

**CODIFIED ORDINANCES OF OAKWOOD**

**PART SEVEN - BUSINESS REGULATIONS CODE**

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**CHAPTER 702  
Garage Sales**

702.01	Definition.	702.06	No attendance fee or charge.
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**702.1 DEFINITION.**

"Garage sale" as used in this chapter means the sale or offer for sale of over five items of personal property to the general public on any portion of a residential zoning lot, whether within or outside any building.

**702.2 TIME LIMITATION.**

Garage sales may be held only from 8:00 a.m. to sundown on weekdays and Saturdays and from 9:00 a.m. to sundown on Sundays and holidays. No sale may extend for more than three (3) consecutive days. Any portion of a day shall be counted as a full day.

**702.3 SALE OF FOOD PROHIBITED.**

No person conducting a garage sale shall sell or offer for sale any food or beverage for consumption on the premises. Food or beverages may be provided for such consumption at no cost to the consumer, but only if a permit is obtained in advance from the Board of Health of this City.

**702.4 BLOCK GARAGE SALES.**

By submitting the unanimous written consent of all adult residents who are the heads of any household on a residential block, a request may be made to the City for permission to have a "block garage sale." Such a request shall be granted subject to the restriction of this chapter and to any additional conditions or limitations which the City reasonably determines are necessary or appropriate for protection of the public peace, health, safety or welfare. If it is proposed that such a sale will involve blocking off the street so as to interfere with the free and uninterrupted use by the public of that street, an application to the City shall be made in the manner provided in Codified Ordinance 311.02.

**702.5 PROHIBITED AREAS.**

No such garage sale may be conducted on any front porch or corner side porch, in any surplus or required front yard, or in any surplus or required corner side yard of any zoning lot. These area prohibitions shall not apply to a block garage sale except with regard to corner side porches and surplus and required corner side yards.

## Garage Sales

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### **702.6 NO ATTENDANCE FEE OR CHARGE.**

No fee or other charge shall be imposed upon members of the public attending any garage sale.

### **702.7 TWO SALES EACH YEAR.**

No more than two garage sales per dwelling unit may be held on any zoning lot in any calendar year. As to any other use (i.e., other than a dwelling unit) on a residential zoning lot, no more than two such sales per calendar year may be held by or on behalf of each separate group or organization which forms a part of the allowable zoning purposes of such other use (for example, a school band is one such separate group and a school athletic team is another), subject to the following exceptions:

A. One additional sale shall be allowed if it is by or through the estate or guardian of a resident of that lot, or results from a resident moving away from that lot to another dwelling.

B. In any event, sales of programs and food and beverage items at school athletic events shall not be deemed to constitute garage sales.

### **702.8 ADVERTISING.**

No balloons, streamers, special lighting, noise-making devices or other advertising displays or notices may be used on the residential zoning lot to call attention to the garage sale, with the exception that one non-illuminated sign may be used as an accessory use permitted under or through Section 1119.06.

### **702.99 PENALTY.**

Whoever violates any provision of this chapter shall be guilty of a minor misdemeanor so as to be fined not more than \$100.00. Any such violation shall constitute a separate offense on each successive day it is continued.

Legislative history: (Ord. 3105, passed 12/17/79; Ord. 3329, passed 2/7/83) (Ord. 3684, passed 8/24/87)

**CHAPTER 709**  
**Circuses, Carnivals and Amusement Rides**

- 709.1 Licenses required; location and duration.
- 709.2 Deposit required.
- 709.3 License fee.
- 709.4 Fee waiver in civic interest.
- 709.5 Liability and property damage insurance.
- 709.99 Penalty.

**CROSS REFERENCES**

- Power to regulate - see ORC 715.48, 715.63, 3765.02.
- Contests or games at county fairs - see ORC 1711.09, 1711.11.
- County license for public sows - see ORC 3765.
- Gambling - see GEN. OFF. Ch. 513.
- Sidewalk obstructions and protection during transporting operations - see GEN. OFF. 517.04.
- Littering - see GEN. OFF. 517.08.
- Noxious or offensive odors - see GEN. OFF. 517.09.
- Immoral exhibitions prohibited - see GEN. OFF. 521.06.

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**709.1 LICENSES REQUIRED; LOCATION AND DURATION.**

A. Each person desiring to conduct, stage or give a circus, carnival, sideshow or amusement rides for which money or reward is demanded or received shall first obtain a license and pay the required license fee or fees.

B. The applicant for a license to conduct, stage or give such an activity shall give at least one week's notice in writing to the City Manager or his authorized representative, stating the date of the activity and the location at which it is to be conducted. The City Manager or his authorized representative shall give his consent to the issuance of such license if he deems that the location is suitable for the purpose, that it will properly accommodate the patrons, and that the use of the location will not throw too great a burden upon the Safety Department or adversely affect the health, safety or welfare of the City residents.

C. No circus, carnival, sideshow or amusement rides shall be given for more than two consecutive days, unless Council by special resolution shall allow a longer period, or unless such exhibition activity is to be conducted on City property and the use thereof for a longer period shall have been approved by Council.

**709.2 DEPOSIT REQUIRED.**

At the time such application for a license is made and the use of City grounds or public streets is contemplated, the applicant shall deposit with the City a cash bond. In 1991, this bond shall be \$200.00 in the case of activities in which no animals perform or are exhibited, and \$500.00 with respect to activities in which animals do perform or are exhibited or which, in the opinion of the City Manager or his authorized representative, involve an unusual burden on City services or likelihood of creating problems of public

safety, public health, cleanliness or destruction of property. In 1992 and subsequent years, the bond amounts shall increase or decrease in proportion to changes in the Consumer Price Index maintained by the U.S. Department of Labor, or if it no longer exists by a federal government index closest to the concept of that index.

The deposit shall be conditioned upon the restoration and cleaning up of the municipal grounds and public streets used and the proper conduct and management of the shows in the best public interest. In the event the grounds shall be restored and cleaned up properly and promptly following the activity, and all other conditions imposed with respect to the deposit have been observed, the deposit shall be returned. Otherwise, the deposit, or that part of it determined by the City Manager to provide adequate compensation for the nonperformance of the conditions upon which the deposit was made, shall be forfeited to the City.

If the amount of any necessary City services or materials exceeds the amount of the deposit, the excess shall be due and payable from the licensee to the City immediately. If not so paid the City Attorney shall use such legal proceedings as he deems appropriate in an attempt to collect the amount owed, plus a penalty of 10% of the actual cost to the City for failure to pay promptly.

### **709.3 LICENSE FEE.**

The fee for such license shall be set by the City Manager under Section 153.01 of the Administrative Code.

### **709.4 FEE WAIVER IN CIVIC INTEREST.**

The City Manager shall have discretion to waive any license fee under this chapter for not more than six consecutive days if all of the performances are fostered and supervised by civic interests of the City, and if substantial portions of the funds derived from the activity are expended for charitable or civic purposes.

### **709.5 LIABILITY AND PROPERTY DAMAGE INSURANCE.**

At the time an application for a license is made and use of municipal grounds or public streets is contemplated, the applicant shall also furnish the City Manager or his authorized representative proof of bodily injury and property damage insurance provided to the applicant by any company authorized by the State of Ohio to engage in the insurance business. The minimum permissible coverage shall be \$750,000.00 for each person and 1,000,000.00 for bodily injury liability from each accident, and \$50,000.00 for property damage liability from each accident. All that coverage must be available through the policy so as not to have been used as part of an aggregate limitation. Such insurance policy must provide that it is not cancellable until the event will be completed within the number of days permitted by this chapter. It must be an "occurrence" policy so as to honor claims made after expiration or cancellation. The deductible amount must not exceed a reasonable amount determined by the City Manager, since no insurance protection would be available for that deductible portion. The Manager may require that the city be listed as an additional insured on the policy.

