 - (5) Soap and paper towels or hand dryers shall be provided at the lavatory at all times.
 - (6) A trash container shall be provided for the disposal of used paper towels.
 - (7) Toilets and urinals shall fill and flush properly, and they shall be in good condition. Toilet seats shall be smooth and easily cleanable. Toilet paper shall be provided at all times.
- (c) Lobbies, Meeting Rooms and Hallways .
- (1) Lobbies, hallways, stairways, meeting rooms, and other public places within the Establishment shall be maintained as originally approved by the City of Hilliard's Chief Building Official. All hallways, stairways, meeting rooms and other public places shall be maintained in a clean, nuisance-free condition.
 - (2) Floors shall be mopped or vacuumed daily, except for meeting rooms that are not used on a daily basis. All rooms shall be cleaned after each use. Tactile surfaces, including switch covers, door handles, door frames and telephones shall be cleaned and disinfected daily.
 - (3) Floors, walls and horizontal surfaces shall be maintained in a smooth and cleanable condition. Walls, ceilings, horizontal surfaces, ventilation system grilles and other surfaces shall be kept clean.
 - (4) Meeting rooms and other common areas of the Establishment shall be inspected as often as necessary to determine if water and mold has damaged materials such as wall coverings, drywall and particle board. If mold is found, the contaminated area shall not be used until the mold contamination has been properly remediated, following the guidelines in the New York City Health Department "Guidelines for the Remediation of Mold and Fungi in Indoor Environments." A copy of these guidelines is available from the Code Enforcement Officer upon request.
 - (5) Water fountains, if provided, shall be made of easily cleanable materials, and shall be cleaned and sanitized daily. The flow of water must crest at least two (2) inches above the top of the mouth guard.

- (6) Ice provided for guests shall be produced, stored and dispensed in a sanitary manner, and shall be protected from becoming contaminated through guest self-service contact with the ice or the interior of the ice storage unit. Open ice bins are not permitted.
 - (7) All reusable ice buckets provided for guests shall be made of an impervious, smooth, easily cleanable material. They shall be washed, rinsed and sanitized after being used by the guest, and stored so as to protect them from contamination. If liners are used in the ice buckets, they shall be changed daily.
 - (8) Multi-use drinking glasses and cups, after being used by a guest shall be washed and sanitized, and stored in a sanitary manner. All multi-use glasses and cups, shall be cleaned and sanitized in a mechanical dishwasher, or in a three compartment sink in which the utensils shall be washed in hot soapy water, rinsed in clean water, and then rinsed in a sanitizing solution.
- (d) Sleeping Rooms.
- (1) Each sleeping room shall be equipped with at least one mattress and foundation. The mattresses and foundations shall be clean, with no tears or other damage and free from stains and soiling. Mattresses or foundations which are stained with blood or other bodily fluids shall be immediately removed and discarded and replaced by a clean and damage free mattress.
 - (2) After being used by a guest, sheets, pillow cases, and the mattress pad if it is odorous, exhibits evidence of perspiration or other bodily fluids or if it is soiled, shall be laundered before being used by a new guest. Bed linens that are used by the same guest for more than one day shall be changed at least three times a week, or more often if they are heavily soiled.
 - (3) Comforters and blankets shall be kept clean and odor and stain-free. They shall be washed frequently.
 - (4) Pillows shall be clean and free from odors and stains. Stained or soiled pillows shall be immediately removed and discarded.
 - (5) There shall be sufficient natural and artificial light in the sleeping room at all times to provide for proper cleaning, reading, safety, and the comfort of the guests.
 - (6) All of the surfaces in the sleeping room shall be maintained in good condition, and composed of materials that are easily cleanable, including without limitation the following:
 - A. Carpeting shall lie flat on the floor and be free from rips, torn edges, odors, or excessive staining;
 - B. Linoleum and tile shall be secure to the floor, and shall not be severely cracked or broken;
 - C. Baseboards or cove base shall be firmly attached to the wall. Baseboards or cove base shall be installed in every sleeping room and bathroom;
 - D. Doors, door frames and handles, switch covers, telephones, and remote controls shall be cleaned daily with a disinfectant cleaner, when the guest room is in use or it is anticipated to be used;

- E. Walls, carpeting, baseboards, window frames and other surfaces shall be cleaned whenever they become soiled, dirty, or tobacco smoke residue is observed;
 - F. Horizontal surfaces, lampshades, draperies and other furnishings shall be clean and free from dust or dirt;
 - G. Carpeting shall be thoroughly vacuumed daily. Food residue, bodily fluids, and excessive soil shall be immediately spot cleaned. Carpeting behind and under room furnishings and in corners shall be cleaned at least once every week.
- (7) If the rooms have microwave ovens, refrigerators or coffee makers, and the presence thereof is not in conflict with the City's Codified Ordinances or State Fire Code, the microwave ovens, refrigerators and coffee makers shall be cleaned daily to remove food residue and dirt.
 - (8) Refrigerators shall maintain an internal temperature of 45 degrees, Fahrenheit or lower when in operation.
 - (9) The interior of microwave ovens shall be smooth and free from rust, exposed metal, or evidence of burning or scorching. The microwave door shall seal tightly and the door glass shall be intact.
 - (10) Heating and air conditioning units shall be maintained in operable condition at all times. All heating and air conditioning units shall be of a size and configuration that they can rapidly heat the air and maintain a minimum room temperature of 72 degrees. All controls for the unit shall be operable, and the switches, buttons or knobs for the control shall be in place. Heating and air conditioner filters, covers, coils and condenser pans shall be clean and free from dirt, bacteria and debris. Condenser pans shall be equipped with a functioning condensate drain which shall be directed to the exterior of the building, or be plumbed into the building's plumbing system. All grilles, filters and cabinets of the heating and air conditioning units shall be intact, secure and in good repair.
 - (11) Before providing small electrical appliances for use by guests the Owner shall have the electrical service in the Establishment inspected and approved by the local building official or a certified building inspector.
 - (12) The following regulations shall apply to toilet rooms within sleeping rooms in any Establishment:
 - A. Every sleeping room shall be equipped with an adjacent toilet room and plumbing fixtures as required in the applicable provisions of the Ohio Building Code or the Ohio Revised Code;
 - B. No modifications to the plumbing shall take place until such modifications are approved by the Code Enforcement Officer;
 - C. Walls, floors, ceilings, doors, plumbing fixtures, finish materials, vanities, and light fixtures shall be composed of materials that are smooth and easily cleanable;
 - D. Floors, ceilings, vanities, and light fixtures shall be maintained in good condition, and they shall be free from soil, dirt, tobacco smoke residue and dust;

- E. Door handles, doorframes, switch covers, toilet handles, and other tactile surfaces shall be composed of smooth, easily cleanable materials, and they shall be cleaned and disinfected daily;
 - F. Bathtubs, showers and lavatories shall provide hot and cold water in sufficient quantity and pressure to permit bathing and hand washing in compliance with accepted engineering standards. Soap, clean towels and wash cloths shall be provided at all times;
 - G. The toilet shall be filled and shall flush properly at all times. The exterior, interior and base of the toilet bowl, and the toilet seat shall be cleaned daily with a disinfectant cleaner. The toilet seat shall be secure, smooth and easily cleanable. Toilet paper shall be supplied to the guests at all times;
 - H. Bathroom lighting shall be sufficient to provide for adequate cleaning, and for safety and the comfort of the guests;
 - I. Bathrooms that exhibit evidence of moisture damage or mold, or which contain odors shall be equipped with a functional mechanical ventilation system that adequately displaces humid air and odors from the bathroom;
 - J. The bathroom floor shall be swept and then mopped daily, using a disinfectant cleaner. The bathroom floor shall be composed of a durable, easily cleanable material;
 - K. Each bathroom shall be provided with a waste collection container that is made of a durable material, that is smooth and easily cleanable, and which is of adequate size for the number of guests occupying the room;
 - L. All electrical outlets within six feet of water shall be protected by a Ground Fault Current Interrupter.
- (13) Guest rooms shall be inspected as often as necessary to determine if water and mold have damaged materials such as wall coverings, drywall and particle board. If mold is found, the contaminated area shall be not be used until the mold contamination has been properly remediated, following the guidelines in the New York City Health Department "Guidelines for the Remediation of Mold and Fungi in Indoor Environments".
- (14) If an Owner elects to permit pets in the Establishment, he shall designate specific rooms in the hotel, motel or bed and breakfast specifically for that purpose. The doors to such rooms shall be so labeled. The Establishment shall continuously use the same rooms for guest pets and shall not rotate rooms for such use. If an Owner elects to permit pets upon the premises, the Owner shall establish and enforce rules to control pets within the Establishment. Pets shall be leashed or confined in a pet carrying cage when not in a guest room. No guest shall permit a pet to run at large or to become a nuisance. Rooms in which animals have been kept by a guest shall be thoroughly cleaned and disinfected to remove fur, dander, urine, feces, and other contamination. In the event that fleas are discovered in a sleeping room, the room shall not be rented until the fleas have been eradicated by a licensed pest control applicator.

- (15) At least one waste collection container shall be provided in each sleeping room. The container shall be made of a smooth and easily cleanable material. Solid waste shall be collected and removed from the room each day from each receptacle.
- (e) Water and Wastewater. Water to supply the guest rooms and common areas of the Establishment shall originate from a source that is approved by the City of Hilliard and the Ohio Environmental Protection Agency. An adequate supply of hot and cold water under sufficient pressure shall be provided for laundry, hand washing, bathing, utensil washing and other purposes. Sewage from the Establishment shall be properly disposed in a public sanitary sewer or by treatment in an on-site sewage treatment facility that is approved by the Ohio Environmental Protection Agency.
- (f) Laundry.
- (1) If laundry is washed at the Establishment, there shall be adequate capacity to properly wash and dry all of the soiled linens that are generated daily.
 - (2) The floor, walls, shelving and tables in the laundry room shall be composed of a smooth, easily cleaned material.
 - (3) Soiled laundry shall be isolated from clean linens.
 - (4) All laundry carts shall be constructed of an easily cleanable or washable material.
 - (5) Linens shall be washed in hot water with a detergent and disinfectant.
(Ord. 05-73. Passed 11-28-05.)

731.99 PENALTY FOR NONCOMPLIANCE.

- (a) The Code Enforcement Officer shall serve a notice of violation or order to the Owner by personal service or by certified mail, return receipt requested.
- (b) Any Owner failing to comply with a notice of violation or order served as provided in this Chapter shall be deemed guilty of a first degree misdemeanor and the violation shall be deemed a strict liability offense. If the Establishment is not brought into compliance, the Code Enforcement Officer shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violations or to require the removal or termination of unlawful occupancy.
- (c) Any person who violates a provision of this Chapter or who fails to comply therewith or with any of the requirements thereof, shall be prosecuted within the limits of the laws of the State of Ohio and the City of Hilliard. Each day that a violation continues after notice is provided hereunder shall be deemed a separate offense.
- (d) Whenever the Code Enforcement Officer determines that there has been a violation of this Chapter or has grounds to believe a violation has occurred, written notice shall be given to the Owner, which shall include the following:
- (1) The name and address of the hotel, motel or bed and breakfast;
 - (2) A statement of violation or violations and why the notice is being issued;
 - (3) Photographs of the violation(s), if obtainable by the Code Enforcement Officer; and
 - (4) A correction order allowing a reasonable time for the Owner to bring the Establishment into compliance with this Chapter, taking into consideration the nature of the violation(s). If the health and safety of guests is at risk, immediate compliance may be ordered.