**709.99 PENALTY**

Whoever violates any provision of this chapter shall be guilty of fourth degree misdemeanor. Any such violation shall constitute a separate offense on each successive day it is continued. This criminal law procedure shall be in addition to injunctive action any other civil remedies.

**Legislative History:** Ord. 2923 passed 5/19/75.

**CHAPTER 711**  
**Massage Establishment**

711.01	Definitions.	711.08	Issuance of license for technician; effective period.
711.02	License Required.	711.09	Revocation or suspension of massage technician license.
711.03	Exemptions.	711.10	Required facilities.
711.04	Application for massage establishment license; fee.	711.11	Operating requirements.
711.05	Issuance of license for massage establishment; effective period.	711.12	Out-call massage service.
711.06	Revocation or suspension of establishment license.	711.13	Transfer of licenses.
711.07	Application for massage technician license; fee.	711.14	Rules and regulations.
		711.15	Application to current practitioners.
		711.99	Penalty.

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**711.01 DEFINITIONS.**

As used in this chapter:

- (a) "Employee" means any and all persons, other than the massage technician, who renders any service to the operator, and who receive compensation directly from the operator.
- (b) "Massage" means any method of pressure on, or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of, the external soft parts 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, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations commonly used in this practice for a purpose other than the treatment of disorders of the human body.
- (c) "Massage establishment" means any establishment having a fixed or mobile 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 mentioned in subsection (b) hereof for any consideration whatsoever.
- (d) "Massage technician" means any person who, for any consideration whatsoever, engages in the practice of massage as defined in subsection (b) hereof.
- (e) "Operator" means the permit operator of a massage establishment.
- (f) "Out-call massage service" means any business, the function of which is to engage in or carry on massages at a location designated by the customer or client rather than at a massage establishment.
- (g) "Person" means any individual, co-partnership, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.
- (h) "Sexual or genital area" means the genitals, pubic area, buttocks, anus or perineum of any person, or the vulva or breasts of a female.

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### **711.2 LICENSE REQUIRED.**

(a) No person shall advertise, engage in, conduct or carry on, or permit to be engaged in, conducted or carried on, in or upon any premises in the City, the operation of a massage establishment as herein defined, unless such massage establishment shall be licensed under this chapter.

(b) No person shall engage in the business of or be employed as a massage technician in the City unless he or she has obtained a license from the City Manager or his or her designate.

### **711.3 EXEMPTIONS.**

(a) The provisions of this chapter shall not apply to the following:

- (1) Hospitals, nursing homes and public health centers;
- (2) The offices of a person who is licensed or registered by the State of Ohio Medical Board which are used while performing the licensed or registered profession;
- (3) A licensed barber shop, beauty salon, school of cosmetology or barber's school, while used to perform the licensed vocation;
- (4) The offices of a licensed chiropractor or physical therapist while used to perform the licensed profession.

(b) The provisions of this chapter shall not apply to the following:

- (1) A person licensed or registered by the State of Ohio Medical Board while performing the licensed or registered profession;
- (2) Licensed cosmetologists, registered barbers, registered barber apprentices, licensed chiropractors, licensed practical nurses, registered nurses, licensed physical therapists and licensed physical therapist assistants while performing said profession or vocation;
- (3) A person working under the direction or supervision of individuals mentioned in paragraphs (b)(1) and (2) hereof while performing the said profession or vocation.

### **711.4 APPLICATION FOR MASSAGE ESTABLISHMENT LICENSE; FEE.**

(a) Application for a license to operate a massage establishment, including a renewal license, required by Section 711.02(a), shall be made pursuant to this chapter at the office of the City Manager on a form provided. Each application shall include a filing fee of two hundred dollars (\$200.00) which shall not be refundable.

(b) The application for a license to operate a massage establishment shall set forth the exact nature of the massage to be administered and the proposed place of business and facilities therefor.



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(c) In addition to the foregoing, the applicant for a license, including any partner or limited partner of a partnership, and any officer or director of a corporate applicant, and any stockholder holding more than ten percent of the stock of a corporate applicant, shall furnish the following information:

- (1) The applicant's name, address and social security number;
- (2) A certified copy of the applicant's birth certificate which evidences that the applicant is at least eighteen years of age;
- (3) All residential addresses of the applicant for the past three years;
- (4) The applicant's physical description, including height, weight, color of eyes and hair;
- (5) The business, occupation or employment of the applicant for the three years immediately preceding the date of the application;
- (6) The business history of the applicant regarding previous licenses obtained or refused from any governmental agency, including revocations and suspensions and the reasons therefor;
- (7) Criminal history information, including the date, time and place of conviction for all violations except traffic offenses;
- (8) A set of fingerprints obtained by the Division of Police and a recent two-inch by two-inch color photograph of the applicant;
- (9) If the applicant is a corporation, or a partner of a partnership which is incorporated, the name of the corporation, which shall be set forth exactly as shown on the Articles of Incorporation.

### **711.5 ISSUANCE OF LICENSE FOR MASSAGE ESTABLISHMENT; EFFECTIVE PERIOD.**

(a) The City Manager or his or her designate, pursuant to the provisions of this chapter, shall issue the license to maintain, operate or conduct a massage establishment to a designated person for a specific location upon receipt of an application, unless he or 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, zoning and fire laws of the City and the housing code of the County, as well as the provisions of this chapter;
- (2) That the applicant and any other person who will be directly or indirectly engaged in the management and operation of a massage establishment has been convicted of two or more felonies within the past five years or any sex offense within the past five years; or
- (3) That the applicant does not contain all the required information or the application contains a material misrepresentation.

(b) A massage establishment license issued pursuant to this chapter shall terminate at the expiration of one year from the date of its issuance unless subject to suspension or revocation.

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### **711.6 REVOCATION OR SUSPENSION OF ESTABLISHMENT LICENSE.**

(a) The City Manager or his or her designate shall refuse to issue or renew a massage establishment license or may revoke or suspend such license when he or she finds that:

- (1) A section of this chapter was violated upon the establishment premises.
- (2) A violation of another provision of this Municipal Code or of the Ohio Revised Code was committed upon the establishment premises.
- (3) A material misrepresentation was made upon the application for a massage establishment permit.
- (4) A law enforcement officer or health inspector was refused permission to inspect the premises or operation of the massage establishment during the hours of operation.
- (5) A person who is not a licensed massage technician has administered a massage at the premises of the massage establishment.

(b) The issuance, renewal, denial, suspension or revocation of a massage establishment license shall be made pursuant to the provisions of this chapter, and any appeal of any such order shall be made to Council, in writing, within ten days following the date of any such order. Any appeal shall be heard by Council at its next regularly scheduled meeting following the filing of the appeal. At such hearing the person filing the appeal may appear in person or be represented by attorney and present such witnesses and evidence that he or she may desire. The City Manager or his or her designate may appear and present such witnesses and evidence as may be necessary to support his or her action. A simple majority of the Council membership shall affirm, reverse or modify the decision appealed from and their decision shall be final.

### **711.7 APPLICATION FOR MASSAGE TECHNICIAN LICENSE; FEE.**

(a) Application for the license required by Section 711.02, including a renewal license, shall be made pursuant to the provisions of this chapter at the office of the City Manager on a form provided. Each application shall include a filing fee of one hundred dollars (\$100.00), which shall not be refundable.

(b) The application for a permit to operate as a massage technician shall contain the following information:

- (1) The applicant's name, residence address and social security number;
- (2) A physical description of the applicant, setting forth the applicant's weight, height, hair color and color of eyes;
- (3) A recent two-inch by two-inch color photograph of the applicant and a set of fingerprints obtained by the Division of Police;
- (4) A certified copy of the applicant's birth certificate which evidences that the applicant is at least eighteen years of age;

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- (5) The business, occupation and employment of the applicant for a three-year period preceding the date of the application;
- (6) Criminal history information, including the date, time and place of all convictions for all violations except traffic offenses;
- (7) Certification that the applicant has satisfactorily completed 160 hours of course instruction in anatomy, physiology and massage at a school of massage approved by the Ohio State Medical Board.

### **711.8 ISSUANCE OF LICENSE FOR MASSAGE TECHNICIAN; EFFECTIVE PERIOD.**

(a) The City Manager or his or her designate shall, pursuant to this chapter, issue the license to engage in the business of or to be employed as a massage technician in the City upon receipt of an application, unless he or she finds that

- (1) The applicant has been convicted of two or more felonies within the past five years or any sex offense within the past five years.
- (2) The application does not contain all the required information or the application contains a material misrepresentation.

(b) A massage technician license issued pursuant to this chapter shall terminate at the expiration of one year from the date of its issuance unless subject to suspension or revocation.

### **711.9 REVOCATION OR SUSPENSION OF MASSAGE TECHNICIAN LICENSE.**

(a) The City Manager or his or her designate shall refuse to issue or renew a massage technician license or may revoke or suspend such license where he or she finds any of the following:

- (1) The massage technician has been convicted of two or more felonies within the past five years or any sex offense within the past five years.
- (2) The massage technician violated any of the provisions of this chapter.

(b) The issuance, renewal, denial, suspension or revocation of a massage technician license shall be pursuant to the provisions of this chapter, and the appeal of any such order shall be to Council in the same manner as provided in Section 711.06(b).

### **711.10 REQUIRED FACILITIES.**

No license to conduct a massage establishment shall be issued, renewed or continued unless an inspection discloses that the establishment complies with each of the following minimum requirements:

- (a) A readable sign shall be displayed at the main entrance identifying the establishment as a massage establishment. All such signs shall be in compliance with the Zoning Code.
- (b) Adequate equipment for disinfecting and sterilizing any instruments used for massage shall be provided.

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- (c) Hot and cold running water shall be provided.
- (d) Closed cabinets shall be utilized for the storage of clean linen.
- (e) Adequate dressing and toilet facilities shall be provided to patrons.
- (f) All walls, ceilings, floors, steam or vapor rooms and all other physical facilities for the establishment shall be kept in good repair and maintained in a clean and sanitary condition.
- (g) Clean and sanitary towels shall be provided for patrons receiving massage services. No common use of towels or linens shall be permitted.

### **711.11 OPERATING REQUIREMENTS.**

(a) No license to conduct a massage establishment or to engage in the business of or be employed as a massage technician shall be issued, renewed or continued unless each of the following provisions is complied with by the massage establishment and/or massage technician:

- (1) No massage technician shall administer a massage unless completely clothed in clean nontransparent garments at all times. The term "completely clothed" shall mean having on the upper portion of the body undergarments and either a blouse or a shirt which covers all of the upper body except the arms, neck and head, and on the lower body undergarments plus either pants or a skirt which covers the area from the waist to a point at least two inches above the knee.
- (2) The massage patrons private parts shall be covered by a towel, cloth or undergarments when in the presence of a massage technician or massage establishment employee.
- (3) A massage technician and massage establishment shall display Ms, her or its license in a conspicuous place where the massage is being administered.
- (4) No massage technician shall engage in such business or profession except between the hours of 8:30 a.m. and 9:30 p.m., nor shall any operator of a massage establishment or business operate the same except between such hours.
- (5) A massage establishment operator and a massage technician shall maintain for a period of one year correct and accurate records of the names and addresses of all persons to whom massages are administered, the date and time administered, the type of massage administered and the name of the person who administered the massage. Said records shall be subject to inspection during the hours of operation by any officer of the Division of Police.
- (6) A massage technician shall not administer a massage to an individual of the opposite sex.
- (7) The massage establishment facilities shall be subject to inspection by law enforcement officers or health inspectors during working or operating hours to assure compliance with the provisions of this chapter.
- (8) A massage technician shall not fondle, touch or massage the sexual or genital area of any patron.

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- (9) A massage establishment operator shall provide the names of all employees and massage technicians working for the establishment to the office of the Manager within two days of the date the individual is employed.

(b) No massage technician or massage establishment operator shall knowingly violate a provision of subsection (a) hereof.

### **711.12 OUT-CALL MASSAGE SERVICE.**

No massage technician or massage establishment shall provide an "out-call massage service" which is not in compliance with the provisions of this chapter.

### **711.13 TRANSFER OF LICENSES.**

(a) No license issued under this chapter shall be transferable to another person or location without the express written authorization of the City Manager or his or her designate.

(b) The change of location of a massage establishment shall require the submission of a new application and the issuance of a new license.

### **711.14 RULES AND REGULATIONS.**

The City Manager or his or her designate may make and enforce reasonable rules and regulations to carry out the intent of this chapter.

### **711.15 APPLICATION TO CURRENT PRACTITIONERS.**

Any person who is actually engaged as a massage technician or an operator of a massage establishment upon the effective date of this chapter shall have sixty days from that day to comply with the provisions of this chapter. However, a person operating as a massage technician on the date of passage of this chapter and who is otherwise operating in compliance with this chapter and who enrolls within sixty days from the effective date of this chapter in a school of massage, approved by the Ohio State Medical Board, may continue to operate as a massage technician as long as said enrollment continues, but not to exceed a period of one year.

### **711.99 PENALTY.**

Whoever violates any of the provisions of this chapter is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

Legislative History: Ord. 4444, passed 9/13/99.

**CHAPTER 717**  
**Meat and Meat Products**

717.01	Definition.	717.04	Inspection required.
717.02	Sales from vehicles and hand-carried containers.	717.99	Penalty.
717.03	Minimum quantity; identity of seller.		

**CROSS REFERENCES**

Power to inspect food products - see ORC 715.46.

Pure food and drug law - see ORC Ch. 3715.

Peddlers, solicitors and hucksters - see BUS. REG. Ch. 733.

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**717.1 DEFINITION.**

As used in this chapter, "meat or meat product" means the flesh or viscera of cattle, calves, sheep, swine and goats, and any edible product of same.

**717.2 SALES FROM VEHICLES AND HAND-CARRIED CONTAINERS.**

No person shall peddle, hawk, sell, vend, dispose of, or offer or exhibit for the purpose of doing so any meat or meat products from. This chapter shall not be construed to affect the wholesale delivery of meat and meat products from inspected packing houses to retail establishments in the City.

**717.3 MINIMUM QUANTITY; IDENTITY OF SELLER.**

A. No person except a retail butcher shall sell, or offer or exhibit for the purpose of doing so, in the City any article of fresh meat whatsoever in any quantity less than 1/4 of the animal.

B. No person except a retail butcher doing business in a regular established retail store shall sell or offer for sale in the City any sausage or pudding made of fresh meat or other ingredients, any spareribs, tenderloins, pig's feet or backbones, unless such meat has been raised by the person offering the same for sale.

**717.4 INSPECTION REQUIRED.**

No person shall dispose of, sell, offer for sale or have in his possession for sale, whether at wholesale or retail prices, any meat or meat product within the City unless such meat or meat product has been inspected by the Ohio Department of Agriculture or bears the inspection mark of the Ohio or federal Department of Agriculture.

**717.99 PENALTY.**

Whoever violates any provision of this chapter for a first offense shall be guilty of a minor misdemeanor and for a second or subsequent offense shall be guilty of a fourth degree misdemeanor.

Legislative history: (Ord. 988, passed 11/17/30.)

**CHAPTER 725**  
**Selling Products in Streets**

725.01	Sales prohibited except in Business Districts.	725.99	Penalty.
725.02	No soliciting in roadways.		

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**725.01 STREET SALES PROHIBITED EXCEPT IN BUSINESS DISTRICTS.**

No person shall offer for sale any thing or product within any street right-of-way in the city other than that portion of a street in the business district (as defined in the zoning code) as to which a permit has been issued under Section 901.01 for such an activity. This prohibition shall not apply to the selling of any newspaper which has a general circulation throughout the city, nor to the otherwise lawful operation of any duly-licensed mobile food vehicle business.