(e) Notice shall be deemed properly served if a copy thereof is delivered personally to the Establishment's Owner or sent by certified mail to the address listed upon the Establishment's Permit to Operate application. (Ord. 05-73. Passed 11-28-05.)

(f) A re-inspection fee, plus any charges incurred by the City to conduct such inspection, shall be charged to the owner for each re-inspection that is required after the initial inspection following the issuance of a Notice of Violation or order. See Chapter 190 for re-inspection fee. (Ord. 08-35. Passed 8-25-08.)

CHAPTER 745
Canvassers, Peddlers and Solicitors

<p>745.01 Definitions.</p> <p>745.02 Purpose.</p> <p>745.03 Permit or registration required.</p> <p>745.04 Permit application and requirements.</p> <p>745.05 Permit fee.</p> <p>745.06 Registration for charitable or religious purpose.</p> <p>745.07 Permit and registration term.</p> <p>745.08 Permitted hours of operation.</p> <p>745.09 Display of authorization.</p>	<p>745.10 Posted notice prohibiting canvassers, peddlers or solicitors.</p> <p>745.11 Do Not Knock Registry.</p> <p>745.12 Revocation of permit or registration certificate.</p> <p>745.13 Appeals.</p> <p>745.14 Savings clause.</p> <p>745.99 Penalty.</p>
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CROSS REFERENCES

Home solicitation sales - see Ohio R.C. 1345.21 et seq.
 Charitable solicitations - see Ohio R.C. Ch. 1716
 Trespassing - see GEN. OFF. 541.05
 Littering - see GEN. OFF. 521.08
 Pushcarts - see BUS. REG. Ch. 750
 Door to door sales activity of minors restricted - see Ohio R.C. 4109.21

745.01 DEFINITIONS.

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

- (a) **CANVASSER.** Any person who seeks to disseminate any verbal or written lawful message including ideas, thoughts or messages regarding any cause, issue or religion without soliciting funds or donations; or any political candidate without acting as a solicitor and whose actions do not violate any local, state or federal law.
- (b) **CHARITABLE PURPOSE.** Any purpose described in section 501(c)(3) of the Internal Revenue Code and any purpose for patriotic, philanthropic, social service, welfare, eleemosynary, benevolent, educational, civic, fraternal, veteran's medical and social research, humane, scientific, public health or environmental conservation objective.
- (c) **PEDDLER.** Any person who carries with him for the purpose of sale at retail and immediate or future delivery, goods, wares, food, merchandise, or personal property of any nature, or any person who in person, as principal or agent, offers, sells or otherwise obtains orders or commitments for the sale, repair or exchange of goods, wares, food, merchandise or personal property, or services.
- (d) **PERSON.** Any person, firm, partnership, corporation, company, association, club, society, religious sect, religious denomination or other organization or entity or any combination of the foregoing and includes any trustee, member, agent, signee or other representative thereof.

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- (e) **RELIGIOUS ORGANIZATION.** An entity duly organized and operating in

good faith and entitled to receive a declaration of current tax exempt status for religious purposes from the Internal Revenue Service and the duly organized branches and chapters of such organization.

- (f) **SOLICITOR.** Any person who obtains or seeks to obtain funds or donations of personal property for any cause whatsoever or seeks opinions, preferences or other information for commercial purposes.
(Res. 15-R-70. Passed 10-19-15.)

745.02 PURPOSE.

The purpose of this Chapter is to regulate the activities of canvassers, peddlers and solicitors, to promote the dependability and accountability of canvassers, solicitors and peddlers, prevent fraud and promote the safety and welfare of the general public.
(Res. 15-R-70. Passed 10-19-15.)

745.03 PERMIT OR REGISTRATION REQUIRED.

(a) Subject to divisions (c) and (d) below, no person by means of traveling from door to door or place to place or temporarily hiring or using a structure or lot or portion therefor, shall engage in the business or activity of peddler or solicitor as defined in Section 745.01 in this municipality without first obtaining a permit as provided in Section 745.04.

(b) Subject to divisions (c) and (d) below, all persons by means of traveling from door to door or place to place or temporarily hiring or using a structure or lot or portion therefor, when acting for or hired by another as a peddler or solicitor in the municipality shall obtain a permit as provided in Section 745.04 prior to acting as a peddler or solicitor.

(c) No permit shall be required of any person who, without compensation, acts as a peddler or solicitor on behalf of and for any religious organization or for a charitable purpose. However, subject to division (d) below, no person shall act as a solicitor or peddler on behalf of or for a religious organization or a charitable purpose without first having registered with the Chief of Police pursuant to Section 745.06.

(d) No permit or registration certificate under this Chapter shall be required of any person for the following:

- (1) Peddling or soliciting only the purchase of or subscription for newspapers having their principal sale or distribution in this municipality or Franklin County;
 - (2) Peddling or soliciting only for wholesale delivery to merchants, manufacturers or other business or manufacturing establishments;
 - (3) Peddling or soliciting at the invitation or request of the person contacted;
 - (4) Peddling or soliciting conducted only among the members of the entity or organization conducting the peddling or soliciting;
 - (5) Peddling or soliciting in the form of collections or contributions at the regular assemblies, meeting or services of any religious organization or charitable not for profit organization;
 - (6) Persons under the age of 18 who are not employed by another person;
 - (7) Acting only as a canvasser, as defined in Section 745.01.
- (Res. 15-R-70. Passed 10-19-15.)

745.04 PERMIT APPLICATION AND REQUIREMENTS.

(a) Application Requirements. Applications for permits for peddlers or solicitors shall be filed with the Chief of Police on a form to be furnished by the Chief of Police, which shall require, at la minimum, the following information:

- (1) The name of the applicant;
- (2) If the applicant is an individual, a physical description of the applicant, including age, weight and height;
- (3) The applicant's social security number or federal identification number;
- (4) The name and address of the person by whom the applicant is employed or for whom s/he is soliciting, if any, and the length of the applicant's service with such person;
- (5) If the applicant is an individual, all places of residence of the applicant and all employment during the preceding 12 months;
- (6) The nature and character of the goods to be sold or services to be furnished by the applicant or the purpose for which funds are being peddled or solicited;
- (7) The names of other municipalities in which the applicant has conducted peddling or solicitation activities during the preceding 6 months;
- (8) A current and valid driver's permit or other current and valid government issued identification that contains a picture of the applicant; if the applicant is not a U.S. citizen, a valid passport from the country of origin and proof of legal entrance into the U.S. and authorization to work;
- (10) An acknowledgment by the applicant that s/he will not use the permit as an endorsement by the City, a city department or city employee of the applicant's products, services or employer.

(b) Background Checks. The Chief of Police shall ensure that a background check has been conducted of every applicant and may direct applicants to a third party to conduct the background check. Every Applicant is responsible for payment of the costs of his/her background check.

(c) Waiting Period. Because the background check and investigation by the City (in reviewing and processing the application) may take up to seven (7) days, the applicant should file the application as soon as he/she is aware that the applicant will be conducting peddling or soliciting in the City.

(d) Approval. If the Chief of Police determines after an independent records check and investigation, that the information furnished under the requirements of division (A) above is correct; that the applicant proposes to engage in a lawful commercial or professional enterprise; the activities or business of the applicant shall not be a fraud upon the public; and that neither the applicant, nor the enterprise upon which the applicant proposes to engage, constitutes a clear and present danger to the residents of the municipality, s/he shall issue a permit to the applicant. The permit issued shall include a photo of the applicant.

(Res. 15-R-70. Passed 10-19-15.)

745.05 PERMIT FEE.

Each applicant for a permit shall pay to the Chief of Police upon application for a permit, a fee of \$50.00 plus the City's cost to conduct the background check if the City is the entity conducting the background check. Each agent, as a representative of the permit, shall apply for a separate permit and pay a separate fee and costs. These fees and costs shall be non-refundable.

(Res. 15-R-70. Passed 10-19-15.)

745.06 REGISTRATION FOR CHARITABLE OR RELIGIOUS PURPOSE.

(a) Any person who peddles or solicits for a religious organization or charitable purpose shall be required to register on a form to be furnished by the Chief of Police. Each registration application shall contain:

- (1) The name, address and the telephone number of the person completing the application;
- (2) The name of the organization and an officer or official of the organization;
- (3) The nature of the charitable or religious purpose to which the contributions, donations or sale proceeds will be applied;
- (4) Verification that the applicant or applicant's employer has complied with the requirements of Ohio Revised Code Chapter 1716 pertaining to charitable solicitations, if applicable;
- (5) A copy of the current letter ruling from the Internal Revenue Service indicating tax exempt status in accordance with 26 U.S.C. 501(C)(3) if applicable.

(b) An organization which desires to place a number of solicitors in the City simultaneously may make a group application to cover all of them; however, separate registration certificates shall be issued to each, or in lieu of separate registration certificates, separate information cards shall be issued to each solicitor by the organization. Such information cards shall include, at a minimum:

- (1) The name of the organization;
- (2) A description of the purpose of the solicitation;
- (3) The period for which the registration certificate was issued;
- (4) The name of the solicitor;
- (5) A brief description of the solicitor, such as age, weight, and height; and
- (6) The signatures of the solicitor and an officer or official of the organization.
- (7) A photo of the applicant/solicitor for which the registration certificate is issued.

(c) No fee shall be required for a registration certificate.

(d) No registration certificate shall be required for any person who acts as a canvasser on behalf of a religious or charitable organization if no goods are peddled or donations or any other type of contributions are sought or otherwise solicited by the canvasser in any manner.

(Res. 15-R-70. Passed 10-19-15.)

745.07 PERMIT AND REGISTRATION TERM.

(a) All permits and registration certificates issued under the provisions of this Chapter shall expire within one year of the date it was issued. Each permit and registration certificate shall state the expiration date. It shall be unlawful for any person to modify the expiration date.

(b) It shall be unlawful for any person other than the original applicant and holder of the permit to use or display a permit or registration certificate issued under this Chapter.

(Res. 15-R-70. Passed 10-19-15.)

745.08 PERMITTED HOURS OF OPERATION.

(a) No person shall peddle, solicit or conduct market research, door to door, at dwelling houses or businesses at random, on sidewalks or streets, at public places, at private meeting places or in any other manner or place in the municipality other than between the hours of 9:00 a.m. and 8:00 p.m.