**725.02 NO SOLICITING IN ROADWAYS.**

No person shall stand on the roadway portion of any street for the purpose of soliciting business, contributions or employment from the occupants of any vehicle or any other persons. (See Traf. 371.06B for same rule.)

**725.99 PENALTY.**

Whoever violates any provision of this chapter shall be guilty of a minor misdemeanor for a first offense and for a second or subsequent offense shall be guilty of a fourth degree misdemeanor.

**Legislative history:** Ord. 3976, passed 6/18/90; effective 7/18/90; Ord. 4141, passed 6/15/92; ORC 4511.51; Ord. 4864, passed 8/6/2018; effective 9/5/2018.



**CHAPTER 729  
Mobile Food Vehicle Vendors**

729.01	Definitions	729.07	Suspension and Revocation
729.02	Authority to Issue Permit	729.08	Closure for Operation Without a Permit
729.03	Permit Required		
729.04	Form and Condition of Permit	729.09	Appeals
729.05	Permit Fee	729.99	Penalty
729.06	General Operating Restrictions		

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**729.01 DEFINITIONS**

Within this Chapter, words with specific defined meanings are as follows:

- A. "City" means the city of Oakwood, Ohio.
- B. "City Manager" means the City Manager or his/her designee.
- C. "Mobile food vehicle" means a commercially manufactured, self-contained, motorized, vehicle currently licensed by the Ohio Department of Motor Vehicles in which ready-to-eat food is cooked, wrapped, packaged, processed or portioned for service, sale or distribution.
- D. "Operate" or "operation" means engaging in the business or activity of mobile service, sale or distribution of ready-to-eat food.
- E. "Temporary use" means a short term or seasonal use intended to promote or sell specific merchandise or products and shall include, but not be limited to, special events, sidewalk sales, and outdoor seasonal sales.

**729.02 AUTHORITY TO ISSUE PERMIT**

The City Manager is hereby authorized to grant, issue, deny, condition, and revoke permits pursuant to this Chapter.

**729.03 PERMIT REQUIRED**

- A. Any person desiring to operate a mobile food vehicle shall make a written application for such permit to the City Manager's Office. The application for such permit shall be on forms provided by the City Manager and shall include the following:
  - 1. Name, signature and address of each applicant, and each corporate officer of the mobile food vehicle vending corporation if incorporated.

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2. A valid copy of all necessary licenses, permits or certificates required by the County of Montgomery, the State of Ohio or any subsidiary enforcement agencies or departments thereof, including, but not limited to: a valid Ohio Department of Motor Vehicle Registration and Certificate of Inspection and valid driver's licenses of all vehicle operators.
  3. A description of the event for which the applicant seeks a permit. The description should include, at a minimum, the following information:
    - a. The date of the event;
    - b. The name of the Oakwood property owner sponsoring the event;
    - c. The street address where the event is being held;
    - d. The hours/duration of the event;
    - e. The applicant's hours of operation at the event;
    - f. The name or general nature of the event (e.g., "That Day in May," graduation party, wedding, block party, etc.); and
    - g. A good faith estimate of the anticipated total number of participants/guests attending the event.
  4. A signed statement that the vendor shall indemnify and hold the City and its officers and employees harmless for any claims for damage to property or injury to persons which may be occasioned by any activity carried out under terms of the permit. Vendor shall furnish and maintain such public liability, food products liability, and property insurance, as will protect vendor and the City from all claims for damage to property or bodily injury, including death, which may arise from the operations under the permit or in connection therewith. Such insurance shall provide coverage of not less than one million dollars (\$1,000,000) per occurrence. A permit issued pursuant to the provisions of this Chapter shall be invalid at any time the insurance required herein is not maintained.
- B. For purposes of this ordinance, any of the following shall constitute one (1) event for determining permit requirements:
1. Single-instance: An event that occurs once, on one specific day at a specific time. By way of example and not of limitation, a wedding or graduation party would constitute one (1) "single-instance" event.
  2. Multi-day: An event that occurs once, over a span of not more than three consecutive days. By way of example and not of limitation, a festival lasting three or fewer consecutive days would constitute one (1) "multi-day" event.
  3. Regularly-recurring: An event that occurs on a weekly or monthly basis, at a fixed location on or abutting a street closed to vehicular traffic, where such event is held on the same day and at generally the same time each week or month. For purposes of this provision, all weekly or monthly incidents of a "regularly-recurring" event, within the same calendar year, shall be taken together and deemed a single event. By way of example and not of limitation, all instances of a weekly farmers' market within one calendar year would constitute one (1) "recurring" event.
- C. Upon receipt and verification of a complete application, including all submittals that may be required and the appropriate permit fee, the City Manager shall grant and issue the permit unless grounds exist for denying the same.
- D. The City Manager shall deny a permit under this Chapter for any of the following reasons:
1. Failure to pay the appropriate permit fee;
  2. Failure to submit all required materials with the application for a permit under this Chapter;
  3. The applicant owes outstanding financial or other obligations to the City;

## Mobile Food Vehicle Vendors

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4. If, in the City Manager's opinion, any of the following conditions exist and cannot be eliminated by the imposition of reasonable conditions on the permit:
  - a. The application was not submitted in connection with a particular event sponsored by an Oakwood property owner.
  - b. The issuance of the permit would result in mobile food vehicle operation before 9:00 am and/or after 9:00 pm.
  - c. The issuance of the permit would cause, contribute to, or exacerbate undesirable traffic or parking congestion.
  - d. The issuance of the permit would impede access to public buildings or facilities, or would interfere with the delivery of governmental and/or emergency services.
  - e. For a particular single-instance or multi-day event, or for a particular instance of a regularly-recurring event, three or more permits have already been issued (unless the City Manager determines that the anticipated crowd size and location can reasonably justify and accommodate additional permits). Permits are issued on a first-come-first-served basis; no more than three permits will be issued for a particular single-instance or multi-day event, or for a particular instance of a regularly-recurring event unless the City Manager makes the determination described in this paragraph.
  - f. The permit was requested in connection with operation on any alley; or on Far Hills Avenue, Shroyer Road, Patterson Road, East/West Schantz Avenue between Oakwood Avenue and the Oakwood/Kettering corporate line, or on Oakwood Avenue between Far Hills and Irving Avenues, or on Park Avenue between Far Hills and Harman Avenues; or on any street that may hereafter become designated as a thoroughfare street; unless such right-of-way has been closed to regular traffic for a particular event and the mobile food vehicle is participating in that event.
  - g. The issuance of the permit would endanger the public health, safety, and/or welfare.

The City Manager or his or her designee shall give written notice to the applicant of a denial of any permit under this Chapter.

### 729.04 FORM AND CONDITION OF PERMIT

Every mobile food vehicle vending permit shall contain the following conditions:

- A. The permit is valid only for the date(s) and time(s) specified thereon;
- B. The permit holder is responsible for operation in accordance with all applicable laws;
- C. The permit shall not be transferable without written approval of the City Manager;
- D. The permit is valid for one mobile food vehicle only;
- E. The permit shall be placed on the mobile food vehicle's dashboard or hung from the inside rear view mirror where it can be readily seen by the public, and shall be displayed at all times of permitted operation; and
- F. Any other condition imposed by the City Manager pursuant to this Chapter.

## Mobile Food Vehicle Vendors

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### 729.05 PERMIT FEE

All permit applications submitted under this Chapter shall include a non-refundable permit fee of ten dollars (\$10.00), provided however that the City Manager may increase this fee, not more than once per year, as he or she may determine is necessary to recover the city's reasonable costs incurred in administering this Chapter.