- (b) This section does not apply to:
- (1) property owned or operated by the peddlers or solicitor; or,
 - (2) for periods of time made by appointment by the peddler or solicitor.
(Res. 15-R-70. Passed 10-19-15.)

745.09 DISPLAY OF AUTHORIZATION.

(a) The permit or registration certificate issued under the provisions of this Chapter shall at all times be conspicuously attached and exhibited on the outer clothing of the peddler or solicitor.

(b) Permits or registration certificates issued under the provisions of this Chapter are nontransferable and shall not be used by any person other than the person identified on the permit or registration certificate.

(c) Upon request, all solicitors or peddlers shall provide a written receipt showing the name of the solicitor or peddler, the amount of the contribution or purchase and the date the contribution or sale was made. Upon request, all persons acting as peddlers or solicitors on behalf of any recognized religious or charitable not for profit organization shall provide a statement attesting to the organization's tax exempt status under Section 501 of the Federal Internal Revenue Code. (Res. 15-R-70. Passed 10-19-15.)

745.10 POSTED NOTICE PROHIBITING CANVASSERS, PEDDLERS OR SOLICITORS.

(a) It shall be unlawful for any person while conducting business or activity as a canvasser, peddler or solicitor in the City, to enter upon the premises of any private residence, business or organization (whether public or private) where there is conspicuously posted at the entry of the premises or at the entry of the principal building on the premises, a notice in English bearing the words "No Canvassers", "No Solicitors", "No Peddlers", "No Trespassing" or sign of similar import that communicates the occupants' or owners' intent and desire not to be contacted by canvassers, peddlers or solicitors and that such persons going door to door are not invited onto the premises.

(b) The "notice" referenced in subsection (a) above shall be in the form of a weatherproof card, decal or sign with letters in plain view and readable to a person with normal vision. (Res. 15-R-70. Passed 10-19-15.)

745.11 DO NOT KNOCK REGISTRY.

(a) The Chief of Police shall establish and maintain a Canvassers, Peddlers and Solicitors "Do Not Knock Registry". A current registry shall be available on the City's website that may be printed and/or downloaded by the public.

(b) Any person in lawful possession and occupancy of any business, residence, house, apartment or other dwelling in the City may require the City to place or maintain the address of his or her business, residence, house, apartment or other dwelling on the Canvassers, Peddlers and Solicitors Do Not Knock Registry, to be maintained by the City, by submitting a request on a form supplied by the Chief of Police, which shall contain the following information:

- (1) The name of the person(s) completing the form;
- (2) The complete address of the business, residence, house, apartment, or other dwelling to be placed on the Registry;
- (3) The date the form was completed;

- (4) A statement that in regards to the subject address, no canvassers, peddlers or solicitors shall knock, ring the doorbell, make noise or otherwise call for the attention of occupants at the subject address, in any manner; and
- (5) Such other information that verifies the identity of the person(s) completing the form as a lawful possessor and occupant as may be required by the Chief of Police.

(c) Any person in lawful possession and occupancy of any business, residence, house, apartment or other dwelling in the City may require the City to remove his or her business, residence, house, apartment or other dwelling from the Canvassers, Peddlers and Solicitors "Do Not Knock Registry" by submitting a separate Notice of Removal from said Registry on a form supplied by the Chief of Police, which shall contain the following information:

- (1) The name of the person(s) completing the form;
- (2) The complete address of the business, residence, house, apartment, or other dwelling to be removed from the Registry;
- (3) The date the form was completed;
- (4) A statement that the business, residence, house, apartment or other dwelling be removed from the Canvassers, Peddlers and Solicitors Do Not Knock Registry, or words of similar import; and
- (5) Such other information that verifies the identity of the person(s) completing the form as a lawful possessor and occupant as may be required by the Chief of Police.

(d) The decision whether to place a business, residence, house, apartment or other dwelling on the Canvassers, Peddlers and Solicitors Do Not Knock Registry shall be solely that of the lawful possessor and occupant thereof, and no official, employee or other agent of the City shall interfere with that decision.

(e) The City will send a notice to each registered address on the Registry, in the form of a sticker, that the occupant must display on or near the main entrance door or window, so that it is conspicuously visible to those approaching the premises.

(f) A business, residence, house, apartment, or other dwelling, after being lawfully placed on the Canvassers, Peddlers and Solicitors Do Not Knock Registry shall remain on such Registry until the earlier of any of the following.

- (1) The City receives a Notice of Removal pursuant to subsection (c) above;
- (2) The City receives notice that the person who submitted the form pursuant to subsection (b) above is not, or is no longer, a lawful possessor or occupant of the premises; or
- (3) The expiration of five (5) calendar years, expiring on December 31st of the fifth full calendar year, from the date on the form submitted pursuant to subsection (b) above.

(g) A copy of the Do Not Knock Registry shall be made available to the public during normal business hours of the City at the Hilliard Police Department and shall be provided to every peddler or solicitor that is required to obtain a permit from the Chief of Police or required to register with the City pursuant to this Chapter.

(h) By enacting this Chapter, Canvassers, Peddlers and Solicitors are on notice that a Canvassers, Peddlers and Solicitors Do Not Knock Registry exists. Each is responsible for obtaining a copy of the Registry from the City prior to Canvassing, Peddling or Soliciting in the City of Hilliard, which Registry shall also be made available on the City's website.

(i) Canvassers, Peddlers and Solicitors are prohibited from knocking on the door of any residence, house, apartment, or other dwelling that is listed on the Registry and for which a Do Not Knock sticker is conspicuously displayed on the premises pursuant to Section 745.11(e) above. A violation of this Section does not occur if the residence, house, apartment, or other dwelling does not display the sticker as required in subsection (e).

(j) Provisions of the Do Not Knock Registry do not apply to persons invited onto the property by the occupant of those premises, for the purposes of peddling, soliciting or canvassing. (Res. 15-R-70. Passed 10-19-15.)

745.12 REVOCATION OF PERMIT OR REGISTRATION CERTIFICATE.

(a) No person shall directly or indirectly make or perpetrate any misstatement, deception or fraud in connection with any solicitation or peddling for any purpose in the City or in any application or report filed under this Chapter.

(b) No person, having entered into an agreement to conduct any peddling or solicitation on behalf of any person or organization, shall fail to remit or pay to the party entitled thereto, the proceeds of such peddling or solicitation in accordance with the terms of the agreement.

(c) The Chief of Police may revoke at any time any permit or registration certificate issued under the provisions of this Chapter for violation of any provision of this Chapter.

(d) The Chief of Police may revoke a permit or registration certificate at any time for good cause due to complaints of intimidating, discourteous, harassing, offensive, profane, obscene, disruptive, threatening or abusive conduct or claims of damage by residents regarding a solicitor or peddler. (Res. 15-R-70. Passed 10-19-15.)

745.13 APPEALS.

Any person who has applied for a permit or registration certificate in accordance with this Chapter and to whom the Chief of Police has, after an investigation, denied a permit or registration certificate may appeal to the City's Director of Public Safety. Notice of such appeal shall be filed with the Director of Public Safety within five (5) days after the denial by the Chief of Police. Such appeal shall be heard by the Safety Director, or his/her designee if the Safety Director is not available, within five (5) days of submitting the appeal. His/her decision shall be final. (Res. 15-R-70. Passed 10-19-15.)

745.14 SAVINGS CLAUSE.

Should any section, clause, paragraph or provision of this chapter be declared by any Court to be invalid, such a decision shall not affect the validity of the chapter as a whole or any part thereof, other than the part so determined to be invalid. (Res. 15-R-70. Passed 10-19-15.)

745.99 PENALTY.

(a) Whoever violates any provision of this Chapter shall be guilty of a misdemeanor of the fourth degree on the first offense and shall be guilty of a misdemeanor of the first degree for a second or subsequent violation of this Chapter or any substantially similar Chapter of these Codified Ordinances. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(b) A violation of Section 745.10 or 745.11, in addition to other penalties provided for in this Chapter, is deemed to be a criminal trespass and may be punishable as set forth in Section 541.05(d) of these Codified Ordinances. (Res. 15-R-70. Passed 10-19-15.)

CHAPTER 750
Pushcarts

<p>750.01 Purpose.</p> <p>750.02 Definitions.</p> <p>750.03 Permit and license required.</p> <p>750.04 Cart size, description, requirements, prohibited equipment.</p> <p>750.05 Permitted pushcart locations and times.</p> <p>750.06 Pushcart permit application.</p> <p>750.07 Application investigation.</p> <p>750.08 Permit issuance, fee, term.</p> <p>750.09 Permit and ID display.</p>	<p>750.10 Permit refusal.</p> <p>750.11 Permit suspension, revocation.</p> <p>750.12 Permit appeals.</p> <p>750.13 Transfer of permit.</p> <p>750.14 Operating restrictions and requirements.</p> <p>750.15 Record of pushcart rental.</p> <p>750.16 Insurance and indemnification requirements.</p> <p>750.17 Violation; failure to comply.</p> <p>750.18 Severance clause.</p> <p>750.99 Penalty.</p>
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CROSS REFERENCES
Transient vendors - see BUS. REG. Ch. 750

750.01 PURPOSE.

The purpose of this Chapter is to provide for the regulation, licensure and permitting process for the use of vending carts, referred to herein as "pushcarts," in designated areas of the City in a safe manner for the benefit of the vendors, the City and its residents.
(Res. 17-R-11. Passed 2-27-17.)

750.02 DEFINITIONS.

- (a) "Director" shall mean the Director of Public Safety, or his/her designee.
- (b) "Park" shall mean those public parks designated by the Director of Recreation and Parks as being suitable and appropriate for pushcart vending.
- (c) "Permit" means a temporary public right-of-way occupancy permit authorized by Section 750.07.
- (d) "Permittee" means the person who owns the pushcart that has received a permit from the City of Hilliard to vend from a pushcart.

(e) "Permitted Space" means the measurable area outlined on the permit issued by the Director where a pushcart is permitted and from where the Permittee is permitted to vend.

(f) "Pushcart" means a wheeled vehicle propelled by human power which has been specifically designed for the sale or barter of goods. Vehicles or apparatus that are not specifically designed for the sale or barter of goods shall not be permitted as pushcarts, including by way of example, and not by way of limitation, the following; racks, wheelbarrows, dollies, grocery carts, baby carriages, tables, chairs, benches, cabinets, or other furniture and boxes, buckets, tubs, or other containers or devices which normally rest on the ground whether or not wheels have been attached.

(g) "Right-of-way" means any sidewalk, court, alley, street or other area dedicated or designated for the traveling public and held by the City.
(Res. 17-R-11. Passed 2-27-17.)

750.03 PERMIT AND LICENSE REQUIRED.

(a) No individual or organization shall use, or cause to be used, any vehicle which is propelled by human power to sell, barter, offer or expose for sale any pre-prepared or prepackaged food items or beverages upon any sidewalk, street, or alley within the corporate limits of this City without first having procured a valid pushcart permit from the Director.