### 729.06 GENERAL OPERATING RESTRICTIONS

- A. It shall be unlawful for any person to operate a mobile food vehicle within the City, whether on public or private property, without first having obtained a valid mobile food vending permit as prescribed in this Chapter, or in violation of the terms of such permit if one has been issued.
- B. It shall be unlawful for any person to operate a vehicle other than a mobile food vehicle for the service, sale, or distribution of ready-to-eat food in the City.
- C. A mobile food vehicle shall not be operated or parked so as to obstruct or impede the normal movement of traffic.
- D. A mobile food vehicle shall be parked or stopped with the curb-side wheels parallel with and not more than twelve inches from the curb when food items are sold, dispensed or prepared.
- E. All items shall be sold, offered for sale or dispensed only from the right hand (curb-side) of a mobile food vehicle.
- F. Flashing lights shall be operated continuously at all times when a mobile food vehicle is parked or stopped so as to be clearly visible to drivers of other vehicles approaching such vehicle from the front or rear.
- G. Sound emanating from a mobile food vehicle shall be in accordance with all noise regulations under state and local law.
- H. The restrictions set forth above in sections 729.06(D), (E), and (F) shall not apply if the mobile food vehicle is operated on a public right-of-way that has been closed to regular vehicular traffic for a particular event, and only if and to the extent that the mobile food vehicle is participating in that event.

### 729.07 SUSPENSION AND REVOCATION

- A. The owner/operator of any mobile food vehicle permitted by the City shall comply with all provisions of Federal, State and local laws and ordinances.
- B. The owner/operator of any mobile food vehicle permitted by the City shall comply with all notices, orders, decisions and rules and regulations made by the City Manager, the Department of Public Safety, or any other City department.

## Mobile Food Vehicle Vendors

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- C. Any person, firm, corporation or other entity violating the provisions of this Chapter may be liable for penalties as prescribed in Section 729.99 and may be subject to immediate closure by the Department of Public Safety and/or the City Manager's Office.

### **729.08 CLOSURE FOR OPERATION WITHOUT A PERMIT**

Any mobile food vehicle operating without the required City permit shall be immediately closed by order of the Department of Public Safety and/or the City Manager's Office. Each day of operation without a permit shall constitute a separate violation.

### **729.09 APPEALS**

The applicant may appeal the denial or revocation of a permit to the General Appeals Board, as constituted pursuant to Chapter 169 of the Oakwood Administrative Code, by filing a written notice of appeal with the Clerk of Council within ten days after such denial or revocation.

The following procedures shall govern appeals under this Section:

- A. In the event that a notice of appeal is incomplete or not timely filed, or is otherwise not filed consistent with this Section, the applicant's right of appeal shall lapse.
- B. The written appeal shall:
1. Cite specific provisions of this Chapter that are alleged to have been interpreted in error, or the specific grounds on which the appeal is being made;
  2. Include any required application fee in an amount set by the City Manager and set forth in the city's permit fee schedule; and
  3. Include such other information as may be necessary to render a reasonable decision.
- C. The applicant must appear, with or without counsel, at the hearing of the appeal. The applicant's failure to attend the appeal hearing shall constitute grounds for the dismissal of the appeal.
- D. The applicant, the City Manager, or the City Manager's designee, may appeal the decision of the Board of General Appeals in accordance with Section 169.01(C) of the Oakwood Administrative Code.

### **729.99 PENALTY**

Whoever violates any of the provisions of this Chapter is guilty of an unclassified misdemeanor and shall be fined not more than one thousand dollars (\$1,000) for each offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

Legislative History: Ord. 4863, passed 8/6/2018, effective 9/5/2018; Ord. 4881, passed 4/1/2019, effective 5/1/2019.

**CHAPTER 733**  
**Peddlers and Solicitors**

- 733.1 Definitions**
  - 733.2 Authority to Issue License**
  - 733.03 License or Registration Required**
  - 733.04 License Application**
  - 733.05 License Waiting Period; Investigation**
  - 733.06 License Application Fees**
  - 733.07 License Expiration; Revocation or Suspension**
  - 733.08 Exceptions from License and Fees**
  - 733.09 Compliance with State Law**
  - 733.10 Falsification; Misrepresentation**
  - 733.11 Hours of Solicitation**
  - 733.12 Prohibited Soliciting; Notice**
  - 733.13 Appeals**
  - 733.14 Severability**
  - 733.99 Penalty**
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**733.1 DEFINITIONS.**

As used in this chapter:

- A. "Canvassing," "canvassers" and "canvass" means the house-to-house distribution of ideas, pamphlets, literature, and the like, or the collection of signatures or support for any purpose or cause. This definition does not include solicitation, peddling, vending or youth fundraising, as those terms are defined in this section. This definition includes requesting contributions when such requests are made in conjunction with the house-to-house distribution of ideas, pamphlets, literature, or the collection of signatures or support for any purpose or cause. This definition includes both "contact canvassers" and "non-contact canvassers" as defined in paragraphs (A)(1) and (A)(2) hereof.
  - 1. "Contact canvassers" and "contact canvassing" mean those persons who canvass, as defined in subsection (A) hereof through in person, fact-to-face contact, verbal or otherwise, with individual residents.
  - 2. "Non-contact canvassers" and "non-contact canvassing" mean those persons who canvass, as defined in subsection (A) hereof, without attempting in person, face-to-face contact with individual residents, such as the distribution of leaflets and/or pamphlets by leaving them at a place of residence.
  
- B. "Charitable" means and includes the words patriotic, philanthropic, social service, welfare, benevolent, educational, fraternal or any agency created for the purpose of supporting health research or health measures, either actual or purported. This definition does not include youth fundraising, as that term is defined in this section.

## Peddlers and Solicitors

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- C. "City Manager" means the City Manager or his or her designee.
- D. "Contribution" means the gift, sale for less than market value or purchase for more than market value of alms, food, clothing, money or property, including donations under the guise of a loan of money or property or the rental thereof for any charitable, religious or political use or purpose.
- E. "Peddler" means an itinerant solicitant/trader who sells wares which he or she may carry with him or her traveling about from place to place.
- F. "Person" means any firm, partnership, corporation, company, association, joint stock association, church, religious sect, religious denomination, society, organization or league, and includes any trustee, receiver, assignee, agent or other similar representative thereof.
- G. "Political" and "political organization" shall be given their commonly accepted definitions, but shall not mean or include the term "charitable." It is not necessary that a person be a candidate for an office or in support of another person as a candidate to be included within the definition of "political" or "political organization."
- H. "Religious" and "religion" shall be given their commonly accepted definitions, but shall not mean or include the term "charitable."
- I. "Solicit" and "solicitation" mean the method by which a peddler or vendor conveys his/her wares; or the request, either directly or indirectly, for money, credit, property, financial assistance, or other thing of value on the plea or representation that which is being solicited will be used for a charitable, political, or religious purpose.
- J. "Vendor" means a person who transfers property by door-to-door sale.
- K. "Youth fundraiser" and "youth fundraising" means fundraising for (i) a K-12 school or school-related activity, or (ii) a youth organization such as an athletic club, Boy/Girl Scout troop, and the like, when such activity is undertaken by a person, age 18 or under, who resides in this City. Youth fundraising activity, as contemplated by this definition, typically includes, but is not limited to, the sale of fundraising products such as popcorn, wrapping paper, candy, fruit or plants.

### **733.2 AUTHORITY TO ISSUE LICENSE.**

The City Manager is hereby authorized to grant, issue and revoke a license to any person who desires to vend, solicit, peddle or request contributions under this chapter.

**733.3 LICENSE OR REGISTRATION REQUIRED.**

No person shall peddle, vend, solicit or request contributions for any purpose, charitable or otherwise, unless such person has obtained a license from the City or unless the person meets the exception contained in Section 733.08. Such person shall carry the license required by this section, a photographic identification card, and the do-not-solicit list required by Section 733.12, at all times while exercising such calling and shall, upon demand, exhibit those items to any official of the City or occupant of any residence or business establishment being contacted.