(b) No holder of a pushcart permit shall, or shall allow any individual to, sell, barter, offer or expose for sale any goods from such permitted pushcart unless the individual is a licensed peddler under Chapter 745.

(c) Vendors may apply for up to 3 pushcart locations. If more than one location is requested, days and hours may not overlap.
(Res. 17-R-11. Passed 2-27-17.)

750.04 CART SIZE, DESCRIPTION, REQUIREMENTS, PROHIBITED EQUIPMENT.

(a) Pushcarts shall not be:

- (1) More than 4 feet in width, including wheels; and
- (2) More than 9 feet in length, of which not more than 6 feet of length shall be used for the display, storage, or preparation of items for sale or barter; and
- (3) More than 6.5 feet in height;
 - A. Canopies, umbrellas or other covers attached to the pushcart may not extend more than 8.5 feet nor less than 6.5 feet from the ground and shall not exceed 8 feet in width;
 - B. Such canopy, umbrella or other cover shall not be used for the advertising of any products, businesses or organizations, except to display the vendor's business name or logo;
- (4) No items shall be placed or affixed on any pushcart in such a manner so that the combined height of the item and the pushcart exceeds 6.5 feet or the combined width of the item and the pushcart exceeds 4 feet.

(b) Pushcarts shall have all of the following:

- (1) A minimum of two (2) wheels with diameters of at least eight inches;
- (2) A litter container affixed thereto, with a minimum 10 gallon capacity;

- (3) An attached braking mechanism or device that is capable of locking the wheels while not in motion;
- (4) Enclosed sides made of a hard sturdy, nontransparent, non-cloth substance securely and permanently attached to the pushcart frame. Such sides shall have a finished appearance. Finished means painted, stained or varnished unless such sides are made of stainless steel, cast iron, or a fiber glass or plastic material manufactured in a colored condition; and
- (5) A permanently affixed handle capable of propelling and controlling the pushcart by one person.

(c) Pushcarts shall at all times be maintained in a clean, neat and sanitary condition, and shall have no features which would be a nuisance or hazardous to the public or to public safety.

(d) Pushcarts shall not be located at their permitted space except during times of operation as indicated on the pushcart permit.

(e) Pushcart vendors shall clean up all debris from their permitted space upon the end of the hours of operation for that day.

(f) Pushcart vendors shall not shout or call to potential customers, wave flags, signs or other objects; air music or other transmissions that can be heard from other than the pushcart vendor and immediate customers; or do any acts which may be a nuisance or safety distraction to the nearby or travelling public.
(Res. 17-R-11. Passed 2-27-17.)

750.05 PERMITTED PUSHCART LOCATIONS AND TIMES.

(a) Each year by March 1st, the Director shall issue maps designating locations in the City's right-of-way and in public parks for which vendors may apply for and receive pushcart permits. Approved permits are issued on a first-come, first-served basis for each designated pushcart location.

(b) In addition to the locations identified in the maps provided in subsection (a) above, the Director may on a case-by-case basis, determine that pushcarts are appropriate on a temporary and/or special event basis and may make those locations and times available for pushcart permits as those opportunities present themselves. If identified in advance, the Director shall publish a list of those opportunities on the City's website and on the City's public bulletin board, as those occasions arise.

(c) Permits issued are pre-empted by public events, such as parades, July 4th events, or any outdoor cosponsored event which is within 200 feet of the permitted pushcart location, or for which the event sponsor has received a special permit from the City (such as, but not limited to, a street fair or arts festival). (Res. 17-R-11. Passed 2-27-17.)

750.06 PUSHCART PERMIT APPLICATION.

(a) Application for a pushcart permit shall be made on forms provided by the Director; made under oath and shall, at a minimum, contain the following information and material:

- (1) Applicant's name, address, telephone number, date of birth, employer identification number or social security number;

- (2) Corporate business name, "dba" business name if different from corporate name, and the business address and telephone number if different from that listed in item (a)(1) above;
- (3) In the case of a company, corporation, or unincorporated association, the name, address, date of birth and social security number of a person authorized by such company or corporation to act in matters related to the permitting process;
- (4) Proof of obtaining city income tax filing number or exemption from the Hilliard Tax Administrator;
- (5) Proof of obtaining filing number or exemption from the Ohio Department of Taxation;
- (6) Current photos of the vendor's pushcart that it will use if approved for a permit, with color views of all sides;
- (7) The pushcart's dimensions and structural materials (to ensure that it meets code requirements);
- (8) The pushcart location, dates and times being applied for;
- (9) If applying for a permit under Section 750.05(b), the event, permit dates and times requested;
- (10) Proof of insurance as required under Section 750.15;
- (11) Copy of a signed agreement with a licensed food service (aka commissary) from where the vendor will prepare food items and from where the vendor will start and end each work day, as required by the Franklin County Department of Health; and
- (12) Any other information required by the Director to thoroughly evaluate an application.

(b) Applications for permits shall not be accepted prior to April 1 of each year, except for temporary permits as provided in Section 750.05(b), which must be applied for at least 30 calendar days, but no more than 45 calendar days, in advance of the permitted dates requested, unless the permittee already has a transient vendors license under Chapter 745, or already has a current pushcart vendor permit from the City or has a valid and current permit license or approval issued by other Ohio political subdivision which mirrors the City's permit requirements, in which case the application must be received by the Director at least 7 days, but no more than 30 calendar days in advance of the requested permit dates. (Res. 17-R-11. Passed 2-27-17.)

750.07 APPLICATION INVESTIGATION.

The Director shall examine all applications filed under this chapter and shall make, or cause to be made, any further investigation as is deemed necessary in order to perform the duties prescribed by this chapter. (Res. 17-R-11. Passed 2-27-17.)

750.08 PERMIT ISSUANCE, FEE, TERM.

(a) The Director may issue the permit and corresponding decal(s) required by this chapter to applicants who:

- (1) Have applied as provided in Section 750.06; and
- (2) Who meet all size, description and equipment provisions as set forth in Section 750.04; and
- (3) Are in compliance with all applicable requirements and have obtained any permits, licenses or prior approval required by any other governmental unit or agency, such as the pertinent department of health; and

- (4) Pays a permit application fee of \$100.00, which includes the transient vendor fee required under Chapter 745. If applying for more than one pushcart location, the application fee is \$75.00 per location if the cart will be operated by the same vendor (i.e., if the vendor has received a transient vendor license by way of receiving a permit for the first pushcart).

(b) Permits issued hereunder shall include the corresponding permit number and shall be conspicuously displayed on the upper, left side of each permitted pushcart at all times while operating the pushcart.

(c) Each permit issued under Section 750.05(a) shall expire on the last day of March following the date of issue. Permits issued under Section 750.05(b) shall expire as directed on the permit. (Res. 17-R-11. Passed 2-27-17.)

750.09 PERMIT AND ID DISPLAY.

(a) Each permittee shall, at all times conspicuously display the permit issued.

(b) Each person vending at a permitted pushcart shall at all times wear the photo identification badge issued pursuant to Chapter 745 of the City Code. (Res. 17-R-11. Passed 2-27-17.)

750.10 PERMIT REFUSAL.

(a) The Director may refuse to issue permits required by this chapter if any of the following is found to be true:

- (1) The applicant has made a false statement as to any matter in the application;
- (2) The applicant, in either his/her current name or a prior business name, has violated any provision of this chapter within the last three (3) years;
- (3) The applicant is under 18 years of age;
- (4) The applicant has not complied with all applicable regulations of the City or of any other regulatory agency;
- (5) The applicant, or a person who desires to vend from the applicant's pushcart, does not have a license under Chapter 745.
- (6) The Applicant has a history of complaints made against it either in the City of Hilliard or elsewhere.

(b) Rejected applicants may request a hearing as provided in Section 750.12. (Res. 17-R-11. Passed 2-27-17.)

750.11 PERMIT SUSPENSION, REVOCATION.

(a) Permits issued under this chapter may be suspended or revoked by the Director, after a hearing thereon, for one or more of the following reasons:

- (1) Fraud, misrepresentation or bribery in securing a permit or during the course of business; or
- (2) Violation of any provision of this chapter; or
- (3) Failure to display the permit and/or the transient vendor's photo identification as described in Section 750.09; or
- (4) Failure to notify the Director of a change of address within ten (10) days of such change; or

- (5) Failure to have valid permits or licenses required by the Franklin County health department or any other city, state or federal agency; or
- (6) Conviction of any criminal or traffic offense while using a pushcart, conviction of any criminal offense involving theft or fraud; or
- (7) For any of the reasons which could have been grounds for refusing to issue the original permit, regardless of when such information is discovered; or
- (8) Knowingly allowing another person to use a pushcart in violation of any provision of this chapter; or
- (9) Knowingly allowing an unlicensed peddler to sell, barter, offer or expose for sale any items or services from a permitted pushcart unless such individual is exempted from the peddler licensing provisions of Chapter 745.

(b) Upon the suspension or revocation of any permit issued under this chapter, such permit shall immediately be confiscated and retained by the Director.
(Res. 17-R-11. Passed 2-27-17.)

750.12 PERMIT APPEALS.

Any individual or organization who has been refused a permit or renewal of a permit under this chapter, or has had a permit issued under this chapter suspended or revoked, may appeal such decision to the City Manager in writing within seven calendar days. Within five calendar days of receiving a written request to appeal, the City Manager, or his/her designee, shall hold a hearing whereby the applicant can contest the grounds for denial, suspension or revocation. A written decision by the City Manager, or his/her designee, shall be issued within forty-eight (48) hours and sent by regular mail to the applicant's address on file. (Ord. 19-31. Passed 12-9-19.)

750.13 TRANSFER OF PERMIT.

No permit issued under this chapter shall be transferred or assigned by the named permittee or holder to any other individual or organization, nor shall any permit be displayed on any unpermitted pushcart. Violation of this section may result in immediate revocation of the permit.
(Res. 17-R-11. Passed 2-27-17.)

750.14 OPERATING RESTRICTIONS AND REQUIREMENTS.

(a) Permittees shall not operate pushcarts at times other than the dates/hours stated on the approved permit.

(b) Pushcarts may only be operated during such hours and in such areas from a stationary position as indicated on the permit.

(c) Pushcarts shall not be located on any sidewalk, walkway, street, road, park or alley in any area of the City other than during vending hours as stated on its permit.

- (d) Pushcarts shall not be located as follows;
- (1) Within twenty (20) feet of an intersection with a street, road or alley; or
 - (2) Within ten (10) feet of a pedestrian crosswalk or intersecting sidewalk; or
 - (3) So as to obstruct any loading zone, fire hydrant, traffic control box, fire alarm box, parking meter, mail box, any other sidewalk fixture, a legally parked vehicle, or a bus stop; or

- (4) So as to obstruct the display windows or doorways of any merchant without such merchant's permission. For purposes of this section a pushcart which is located on the sidewalk side adjacent to the street curb shall not be considered to be obstructing a merchant's display windows; or
- (5) Within 25 feet (as measured from the lot line) of another restaurant, food or beverage establishment located on the same side of the street on the same block face; or
- (6) Within 25 feet of another pushcart, unless designated otherwise in the approved permit.

(e) Pushcarts shall be positioned on sidewalks between the flow of pedestrian traffic and the street as near as possible to the curb. During a parade, this provision shall not apply to any sidewalks adjacent to the parade route.

(f) Pushcarts located on any sidewalk along the route of a parade shall not be located adjacent to the curb but shall be positioned as close as possible to the sidewalk boundary opposite the curb while such parade is in progress.

(g) Accessory equipment, such as coolers and storage crates, shall be located within the pushcart's permitted area and shall be kept in a neat and orderly fashion.

(h) Pushcarts shall be attended by a licensed vendor at all times.

(i) The pushcart operator/vendor shall not keep cash in plain sight and shall limit the available cash on hand.

(j) Pushcart operators shall have a working cellular telephone in their possession at all times.

(k) Pushcart vendors shall wear attire that is clean, free of tears and rips, which is respectful to serving members of the general public.

(l) Vendors are limited to selling pre-prepared and prepackaged food items and beverages.

(m) Vendors shall not damage or commit waste on City property in the operation of their pushcart. (Res. 17-R-11. Passed 2-27-17.)

750.15 RECORD OF PUSHCART RENTAL.

Pushcart owners shall keep a record of all leases and rentals of such carts to individuals. This record shall include the date of rental or lease, time period of rental or lease and name, address, date of birth, social security number, telephone number, permit number and peddler's license number of the lessee or renter. (Res. 17-R-11. Passed 2-27-17.)

750.16 INSURANCE AND INDEMNIFICATION REQUIREMENTS.

(a) Prior to the issuance of a permit required by Section 750.07, the owner of each pushcart to be permitted shall provide the Director with proof of a Commercial General Liability insurance policy currently in effect of not less than \$1 Million covering the owner and any other person using such pushcart with the owner's permission, for liability imposed by law for damages on account of bodily injury, death or property damage resulting from the use of such pushcart, shall be from an insurance company duly licensed to transact such business in the State of Ohio or from an insurance company not authorized to transact business in this state, provided such insurance is written through a citizen of this state duly licensed as provided by Ohio R.C. 5905.03, et seq., covering the applicant. Such policy shall agree to pay any judgment rendered against the owner of such pushcart or any other person using it with his permission by reason of their use of such pushcart. No deductible amount shall be allowed from this policy in an amount greater than two hundred fifty dollars (\$250.00). The insurance policy shall list the City as an additional insured and shall require that the City be notified a minimum of 14 days before the cancellation of such coverage.

(b) The permit holder, and each vendor, shall indemnify, defend and hold harmless the City, its elected officials, employees, agents, contractors and volunteers from any damage, liability and expense (including reasonable attorney fees) resulting from the operation of a pushcart in the City, including bodily injury, death, damage to property, or loss of any kind to a third person.
(Res. 17-R-11. Passed 2-27-17.)

750.17 VIOLATION; FAILURE TO COMPLY.

(a) Any police, reserve police officer, or other law enforcement officer authorized to enforce this chapter who observes any violation of this chapter by an individual, may lawfully order such individual to cease vending from a pushcart until the violation is corrected.

(b) If the individual fails, within a reasonable time, to obey the lawful order and correct the violation, the officer may make a written complaint to the Director in addition to any other remedy provided by law. Absent extraordinary circumstances, a reasonable time shall normally be considered not more than five (5) minutes.

(c) Upon receipt of such complaint, the Director shall schedule a hearing. The owner and operator of the pushcart shall be notified either in person or by mail (sent to the last known address of the owner of the pushcart), setting forth the date, time and place of such hearing and advising that he/she may have private counsel present to represent them at the hearing. The complaining officer shall also be present.

(d) If, after a hearing, the Director determines that the owner or operator of the pushcart did fail without justification to obey such lawful order, the Director may suspend or revoke the permit issued to the owner of that pushcart.
(Res. 17-R-11. Passed 2-27-17.)

750.18 SEVERANCE CLAUSE.

If any particular portion or provision of this chapter is declared to be invalid by a court of competent jurisdiction, such declaration of invalidity shall be limited to that particular portion or provision declared invalid. This declaration of invalidity shall not affect or impair the remainder of this chapter, and to this end, the provisions are severable.
(Res. 17-R-11. Passed 2-27-17.)

750.99 PENALTY.

A violation of any section of this chapter shall be punished as follows:

- (a) Violations shall be deemed minor misdemeanors, unless stated otherwise hereafter, and penalized by a fine of not more than one hundred fifty dollars (\$150.00);
- (b) A second violation within twelve months of a prior conviction shall be deemed a misdemeanor of the fourth degree and the offender shall be fined not more than two hundred fifty dollars (\$250.00);
- (c) A third or more violation by the same owner or vendor shall be deemed a misdemeanor of the third degree and the offender shall be fined not more than five hundred dollars (\$500.00). (Res. 17-R-11. Passed 2-27-17.)

**CHAPTER 753
Mobile Food Vending**

<p>753.01 Purpose. 753.02 Definitions. 753.03 Permit and license required. 753.04 Unit size, description, requirements, prohibited equipment. 753.05 Permitted mobile food vending unit locations and times. 753.06 Mobile food vending permit application. 753.07 Application investigation. 753.08 Permit issuance, fee, term. 753.09 Permit and ID Display. 753.10 Permit refusal.</p>	<p>753.11 Permit suspension, revocation. 753.12 Permit appeals. 753.13 Transfer of permit. 753.14 Operating restrictions and requirements. 753.15 Record of mobile food vending unit rental. 753.16 Insurance and indemnification requirements. 753.17 Violation; failure to comply. 753.18 Severance clause. 753.99 Penalty.</p>
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CROSS REFERENCES

Adulterated food - see GEN. OFF. 537.13

753.01 PURPOSE.

The purpose of this Chapter is to provide for the regulation, licensure and permitting process for the use of mobile food vending units, referred to herein as "food trucks", in designated areas of the City in a safe and sanitary manner for the benefit of the vendors, the City and the public. (Ord. 14-32. Passed 11-10-14.)

753.02 DEFINITIONS.

(a) "Director" shall mean the Director of Public Safety, or his/her designee. If the City Manager is also the Director of Public Safety, the City Manager shall delegate his/her responsibilities hereunder to the City's Chief of Police.

(b) "Food Trailer" shall mean any vehicle without motive power that is designed to be drawn by a motor vehicle and is specifically designed or used for food vending operations.

(c) "Food truck" shall mean a vehicle propelled by an engine which has been specifically designed or used for mobile food vending.

(d) "Food vending operation" shall mean a place, location, site or separate area where food intended to be served in individual portions is prepared or served for a charge or required donation.

(e) "Mobile food vending unit" shall mean a food service operation or retail food establishment that is operated from a food truck or food trailer that can or does routinely change location. For the purposes of a mobile food vending permit, "mobile food vending unit" excludes food delivery operations and vending machines, as defined in the Ohio Revised Code.

(f) "Mobile food vendor" shall mean every corporation, association, joint stock association, person, firm or partnership, their lessees, directors, receivers, trustees, appointees by any court whatsoever, or the heirs, executors, administrators or personal representatives or assignees of any deceased owner, owning, controlling, operating or managing any mobile food vending unit.

(g) "Operator" shall mean the individual who manages one or more mobile food vending units whether as the owner, an employee of the owner or as an independent contractor.

(h) "Park" shall mean those public parks designated by the Director of Recreation and Parks as being suitable and appropriate for food truck vending.

(i) "Permit" means a temporary public right of way occupancy permit authorized by Section 753.06.

(j) "Permittee" means the person who owns the food truck that has received a permit from the City of Hilliard or a valid and current permit, license or approval issued by any other Ohio municipal corporation, to vend from a food truck.

(k) "Permitted space" means the measurable area outlined on the permit issued by the Director where a food truck is permitted and from where the Permittee is permitted to vend.

(l) "Public event" shall mean any public activity or gathering or assemblage of people, other than a special event, that is open to the general public, whether or not a fee for admission is charged or collected, and requires the issuance of a health license or temporary health license pursuant to Ohio R.C. 3717.01 for participating mobile food vendors.

(m) "Right of way" means any sidewalk, court, alley, street or other area dedicated or designated for the traveling public and held by the City.

(n) "Special event" shall mean any activity or gathering or assemblage of people upon public property or in the public right of way for which a block party, street closure, race event, parade permit, community market or other like permit or permission has been issued by the City. (Ord. 19-31. Passed 12-9-19.)

753.03 PERMIT AND LICENSE REQUIRED.

(a) No individual or organization shall use, or cause to be used, any food truck to sell, barter, offer or expose for sale any food items or beverages upon any sidewalk, street, or alley within the corporate limits of Hilliard without first having procured a valid mobile food vending permit from the Director.

(b) The City will recognize a valid and existing permit that an Applicant has with another political subdivision in Ohio. An individual or organization must still apply and pay a fee for a Hilliard permit. The Applicant shall attach a copy to the Application of the valid permit or license issued from another Ohio political subdivision.

(c) No holder of a mobile food vending permit shall, or shall allow any individual to, sell, barter, offer or expose for sale any goods from such permitted food truck unless the individual is a licensed peddler under Chapter 745 of the City's Codified Ordinances or unless the individual has a valid and current permit, license or approval issued by any other Ohio political subdivision which the City recognizes as being compliant with requirements under Chapter 745.

(d) Vendors may apply for up to three (3) food truck locations.

(e) Nothing in this chapter shall be construed as superseding, supplanting or otherwise replacing any duty imposed by Ohio R.C. Chapter 3701 or 3717, or rules or regulations promulgated thereunder, upon an applicant for a health license, or upon a department of health in the conduct of its responsibilities relative to mobile food vending units.
(Ord. 14-32. Passed 11-10-14.)

753.04 UNIT SIZE, DESCRIPTION, REQUIREMENTS, PROHIBITED EQUIPMENT.

(a) A food truck operating in the public right of way shall be not more than 25 feet in length.

(b) A food truck operating in the public right of way utilizing a generator shall meet the following requirements:

- (1) The generator shall be wholly enclosed inside the frame of the food truck;
or
- (2) The generator shall be external to the food truck, but fully enclosed other than space necessary for ventilation, securely affixed to the unit during operation, placed in a location as prescribed or approved by the Division of Fire, and, during operation, produce less than an average of 66 decibels of sound as measured 9 feet from the generator.

(c) A food truck operating exclusively on private property shall have no limitations established under this chapter regarding the size of the unit. However, the Vendor shall have written permission from the Owner to operate the food truck at the location and on the dates and time periods identified in that writing. This written permission shall be provided to the City's Chief Zoning Official for compliance. Food trucks may operate on private property only as a temporary, ancillary use.

(d) For mobile food vending units, the Director shall promulgate such rules regarding the unit size, description, construction, requirements and prohibited equipment as may be necessary to protect the public health, safety, sanitation and general welfare, and that are not inconsistent with requirements of this chapter.