**733.4 LICENSE APPLICATION.**

- A. An application for a license to peddle, vend, solicit or request contributions shall be made on forms provided by the City.
  
- B. The City Manager shall issue the license if all of the following conditions are met:
  - 1. All of the statements made in the application are true;
  - 2. The applicant has provided a valid photographic identification card;
  - 3. The applicant has provided current address and/or telephone contact information;
  - 4. The applicant has paid the license application fee under Section 733.06; and
  - 5. The applicant has not been convicted of a felony or misdemeanor involving force, violence, fraud, theft, or a sexually -oriented offense.

**733.5 LICENSE WAITING PERIOD; INVESTIGATION.**

A waiting period, not to exceed twenty-four hours after receipt of the completed application for a license to peddle, vend, solicit or request contributions, shall be required for the purpose of having the Police Department make an independent inquiry of the requirements specified in Section 733.04.

**733.6 LICENSE APPLICATION FEES.**

The City Manager, before issuing the license required by this chapter, shall collect a license application fee from each applicant. Each separate person wishing to peddle, vend, solicit or request contributions within the City shall be considered a separate applicant and must have an individual license in order to engage in those activities within the City. The amount of the fee shall be one dollar (\$1.00) for each license issued under this chapter, or such other amount as the City Manager may establish from time to time, provided that the fee may not exceed the costs, including but not limited to personnel costs, reasonably incurred by the City in reviewing the application and performing the independent inquiry referenced in Section 733.05.

**733.7 LICENSE EXPIRATION; REVOCATION OR SUSPENSION.**

Any license issued pursuant to this chapter shall expire not later than ten days following the date of issuance. Such a license may be revoked or suspended at any time by the City Manager if the holder:



- A. Is found to have misrepresented any statement on the application for a license to peddle, vend, solicit or request contributions;
- B. Violates any of the provisions of this chapter;
- C. Is the subject of a trespassing complaint as defined by state law or by Section 541.05 or 541.051 of the Oakwood Codified Ordinances; or
- D. Is found to be convicted of a felony or misdemeanor involving force, violence, fraud, theft, or a sexually-oriented offense.

**733.8 EXCEPTIONS FROM LICENSE AND FEES.**

Except as otherwise provided in Sections 733.11 and 733.12, the restrictions of this chapter do not apply to any canvassing activity as defined in Section 733.01(A) or to youth fundraising activity as defined in Section 733.01(K). These exceptions are adopted, among other reasons and without limitation, on the following grounds:

- A. That canvassing activity, although it may involve requesting contributions, is principally conducted as an expression of core political speech, and presents a lower risk of fraud, theft or other criminal conduct than that presented by other house-to-house activities.
- B. That youth fundraising activity is engaged in by minors who reside in this city who, by virtue of their residence, are likely to be recognized by their neighbors and present a lower risk of fraud, theft, or other criminal conduct than that presented by other house-to-house activities.

**733.9 COMPLIANCE WITH STATE LAW.**

A representative of a charitable organization, as defined in Ohio R. C. Chapter 1716, may be required, if requested by the City Manager or his or her designee, to provide certification that such organization is duly registered with the Ohio Attorney General's office.

**733.10 FALSIFICATION; MISREPRESENTATION.**

No person required to obtain a license to solicit, peddle, vend or request contributions under this chapter shall register a false or fictitious name or address or represent by words or action that he or she is the employee, agent, partner or representative of any person or organization, when in fact, he or she is not the employee, agent, partner or representative of such person or organization.

**733.11 HOURS OF SOLICITATION.**

- A. All peddling, vending, soliciting, and requests for contributions other than in conjunction with canvassing or youth fundraising activity, permitted under this chapter may be conducted only between the hours of 9:00 a.m. and 6:00 p.m.

- B. All canvassing and youth fundraising activity permitted under this chapter may be conducted only between the hours of 9:00 a.m. and 9:00 p.m.

**733.12 PROHIBITED SOLICITING; NOTICE.**

- A. The City Manager shall maintain a do-not-solicit list. Any property owner, or tenant if the property is leased, may elect to add or remove his or her residence to or from the list, at any time, by:
1. Calling or visiting the City's offices;
  2. Directing an email request to the City through a link to be maintained on the City's website for that purpose;
  3. Checking the appropriate box on the residence's City utility bill when such option is provided annually; or
  4. Returning a request form to be included annually in the City newsletter.
- B. The do-not-solicit list shall be updated as follows:
1. Every person who elects to add his or her residence to the do-not-solicit list shall be required to re-register such residence every five (5) years. Any residence that is not re-registered in accordance with this section shall be removed from the do-not-solicit list;
  2. On a periodic basis, the City Manager shall compare the do-not-solicit list to the utility database to identify which residences on the do-not-solicit list have been transferred or sold since being registered. The City Manager shall remove any such residence; and
  3. The do-not-solicit request form will be provided to all new residents in the New Resident Packets that the Police Department hand delivers. The New Resident Packets are provided to new residents when the Utility Department receives notice of a new account holder.
- C. The City Manager shall provide a copy of the do-not-solicit list to each person issued a license pursuant to Section 733.04. In addition, any person may obtain a copy of the do-not-solicit list by:
1. Visiting City offices during normal business hours;
  2. Visiting the Department of Public Safety at any time, twenty-four hours per day, seven days per week; or
  3. Accessing a copy from the City's website.
- D. No person shall enter onto the property of any residence listed on the do-not-solicit list maintained in accordance with subsection (a) hereof for the purpose of contact canvassing, peddling, vending, soliciting, or requesting contributions.
- E. No person shall knock at the door or ring the doorbell of any residence, apartment, or other dwelling unit in the City upon which is clearly displayed at the entrance a notice that reads " NO SOLICITORS" or that otherwise clearly

purports to prohibit peddlers, contact canvassers, vendors, solicitors, or persons requesting contributions, unless such person is or has been invited upon the premises by the occupant thereof.

**733.13 APPEALS.**

The City Manager shall give notice of a refusal to issue a license required by this chapter to the applicant. The applicant may appeal such refusal to Council by filing a written notice of appeal with the Clerk of Council within ten days after such refusal and at least seven days before the Council meeting at which the appeal shall be heard. The appeal shall state briefly the grounds for appeal. The applicant may appeal before Council in person or by attorney. The decision of Council shall be final.

**733.14 SEVERABILITY.**

In the event that any provision of this chapter is determined by a court of competent jurisdiction to be unenforceable or invalid, for any reason whatsoever, such provision shall be deemed to be severable from the remaining provisions of this chapter, which remaining provisions shall not be affected by the court's determination and shall remain in full force and effect.

**733.99 PENALTY.**

Whoever violates or fails to comply with any of the provisions of this chapter is guilty of a misdemeanor of the fourth degree and shall be fined not more than two hundred fifty dollars (\$250.00) or imprisoned not more than thirty days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

Legislative history: (Ord. 2642, passed 10/6/69; Ord. 2764, passed 12/6/71; Ord. 3597, passed 11/17/86; Ord. 4099, passed 12/9/91; Ord. 4316, passed 11/27/95. Cross Reference: Prohibition Against Delivery of Advertising to Private Property, Section 541.10, passed 08/05/2013)

**CHAPTER 741**  
**Sidewalk, Curb and Gutter Contractors**

741.01	Construction specifications.	741.04	Surety.
741.02	Supervision.	741.05	Insurance.
741.03	License required for contractors; application; fee.	741.06	Cancellation of license.
741.03.1	License for subcontractors required.	741.07	Barricades, lights.
		741.99	Penalty.