(e) Mobile food vending units shall at all times be maintained in a clean, neat and sanitary condition, and shall have no features which would be a nuisance or hazardous to the public or to public safety.

(f) Food trucks shall not be located at their permitted space except during times of operation as indicated on the permit.

(g) Mobile food vendors shall clean up all debris from their permitted space upon the end of each day's operation.

(h) Mobile food vendors shall not shout or call to potential customers, wave flags, signs or other objects; air music or other transmissions that can be heard from other than the mobile food vendor and immediate customers; or do any acts which may be a nuisance or safety distraction to the nearby or travelling public. (Ord. 14-32. Passed 11-10-14.)

753.05 PERMITTED MOBILE FOOD VENDING UNIT LOCATIONS AND TIMES.

(a) Each year the Director shall issue maps designating locations in the City's right of way and in public parks or on public property for which mobile food vendors may apply for and receive mobile food vending permits. Approved permits are issued on a first-come, first-served basis for each designated food truck location.

(b) In addition to the locations identified in the maps provided in (a) above, the Director may on a case-by case basis, determine that food trucks are appropriate on a temporary and/or public event or special event basis and may make those locations and times available for mobile food vending permits as those opportunities present themselves. If identified in advance, the Director shall publish a list of those opportunities on the City's website and on the City's public bulletin board, as those occasions arise.

(c) Permits issued are pre-empted by public events, such as parades, July 4th events, or any outdoor cosponsored event which is within 200 feet of the permitted mobile food vending location, or for which the event sponsor has received a special permit from the City to block off and use City streets for the event (such as, but not limited to, a street fair or arts festival). (Ord. 14-32. Passed 11-10-14.)

753.06 MOBILE FOOD VENDING PERMIT APPLICATION.

(a) Application for a mobile food vending permit shall be made on forms provided by the Director; made under oath and shall, at a minimum, contain the following information and material:

- (1) Applicant's name, address, telephone number, date of birth, employer identification number or social security number;
- (2) Corporate business name, "dba" business name if different from corporate name, and the business address and telephone number if different from that listed in (a)(1) above;

- (3) In the case of a company, corporation, or unincorporated association, the name, address, date of birth and social security number of a person authorized by such company or corporation to act in matters related to the permitting process;
- (4) Proof of obtaining City income tax filing number or exemption from the Hilliard Tax Administrator;
- (5) Proof of obtaining filing number or exemption from the Ohio Department of Taxation;
- (6) Current photos of the vendor's mobile food vending unit that it will use if approved for a permit, with color views of all sides;
- (7) The food truck's dimensions and structural materials (to ensure that it meets code requirements);
- (8) The food truck's location, dates and times being applied for;
- (9) If applying for a permit under Section 753.05(b), the event, permit dates and times requested;
- (10) Proof of insurance as required under Section 753.16;
- (11) Copy of a signed agreement with a licensed food service (aka commissary) if food will not be prepared in the food truck, as required by the Franklin County Department of Health; and
- (12) Copy of a current license issued by a County or City board of health to conduct a Food Service Operation;
- (13) Any other information reasonably requested by the Director to thoroughly evaluate an application.

(b) Applications for permits to allow routine, scheduled mobile food vending at one or more specific public locations, shall not be accepted prior to March 1 of each year, except for special or temporary permits as provided in Section 753.05(b) and (c), which must be applied for at least five (5) business days in advance of the permitted dates requested if the Applicant already has a transient vendors license under Chapter 745 of the City's Code, or already has a current pushcart permit from the City, or has a valid and current permit, license or approval issued by any other Ohio political subdivision which mirrors the City's permit requirements. If not, then the Applicant shall apply not less than fourteen (14) calendar days in advance of the requested permit dates. Applications submitted after these dates may be accepted and processed at the sole discretion of the Director. (Ord. 14-32. Passed 11-10-14.)

753.07 APPLICATION INVESTIGATION.

The Director shall examine all applications filed under this chapter and shall make, or cause to be made, any further investigation as he/she deems necessary in order to perform the duties prescribed by this chapter.
(Ord. 14-32. Passed 11-10-14.)

753.08 PERMIT ISSUANCE, FEE, TERM.

- (a) The Director may issue the permit required by this chapter to applicants who:
 - (1) Have applied as provided in Section 753.06 of this chapter; and
 - (2) Who meet all size, description and equipment provisions as set forth in Section 753.04 of this chapter; and
 - (3) Are in compliance with all applicable requirements and have obtained any permits, licenses or prior approval required by any other governmental unit or agency; and

- (4) Pay a permit application fee as required by the City.
- (5) Permits issued hereunder shall include the corresponding permit number and shall be conspicuously displayed on each permitted food truck at all times while operating the mobile food vending unit.

(b) Each permit issued under Section 753.05(a) of this chapter shall expire on the last day of March following the date of issue. Permits issued under Section 753.05(b) shall expire as directed on the permit.

(c) Each permittee hereunder shall provide the Director with a change of address, and change in corporate identity or ownership, within five (5) calendar days of such change taking place.
(Ord. 14-32. Passed 11-10-14.)

753.09 PERMIT AND ID DISPLAY.

(a) Each permittee shall, at all times conspicuously display the permit issued.

(b) Each person vending from a permitted food truck shall at all times wear the photo identification badge issued pursuant to Chapter 745 of the City's Code or the photo ID issued by any other Ohio political subdivision for a food truck permit or license.
(Ord. 14-32. Passed 11-10-14.)

753.10 PERMIT REFUSAL.

(a) The Director may refuse to issue permits required by this chapter if any of the following is found to be true:

- (1) The applicant has made a false statement as to any matter in the application;
- (2) The applicant, in either his/her current name or a prior business name, has violated any provision of this chapter within the last three (3) years;
- (3) The applicant is under 18 years of age;
- (4) The applicant has not complied with all applicable regulations of the City or of any other political subdivision, governmental unit or agency regarding the issuance of a permit or license for mobile food vending;
- (5) The applicant, or a person who desires to vend from the applicant's food truck, does not have a transient vendor's license under Chapter 745 of the City's Codified Ordinances, if required to have one under this chapter;
- (6) The Applicant has a history of complaints made against it in the City of Hilliard or elsewhere in locations where it has operated a mobile food vending truck.

(b) Rejected applicants may request a hearing as provided in Section 753.12.
(Ord. 14-32. Passed 11-10-14.)

753.11 PERMIT SUSPENSION, REVOCATION.

(a) Permits issued under this chapter may be suspended or revoked by the Director, after a hearing thereon, for one or more of the following reasons:

- (1) Fraud, misrepresentation or bribery in securing a permit or during the course of business; or
- (2) Violation of any provision of this chapter; or

- (3) Failure to display the permit and/or the transient vendor's photo identification as described in Section 753.09 of this chapter; or
- (4) Failure to notify the Director of a change of address, ownership or corporate identify within five (5) business days of such change; or
- (5) Failure to have valid permits or licenses required by the Franklin County Health Department or any other City, state or federal regulatory agency; or
- (6) Conviction of any criminal or traffic offense while using or vending from a mobile food truck, or conviction of any criminal offense involving theft or fraud; or conviction of an offense that would disqualify an applicant or operator from being issued a transient vendor's permit from the City; or
- (7) For any of the reasons which could have been grounds for refusing to issue the original permit, regardless of when such information is discovered or revealed; or
- (8) Knowingly allowing another person to use a food truck in violation of any provision of this chapter; or
- (9) Knowingly allowing an unlicensed peddler to sell, barter, offer or expose for sale any items or services from a permitted mobile food truck unless such individual is lawfully exempted from the peddler licensing provisions of Chapter 745 of the City's Codified Ordinances.

(b) Upon the suspension or revocation of any permit issued under this chapter, such permit shall immediately be confiscated and retained by the Director.
(Ord. 14-32. Passed 11-10-14.)

753.12 PERMIT APPEALS.

Any individual or organization who has been refused a permit or renewal of a permit under this chapter, or has had a permit issued under this chapter suspended or revoked, may appeal such decision to the City Manager in writing within seven calendar days. Within five calendar days of receiving a written request to appeal, the City Manager, or his/her designee, shall hold a hearing whereby the applicant can contest the grounds for denial, suspension or revocation. A written decision by the City Manager, or his/her designee, shall be issued within forty-eight (48) hours and sent by regular mail to the applicant's address on file.
(Ord. 19-31. Passed 12-9-19.)

753.13 TRANSFER OF PERMIT.

No permit issued under this chapter shall be transferred or assigned by the named permittee or holder to any other individual or organization, nor shall any permit be displayed on any unpermitted food truck or food trailer. Violation of this section may result in immediate revocation of the permit. (Ord. 14-32. Passed 11-10-14.)

753.14 OPERATING RESTRICTIONS AND REQUIREMENTS.

(a) Permittees shall not operate food trucks at times other than the dates/hours, or during the public event or special event, stated on the approved permit.

(b) Food trucks may only be operated during such hours and in such areas from a stationary position as indicated on the permit.

(c) Food trucks shall not be located on any sidewalk, walkway, street, road, park or alley in any area of the City other than during vending hours as stated on its permit and at the location permitted.

- (d) Food trucks shall not be located as follows;
- (1) Within twenty (20) feet of an intersection with a street, road or alley; or
 - (2) Within ten (10) feet of a pedestrian crosswalk or intersecting sidewalk; or
 - (3) So as to obstruct any loading zone, fire hydrant, traffic control box, fire alarm box, parking meter, mail box, any other sidewalk fixture, a legally parked vehicle, or a bus stop; or
 - (4) So as to obstruct the display windows or doorways of any merchant without such merchant's permission; or
 - (5) Within 25 feet (as measured from the lot line) of another restaurant, food or beverage establishment located on the same side of the street on the same block face; or
 - (6) Within 25 feet of another food truck, unless designated otherwise in the approved permit; or
 - (7) On a sidewalk, unless specifically authorized in the permit.

(e) Accessory equipment, such as coolers and storage crates, shall be located within the food truck's permitted area and shall be kept in a neat and orderly fashion.

(f) Food trucks shall be attended by a licensed vendor at all times.

(g) The mobile food vending operator shall not keep cash in plain sight and shall limit the available cash on hand.

(h) Mobile food vending operators shall have a working cellular telephone in their possession at all times.

(i) Mobile food vending operators shall wear attire that is clean, free of tears and rips, which is respectful to serving members of the general public.

(j) Vendors shall not damage or commit waste on City property in the operation of their mobile food vending unit.

(k) Mobile food vending operators shall refrain from causing or allowing the illegal disposal or release of oils or greases on the ground.

(l) Mobile food vending operators shall refrain from causing or allowing to be placed in the public right of way any seating, signage, flower pots, or other temporary structures, with the exception of trash receptacles.

(m) Mobile food vending operators may only sell or serve food on the sidewalk side, if vending from a street, road or alley.
(Ord. 14-32. Passed 11-10-14.)

753.15 RECORD OF MOBILE FOOD VENDING UNIT RENTAL.

Food truck owners shall keep a record of all leases and rentals of such units to individuals. This record shall include the date of rental or lease, time period of rental or lease and name, address, date of birth, social security number, telephone number, permit number and peddler's license number of the lessee or renter. (Ord. 14-32. Passed 11-10-14.)

753.16 INSURANCE AND INDEMNIFICATION REQUIREMENTS.

Prior to the issuance of a permit required by Section 753.08, the owner of each food truck requesting a permit shall provide the Director with proof of an insurance policy currently in effect covering the owner and any other person operating or vending from such unit with the owner's permission, for liability imposed by law for damages on account of bodily injury, death or property damage resulting from the use of such food truck. The limit of this policy shall be not less than one million dollars (\$1,000,000) and issued from an insurance company duly licensed to transact such business in the State of Ohio or of an insurance company not authorized to transact business in this State, provided such insurance is written through a citizen of this State duly licensed as provided by Ohio R.C. 5905.03, et seq., covering the applicant. Such policy shall agree to pay any judgment rendered against the owner of such food truck or any other person using it with his permission by reason of their use of such food truck . The insurance policy shall list the City as an additional insured and shall require that the City be notified of cancellation of such coverage pursuant to the terms of the policy. Failure to maintain insurance during the life of a permit shall result in the immediate revocation of a vendor's permit.

The permit holder, and each vendor, shall indemnify, defend and hold harmless the City, its elected officials, officers, employees, agents, contractors and volunteers from any and all damage, liability, costs and expenses (including reasonable attorney fees) resulting from the operation of a food truck in the City, including bodily injury, death, damage to property, or loss of any kind to a third person.
(Ord. 14-32. Passed 11-10-14.)

753.17 VIOLATION; FAILURE TO COMPLY.

Any police, reserve police officer, or other law enforcement officer authorized to enforce this chapter who observes any violation of this chapter by an individual, may lawfully order such individual to cease vending from a food truck until the violation is corrected, and remove the mobile vending truck from the premises.

If the individual fails, within a reasonable time, to obey the lawful order and correct the violation, the officer may make a written complaint to the Director in addition to any other remedy provided by law. Absent extraordinary circumstances, a reasonable time shall normally be considered not more than five to ten minutes.

Upon receipt of such complaint, the Director shall schedule a hearing. The owner and operator of the food truck shall be notified either in person or by mail (sent to the last known address of the owner of the food truck), setting forth the date, time and place of such hearing and advising that he/she may have private counsel present to represent them at the hearing. The complaining officer shall also be present.

If, after a hearing, the Director determines that the owner or operator of the mobile vending truck did fail without justification to obey such lawful order, the Director may suspend or revoke the permit issued to the owner of that mobile food vending unit.
(Ord. 14-32. Passed 11-10-14.)

753.18 SEVERANCE CLAUSE.

If any particular portion or provision of this chapter is declared to be invalid by a court of competent jurisdiction, such declaration of invalidity shall be limited to that particular portion or provision declared invalid. This declaration of invalidity shall not affect or impair the remainder of this chapter, and to this end, the provisions are severable.
(Ord. 14-32. Passed 11-10-14.)

753.99 PENALTY.

A violation of any section of this chapter shall be punished as follows:

- (a) First-time violations shall be deemed a minor misdemeanor and penalized by a fine of not more than one hundred fifty dollars (\$150.00).
- (b) Subsequent violations shall be deemed an unclassified misdemeanor and fined not more than one thousand dollars (\$1,000).
(Ord. 14-32. Passed 11-10-14.)

CHAPTER 755
Massage and Bath Establishments

<p>755.01 Definitions.</p> <p>755.02 License and registration required.</p> <p>755.03 Exemptions.</p> <p>755.04 Application for massage or bath establishment registration; fee.</p> <p>755.05 Issuance of registration certificate for massage or bath establishment.</p> <p>755.06 Registration expiration, renewal, and duty to update.</p>	<p>755.07 Revocation or suspension of establishment registration.</p> <p>755.08 Requirements for massage and bath establishments.</p> <p>755.09 Prohibitions.</p> <p>755.10 Authority to conduct inspections.</p> <p>755.11 Administrative appeal.</p> <p>755.12 Severability.</p> <p>755.99 Penalty.</p>
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CROSS REFERENCES

Unlawful advertising of massage - see GEN. OFF. 533.16

755.01 DEFINITIONS.

For purposes of enforcing this chapter, the following words are defined and shall have the meaning ascribed to them as hereafter set forth:

- (a) "Bath Establishment" means any establishment having a fixed place of business where any person, firm, association or corporation engages in, or carries on, or permits to be engaged in or carried on any activity involving any type of physical contact between a patron and an employee or operator, as defined in this section, when that contact is related to providing any form of sauna, shower, steam bath, electric light bath, shower bath, tub bath, hot tub bath, sponge bath, sun bath, mineral bath, Finnish, Swedish or Turkish bath, giving salt glows, or administration of fomentation.
- (b) "Client" means a person who receives a Massage Service for a fee or any consideration whatsoever.
- (c) "Director" means the Hilliard Director of Public Service or designee.
- (d) "Employee" means any person who is employed by, or renders any service at, a Massage or Bath Establishment for compensation. "Employee" includes a contract employee, freelance employee, temporary employee, or an independent contractor.

- (e) "Licensed" means a person who holds a current license issued by the State Medical Board of Ohio to practice "massage therapy" pursuant to and in accordance with Ohio Revised Code Chapter 4731.15.
- (f) "Massage" means any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating, moving, touching or stimulating the soft tissues of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance, with or without such supplementary aids as rubbing alcohol, liniment, antiseptics, oils, powders, creams, lotion, ointments or other similar preparations commonly used in this practice as defined in Ohio Revised Code Chapter 4731.15.
- (g) "Massage Establishment" means any establishment having a fixed place of business where any person, firm, association or corporation engages in, or carries on, or permits to be engaged in or carried on any of the activities of Massage Services, as defined in this section, for any consideration whatsoever and as defined in Ohio Revised Code 503.40.
- (h) "Massage Services" means any service that is included in the definition of "Massage" in this Chapter, "Massage Therapy" as defined in Ohio Revised Code Chapter 4731.04, and "Massage Treatment" as defined in Ohio Revised Code Chapter 4731.15.
- (i) "Operator" means the permit operator of a massage or bath establishment.
- (j) "Person" means any individual, partnership, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.
- (k) "Registration" means to provide information to the Buildings Department that indicates the location of the establishment, the names of the individuals employed there, and evidence of current state licensure or student status of anyone providing massages or massage therapy at the establishment as provided in Ohio R.C. 503.411.
- (l) "Registration Certificate" means a certification of registration issued by the City of Hilliard to a Massage or Bath Establishment.
- (m) "Sexual Activity" means the same as in Ohio Revised Code Section 2907.01.
- (n) "Sexual or genital area" means the genitals, pubic area, buttocks, anus or perineum of any person, or the vulva or breasts of a female.
- (o) "Student" means an enrolled student regularly and actively participating in an accredited educational program to achieve the training necessary to obtain a license issued by the State Medical Board of Ohio to practice "massage therapy" pursuant to and in accordance with Ohio Revised Code Chapter 4731.15
- (p) "Therapist" means a person who is Licensed to provide a Massage Treatment. (Ord. 19-19. Passed 9-23-19.)

755.02 LICENSE AND REGISTRATION REQUIRED.

(a) No person shall engage in, conduct or carry on, or permit to be engaged in, conducted or carried on, in or upon any premises in the City of Hilliard, the operation of a Massage or Bath Establishment as herein defined:

- (1) Without a Registration Certificate for a Massage and Bath Establishment;
- (2) Where Massage or Massage Services are offered or performed by a person who is not Exempt or Licensed;
- (3) Without a Zoning Certificate and Certificate of Occupancy for the Massage and Bath Establishment.

- (b) No person shall offer or perform Massage Services:
 - (1) Unless such person is either Exempt or Licensed;
 - (2) In a Massage Establishment that does not have a Registration Certificate;
(Ord. 19-19. Passed 9-23-19.)

755.03 EXEMPTIONS.

- (a) The provisions of this Chapter shall not apply to the following:
 - (1) Hospitals, nursing homes, and public health centers licensed by the State of Ohio;
 - (2) The offices of a licensed chiropractor or physical therapist while used to perform the licensed profession;
 - (3) Any establishment where all massage services are provided by persons exempted by this section.

- (b) The provisions of this Chapter shall not apply to a person who provides a Massage Service as a portion of and incidental to services in accordance with a license issued by any of the following:
 - (1) The Ohio State Cosmetology and Barber Board or its predecessors pursuant to Ohio Revised Code Chapter 4709 or 4713;
 - (2) The State of Ohio Board of Nursing pursuant to Ohio Revised Code Chapter 4723;
 - (3) The Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board pursuant to Ohio Revised Code Chapter 4755;
 - (4) The Ohio State Chiropractic Board pursuant to Ohio Revised Code Chapter 4734;
 - (5) The State Medical Board of Ohio pursuant to Ohio Revised Code Chapters 4730 or Chapter 4762;
 - (6) The State Medical Board of Ohio pursuant to Ohio Revised Code Chapters 4731 except those licensed pursuant to Revised Code Section 4731.15 to practice "massage therapy."
 - (7) An enrolled student practicing massage therapy as part of a program of study at a school, college, or institution in good standing as determined by the board in accordance with Ohio Revised Code Chapter 4731.16(A) and is being directly supervised by a person Exempt from this Section.

- (c) An enrolled student regularly and actively participating in an accredited educational program to achieve the training necessary to obtain a license issued by the State Medical Board of Ohio to practice "massage therapy" pursuant to and in accordance with Ohio Revised Code Chapter 4731.15 is permitted to give Massage Services in a Massage or Bath Establishment registered with the City of Hilliard if the Massage or Bath Establishment complies with the following:
 - (1) The student's information must be submitted to the City of Hilliard Zoning Enforcement or his/her designee on the form provided.
 - (2) The Registered Massage Establishment must provide documentation that the student is enrolled and regularly and actively participating in the required education program.
 - (3) The student must work under the direction or supervision of a person Licensed pursuant to this Chapter.
(Ord. 19-19. Passed 9-23-19.)

**755.04 APPLICATION FOR MASSAGE OR BATH ESTABLISHMENT
REGISTRATION; FEE.**

(a) Application for a registration to operate a Massage or Bath Establishment including a renewal registration as required by Section 755.02(a) of this Chapter shall be made to the Zoning Enforcement Officer or his/her designee on the form provided.

(b) The applicant shall be required to pay a nonrefundable reasonable registration fee in an amount set by the City Manager and determined to be sufficient to pay the cost of administering this Chapter. An additional fee may be charged when a Registered Massage or Bath Establishment files a notification of new employee(s) as required by this Chapter.