**CROSS REFERENCES**

Barricades and warning lights required - see GEN. OFF. 517.03; S. & P.S. Ch. 903.  
Permit and bond required for opening in sidewalks, curbs, gutters, streets or public place - see S. & P.S. Ch. 901.

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**741.1 CONSTRUCTION SPECIFICATIONS.**

Whenever any sidewalk, curb and gutter in the City is constructed, it shall be done in accordance with the most recent sidewalk, curb and gutter construction specifications on file in the administrative offices of the City.

**741.2 SUPERVISION.**

All sidewalks, curbs and gutters constructed in the City shall be done under the direction and to the satisfaction of the City Manager. Every reference in this chapter to the City Manager shall include his authorized representative.

**741.3 LICENSE REQUIRED FOR CONTRACTORS; APPLICATION; FEE.**

Any person, firm or corporation desiring to engage in the business of constructing concrete sidewalks, curbs and gutters in the City shall make application to the City Manager for a license to do so and pay the required application fee as set by the City Manager under Chapter 153 of the Administrative Code. The application shall be on a form prescribed by the City Manager. Upon receipt of such application and fee, the City Manager shall determine whether or not the applicant is qualified to engage in such business. In making that decision, the City Manager shall take into consideration the experience of the applicant in such business and the equipment possessed or to be secured by the applicant for such purpose. If the City Manager determines that the applicant is so qualified, he shall cause the license to be issued to the applicant upon filing of the surety required by Section 741.04 and proof of insurance required by Section 741.05.

**741.03.1 LICENSE FOR SUBCONTRACTORS REQUIRED.**

All of the terms, conditions and requirements of Section 741.03 shall also apply to subcontractors engaged in the business of constructing concrete sidewalks, curbs and gutters in this City. Such subcontractors shall make application and be licensed under the terms of Section 741.03 and shall post surety and proof of insurance under Sections 741.04 and 741.05.

**741.4 SURETY.**

A. The surety which must be filed before a license may be issued pursuant to Section 741.03 shall be in the principal sum of \$10,000.00. Its condition shall be that such licensee in the building of concrete sidewalks, curbs and gutters in the City, whether under contract with the City or with a property owner or with another contractor, shall do the following things:

1. Comply strictly with all the laws and ordinances applicable thereto;
2. Shall pay all third party expenses which the City incurred to inspect or correct the work;
3. Shall construct all such sidewalks, curbs and gutters according to established grade and in accordance with specifications adopted by the City or a duly authorized officer thereof;
4. Shall remove all debris after the completion of the work;
5. Shall pay all damages which may be incurred because of defective or inferior workmanship or materials in such work, or repair or replace same (provided such defective conditions become evident prior to the expiration of the guarantee period expressed in such contract);
6. Shall indemnify, defend and save harmless the City and any property owner with whom he contracts from all claims, charges, losses, costs, damages, law suits and actions of every kind against either or both for or on account of any injury or damage to person or property or both, because of, arising out of, or incident to the construction of the work in any such contract; and
7. Shall pay any and all claims for labor, materials, machinery or equipment furnished for the work specified in any such contract.

If the licensee meets all these conditions the surety shall be void; otherwise the amount of money it represents shall be paid to the City or the property owner, as the case may be. Nothing herein shall be construed as requiring that such surety be in the express terms of this section, a substantial compliance herewith being sufficient, but the form and substance of the surety shall be satisfactory to the City Attorney.

B. The surety shall be in the form of a certified or cashier's check to be cashed by the City at once, an irrevocable letter of credit on a federally chartered bank having a main or branch office in the City or in Dayton or Kettering, Ohio, or a bond issued by a surety company authorized to do business in this state.

C. The surety shall be released by the City Manager when the work is completed as required of this chapter.

### **741.5 INSURANCE.**

In addition to furnishing the bond required by the preceding sections, the sidewalk, curb and gutter contractor or subcontractor shall furnish satisfactory evidence, before a license is issued to him, that he has procured public liability and property damage insurance which shall protect him, his subcontractors and the City from all claims for damages for personal injuries, including accidental death, in the sum of not less than \$500,000.00 for any one person injured, with an aggregate of not less than \$1,000,000.00 for any one accident, and which shall protect the parties from claims for property damage for not less than the sum of \$50,000.00, to the extent such claims arise from the operation of the applicant as sidewalk, curb and gutter contractor or subcontractor. Such insurance shall provide that it shall not be cancellable except with twenty (20) days written notice first given to the City Manager. The City Manager may require that the insurance name the city or an additional insured. The deductible amount may not exceed a reasonable amount determined by the City Manager, since no insurance protection would be available for that deductible portion.

### **741.6 CANCELLATION OF LICENSE.**

The City Manager is hereby authorized to cancel the license of any sidewalk, curb and gutter contractor or subcontractor who violates any provision of this chapter or who fails to perform any condition secured by the surety required under 741.04.

### **741.7 BARRICADES, LIGHTS.**

Every person, firm or corporation constructing or repairing any sidewalks, curbs and gutters in this City shall see to, and be responsible for, the safeguarding of all excavations and obstructions which are necessary or incident to such work by placing and maintaining barricades about such excavations or obstructions and, in addition thereto, lights or other warning devices at night consistent with requirements of the Ohio Manual of Uniform Traffic Control Devices as to construction in streets.

### **741.99 PENALTY.**

Any person, firm or corporation who violates any provision of this chapter shall be guilty of a minor misdemeanor for the first offense and shall be guilty of a fourth degree misdemeanor for each subsequent offense.

Legislative history: (Ord. 2352, passed 1/18/65.)(Ord. 2733, passed 5/3/71.)

**CHAPTER 747**  
**Drive-In Restaurants**

747.01	Definition.	747.08	Hours of service.
747.02	License required, application and fee.	747.09	Pavement regulations.
747.03	Issuance of license; renewal.	747.10	Fence or wall required.
747.04	Neighborhood disturbances.	747.11	Entrances and exits.
747.05	Removal of debris.	747.12	Unnecessary noise.
747.06	Alcoholic beverages.	747.13	Toilet facilities.
747.07	No cruising.	747.14	Separability.
		747.99	Penalty.

**CROSS REFERENCES**

Drive-in establishment defined - see P. & Z. 1101.23.  
Locations restricted - see P. & Z. 1107.07.  
Special use restrictions - see P. & Z. 1133.03 j.

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**747.1 DEFINITION.**

A. "Drive-in restaurant" means an establishment which accommodates patrons' automobiles in any one or both of the following ways:

1. The patrons may purchase food or beverages without leaving their automobiles.
2. The patrons may depart from their automobiles and purchase, for consumption elsewhere, food or beverages prepared on the premises, but this shall not include bakeries, delicatessens, ice cream stores, grocery stores or catering establishments.
3. The patrons may purchase any type of food or beverage which is then consumed on the premises but in the open air or in the automobiles, rather than inside the building itself.

B. An establishment shall be regarded as a drive-in restaurant if part of its activity falls within one of these definitions, even though a portion of its business constitutes a non-drive-in restaurant operation.

**747.2 LICENSE REQUIRED; APPLICATION AND FEE.**

No person, firm or corporation shall operate a drive-in restaurant without first having obtained a license therefor. Application for such a license shall be made with the Commissioner of Buildings on such forms as he may prescribe. Such licenses shall be nontransferable, nonassignable and shall terminate upon sale or other transfer of the property and/or of the business entity holding such license. Licenses must be renewed annually. An annual license fee shall be required and shall be prorated depending upon the complete months remaining in the balance of such calendar year. Licenses may not be transferred from one location to another.

### **747.3 ISSUANCE OF LICENSE; RENEWAL.**

All applications for such licenses shall be accompanied by the required license fee. After the receipt of such applications and fee, the Code Official shall cause an investigation to be made to ascertain whether the establishment in question complies with the requirements of the ordinances of this City. No license shall be issued unless the Code Official finds through his investigation that the applicant, its officers and employees are of good moral character and are capable of operating the proposed drive-in restaurant in a manner consistent with the public health, safety and good morals. All drive-in restaurant licenses shall expire on December 31st of the year of issuance. All applications for renewal of such licenses shall be filed with the Code Official not later than December 1st.