(c) The registration application shall be a form designated by the City Manager and shall include all of the following:

- (1) Full legal name and current residential address of the applicant;
- (2) The address of the proposed Massage or Bath Establishment;
- (3) A list of services to be offered at the Massage Establishment;
- (4) The full name of any person who will provide Massage Treatments at the Massage Establishment;
- (5) Sufficient information to identify the License for each Therapist;
- (6) The information required in this Chapter for each Student.
(Ord. 19-31. Passed 12-9-19.)

**755.05 ISSUANCE OF REGISTRATION CERTIFICATE FOR MASSAGE OR
BATH ESTABLISHMENT.**

(a) The Zoning Enforcement Officer or his/her designee, pursuant to the terms of this Chapter, shall issue a Registration Certificate to an applicant requesting to operate a Massage or Bath Establishment at a specified location, unless he/she finds:

- (1) That the operation, as proposed by the applicant, if permitted, would not be in compliance with applicable laws, including, but not limited to, the building, health, planning, housing, zoning, and fire codes of the City of Hilliard, as well as the provisions of this Chapter;
- (2) The registration application is incomplete or contains inaccurate or fraudulent information;
- (3) The License of a Massage Therapist cannot be verified;
- (4) Within two years before the date the application is submitted, the applicant or any Therapist listed on the registration application, was the applicant for a Registration Certificate that was revoked or denied. Nothing herein prohibits the Zoning Enforcement Officer or his/her designee from issuing a Registration Certificate for a previously denied application that has been substantially modified;
- (5) Both a Zoning Certificate and Certificate of Occupancy have not been issued for the Massage or Bath Establishment.

(b) The Zoning Enforcement Officer or his/her designee shall send, by First Class U.S. Mail addressed to the applicant, either a Registration Certificate or a written statement that the application was denied and the reason therefore.

(c) Any person who has been denied a Registration Certificate may appeal such denial in accordance with Section 759.11.

(Ord. 19-19. Passed 9-23-19.)

755.06 REGISTRATION EXPIRATION, RENEWAL, AND DUTY TO UPDATE.

(a) Each Registration Certificate shall be signed by the Zoning Enforcement Officer or his/her designee and shall contain the following information:

- (1) The name of the applicant to whom the Registration Certificate is issued;
- (2) The name and address of the Massage or Bath Establishment;
- (3) The full name of each Therapist identified in the Application;
- (4) The effective date of the Registration Certificate.

(b) Each Registration Certificate shall be valid for two (2) years from the date it is issued.

(c) A person who operates a Massage or Bath Establishment shall notify the Zoning Enforcement Officer when a new Therapist or Student begins working at the Massage or Bath Establishment on the form provided. The notice shall be received by the Zoning Enforcement Officer no more than fifteen (15) days after the first day the Therapist or Student provides a Massage Service in the Massage or Bath Establishment.

(d) No more than ninety (90) nor less than seven (7) days before the expiration of the Registration Certificate, the applicant shall submit a new registration application and pay the fee in accordance with 755.04.

(e) A Registration Certification shall not be transferable. If ownership or operation of the Massage or Bath Establishment transfers, the Registration Certificate shall automatically expire. (Ord. 19-19. Passed 9-23-19.)

755.07 REVOCATION OR SUSPENSION OF ESTABLISHMENT REGISTRATION.

(a) The Zoning Enforcement Officer or designee may revoke or suspend a massage or bath establishment registration where he/she finds:

- (1) A section of this Chapter was violated upon the establishment premises;
- (2) A violation of the Ohio Revised Codes or Hilliard City Codes was committed upon the establishment premises, and was reasonably related to the management or operation of the establishment;
- (3) A material misrepresentation was made upon the application for an establishment registration;
- (4) An operator, or employee or agent of the operator hindered, obstructed, or prevented any inspection of the establishment authorized by this Chapter;
- (5) A person who is not a Therapist or Student and/or a person whose information has not been provided as required by Sections 755.05 and 755.06 provided a Massage Service at the establishment.
- (6) The suspension or revocation of a massage or bath establishment registration shall be made pursuant to the provisions of this Chapter and the appeal of any such order shall be pursuant to Section 755.11 of this Chapter. (Ord. 19-19. Passed 9-23-19.)

755.08 REQUIREMENTS FOR MASSAGE AND BATH ESTABLISHMENTS.

(a) A City Zoning Code Enforcement Officer, or his/her designee, shall inspect the Applicant's facility prior to a registration to operate being issued by the Zoning Enforcement Officer to ensure compliance with the requirements below. No registration to operate a massage or bath establishment shall be issued, renewed, or continued unless an inspection discloses that the establishment complies with each of the following minimum requirements:

- (1) All applicable regulations issued by Franklin County Board of Public Health, applicable provisions of Ohio Revised Code Section 4713.08, 4731.15, and 4734.10, and the Codified Ordinances of Hilliard.
- (2) Massage Treatments provided in the Massage Establishment are provided only by Therapists or Students;
- (3) Employees permit and cooperate in any inspections provided for in this Chapter.
- (4) A readable sign shall be displayed at the main entrance identifying the establishment as a massage establishment, provided also that all such signs shall be in compliance with the City of Hilliard Graphics Code;
- (5) The Registration Certificate shall be displayed in a conspicuous location readily visible to a person entering the Establishment through a public entrance;
- (6) Adequate equipment for disinfecting and sterilizing any instrument or apparatus used for massage or bath services is provided;
- (7) Hot and cold running water is provided;
- (8) Closed cabinets are utilized for the storage of clean linen;
- (9) Adequate dressing and toilet facilities are provided for patrons' use;
- (10) All walls, ceilings, floors, steam, or vapor rooms and all other physical facilities for the establishment are kept in good repair and maintained in a clean and sanitary condition.
- (11) Clean and sanitary towels and linens are provided for patrons receiving massage or bath services.
- (12) No common use of towels or linens shall be permitted.
(Ord. 19-19. Passed 9-23-19.)

755.09 PROHIBITIONS.

(a) No owner or operator of a Massage or Bath Establishment shall recklessly do any of the following:

- (1) Employ any person under the age of eighteen (18);
- (2) Allow Massage Services to be provided by someone other than a Therapist or Student;
- (3) Fail to post at the Massage or Bath Establishment the current Registration Certificate issued by the City of Hilliard;
- (4) Allow any Employee, Therapist, or Student to appear in any state of undress, to wear transparent clothing, or clothing that otherwise reveals a sexual or genital area;
- (5) Allow any Employee, Therapist, or Student to provide a Massage Service to a Client who is in a State of Nudity, a State of Semi-nudity, or who reveals a sexual or genital area unless necessary for the Massage Service and is consistent with their License Code of Ethics.

(b) No Therapist shall fail to display his or her state issued license in a conspicuous place where the massage is being administered and where it is visible to the patron;

(c) No person shall recklessly do any of the following while administering a Massage Service in a Massage Establishment:

- (1) Place his or her hand upon, touch with any part of his or her body, fondle in any manner, or massage the sexual or genital area of themselves or of any other person;

- (2) Perform, offer, or agree to perform any act which would require the touching of the sexual or genital area of themselves or of any other person;
- (3) Touch, offer, or agree to touch the sexual or genital area of themselves or of any other person with any mechanical or electrical apparatus or appliance;
- (4) Wear unclean clothing, no clothing, transparent clothing, or clothing that otherwise reveals the sexual or genital areas.
- (5) No Therapist or Student shall perform Massage Services at a Massage or Bath Establishment that is not exempt and does not have a currently valid Certificate of Registration issued by the City of Hilliard.

(d) No person shall place, publish, distribute, or cause to be placed, published, or distributed any advertising material using sexual or provocative words or images.

(e) No person shall advertise Massage Services with the suggestion or promise of a sexual service or activity.

(f) Nothing in this Section shall prohibit a Therapist or Student from providing Massage Services to a Client who is in a state of undress or who reveals a sexual or genital area provided that the Therapist or Student shall not engage in Sexual Misconduct as defined in Ohio Administrative Code 4731-26-01(H). (Ord. 19-19. Passed 9-23-19.)

755.10 AUTHORITY TO CONDUCT INSPECTIONS.

(a) Any person having jurisdiction to enforce the provisions of this Chapter shall be granted entry to a Massage or Bath Establishment without notice at any time the establishment is open for business for the purpose of conducting an inspection and to ensure compliance with this Chapter.

(b) In accordance with constitutional provisions governing searches, any Code Enforcement Officer shall have the authority to enter all Massage and Bath Establishments within the City of Hilliard during all hours of operation to conduct an inspection, to investigate, or to perform the duties imposed upon the Code Enforcement Officer by this Chapter. The Code Enforcement Officer shall present credentials and request entry. If entry is refused, the Code Enforcement Officer may obtain a search warrant in accordance with Ohio Revised Code Section 2933.21.

(c) No person shall deny access to or in any way impede any Zoning Enforcement Officer or Law Enforcement Officer authorized to enforce this Chapter while conducting an inspection of a registered massage or bath establishment, or any portion thereof, or fail to cooperate with the inspecting official(s).

(d) No Therapist shall fail to provide their current state issued license upon request by any officer authorized to enforce this Chapter.

(e) No Student shall fail to provide a current form of State issued identification upon request by any officer authorized to enforce this Chapter.

(f) No Massage or Bath Establishment Operator shall fail to provide a current City of Hilliard Registration Certificate upon request by any officer authorized to enforce this Chapter. (Ord. 19-19. Passed 9-23-19.)

759.11 ADMINISTRATIVE APPEAL.

(a) Any establishment who has been denied a Registration Certificate or has had a Registration Certificate revoked may appeal that decision within five (5) days of the denial or revocation thereof by filing a written statement with the City Manager. The written statement shall include the applicant's full name and contact information (including mailing address, phone number, and e-mail address), shall state the basis for the appeal, and shall include a summary of all relevant facts and circumstances.

(b) The City Manager or his/her designee shall review the written statement, shall set a time and place for an administrative hearing, shall provide reasonable notice prior to such hearing, and shall establish the reasonable procedures, therefore. The hearing shall be held within ten (10) days of submitting the written appeal. The City Manager shall issue a decision on whether to grant or deny the Registration Certificate and that decision shall be final.
(Ord. 19-31. Passed 12-9-19.)

755.12 SEVERABILITY.

In the event any subsection of this Chapter shall be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of this Chapter as a whole or any part thereof other than the part so declared to be invalid or unconstitutional. (Ord. 19-19. Passed 9-23-19.)

755.99 PENALTY.

(a) Whoever violates any provision of Section 755.02 and 755.06 shall be guilty of a minor misdemeanor.

(b) Except as otherwise provided in Subsection (a), whoever violates any provision of this Chapter is guilty of a misdemeanor of the first degree.

(c) In addition to any penalty set forth in Subsection (a) and (b) above, the Director may revoke a Registration Certificate of a Massage or Bath Establishment for a violation of any provision of this Chapter.
(Ord. 19-19. Passed 9-23-19.)