### **747.4 NEIGHBORHOOD DISTURBANCE.**

No owner, manager or person in charge of any drive-in restaurant shall cause, create, allow or maintain any nuisance on its premises whereby the peace, good order or sanitation of the neighborhood is disturbed, or persons owning or occupying property in the neighborhood are disturbed or annoyed. It shall be the duty of the licensee to maintain quiet and good order and sanitary conditions on the premises of a drive-in restaurant. The licensee shall not permit disorderly or immoral conduct, loitering, littering or any actions which interfere with the sanitation of the neighborhood. The licensee shall not cause or allow any noise or other nuisance on the premises of a drive-in restaurant whereby the quiet or good order of the premises or neighborhood is disturbed. The Code Official shall have authority to revoke or suspend a license or to refuse to renew a license if he finds the licensee is operating in violation of this chapter or any other governing law, ordinance or regulation. Prior to such action, however, a hearing shall be held by the Code Official at which time the licensee shall have an opportunity to show cause why the license should not be revoked or suspended, or why the license should be renewed.

### **747.5 DEBRIS REMOVAL; CONTAINERS TO BE PROVIDED.**

It shall be the duty of the licensee of a drive-in restaurant or any person in charge of such restaurant to keep the premises in its entirety, together with the portion of any public street or streets adjoining such drive-in restaurant, free from all rubbish, waste products and debris, including napkins, straws, paper cups, plates, sacks or other waste material of all types produced by, from or as a result of the operation of such drive-in restaurant. Each drive-in establishment of this type shall provide a sufficient number of suitable containers to hold such waste material until it is removed from the premises. Such containers shall be equipped with self-closing, reach-in type covers. In the event the City picks up or removes debris found on any portion of the public street(s) adjoining such drive-in establishment, which debris was produced through or by the operation of such drive-in establishment, the cost of such action to the City, including administrative costs as well as direct dollar payments, shall be charged to such drive-in establishment. Unless such a charge is paid within thirty days after written notice to such establishment, the license of such drive-in establishment shall be revoked.



### **747.6 ALCOHOLIC BEVERAGES.**

No patron or any other person on the premises of such a drive-in establishment, whether in or outside of an automobile, shall drink any alcoholic beverage or have in his possession any open bottle, can or other receptacle containing an alcoholic beverage. It shall be the duty of the owner, manager or person in charge of a premises to post a notice of this regulation in a conspicuous place at the entrance of such premises in a manner and form which meets all other requirements of the City. This prohibition concerning alcoholic beverages shall not apply, however, to any person when served inside a building or drive-in establishment duly licensed to serve alcoholic beverages.

### **747.7 NO CRUISING.**

No person shall drive a motor vehicle onto or out of the drive-in premises without parking, unless no parking space is available at that time.

### **747.8 HOURS OF SERVICE.**

Such a drive-in establishment shall not serve or sell any food or beverage between the hours of 11:00 p.m. and 9:00 a.m.

### **747.9 PAVEMENT REGULATIONS.**

The parking, driveway and walkway area of the premises of any such drive-in establishment shall be paved to the satisfaction of the City Engineer to avoid creating dust and to provide for adequate drainage of surface water.

### **747.10 FENCE OR WALL REQUIRED.**

The licensee of such a drive-in establishment shall provide a wall or fence of adequate height to screen the patrons and motor vehicles on the premises from the view of the surrounding property. Such fence or wall shall be of a design and material approved by the Code Official. The perimeter of such fence or wall shall be landscaped, on the exterior thereof as well as the interior side, by the licensee with suitable plants and shrubbery to preserve, to the extent reasonably possible, harmony with the appearance of the surrounding property. To this end, such fence or wall shall be erected far enough back from the lot lines to permit that landscaping on both sides.

### **747.11 ENTRANCES AND EXITS.**

The parking and driveway areas shall have one entrance from and a separate exit to the adjoining street. In order to prevent traffic congestion caused by a backup of vehicles attempting to enter the premises, any entrance drive shall be located not less than 200 feet from the nearest intersection formed by the right-of-way lines of the nearest intersecting streets. In order to provide a safe and convenient means of exit for vehicles leaving the

premises, the exit drive shall be located not less than 200 feet from the nearest intersection as defined above. These location requirements shall not apply to existing drives of drive-in establishments of this nature which were in operation on December 16, 1968, the date this legislation was adopted. This requirement shall not apply to existing exit drives of drive-in establishments of this nature.

### **747.12 UNNECESSARY NOISE.**

No person or persons on the premises of such a drive-in restaurant shall race the motor of any motor vehicle, needlessly bring any motor vehicle to a sudden stop or start, blow any horn or make, cause to be made or permit to be made any loud or raucous noise, nuisance or disturbance whereby the quiet or good order of the premises or the neighborhood is disturbed.

### **747.13 TOILET FACILITIES.**

Every drive-in restaurant shall be provided with conveniently situated toilet facilities for patrons and employees which comply with the laws and regulations of the State of Ohio and applicable plumbing codes as well as with the requirements of this chapter. Lavatory facilities, including handwashing basin, running water, soap, etc. shall be provided within or adjacent to each toilet. All establishments seating ten or more people shall provide separate rooms with toilet facilities for each sex. For the purpose of this section, in establishments where food is served to patrons who may then consume such food while seated in their motor vehicles, each vehicle parking space provided shall be counted as seating three people; and the seating capacity of such drive-in establishment shall be the total of the inside seats, if any, and the outside seats computed as provided herein.

### **747.14 SEPARABILITY.**

If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held invalid by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct and independent provision and that decision shall not affect the validity of the remaining portions of this chapter.

### **747.99 PENALTY.**

Whoever violates any of the provisions of this chapter shall be guilty of a fourth degree misdemeanor.

Legislative history: (Ord. 2594, passed 12/16/68.)

**CHAPTER 751  
Alarm Systems**

- |        |  |        |                                       |
|--------|--|--------|---------------------------------------|
| 751.01 | Definitions.   | 751.05 | Excessive alarms.                     |
| 751.02 | Duties of subscriber and of vendor.                            | 751.06 | No liability on the part of the City. |
| 751.03 | Standards required for both existing and future alarm systems. | 751.99 | Penalty.                              |
| 751.04 | Standards required only for future alarm systems.              |        |                                       |

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**751.1 DEFINITIONS.**

For the purpose of this chapter certain words and phrases shall be defined as herein set forth:

A. "Alarm system" means any mechanical or electrical device that is arranged, designed or used to signal the occurrence in this City of a burglary, robbery, other criminal offense, fire emergency, or medical emergency requiring urgent attention, and to which police, fire or emergency medical personnel are expected to respond. Alarm systems include those through which Public Safety personnel are notified directly of such signals through automatic recording devices or are notified indirectly by way of third persons who monitor the alarm systems and who report such signals to the Safety Department. Alarm systems also include those designed to register a signal which is so audible, visible or in other ways perceptible outside a protected building, structure or facility as to notify persons in the neighborhood beyond the zoning lot where the signal is located. Alarm systems do not include those affixed to automobiles. Further, alarm systems do not include auxiliary devices installed by telephone companies to protect telephone equipment or systems which might be damaged or disrupted by the use of an alarm system.

B. "False alarm" is any signal created by an alarm system (including but not limited to alarm signals initiated by human error) which signal directly or indirectly notifies Safety Department personnel of the occurrence of a burglary, robbery, other criminal offense, fire emergency or medical emergency when no such emergency exists and when police, fire or emergency medical personnel are not needed to respond to a burglary, robbery, other criminal offense, fire emergency or medical emergency.

C. "Subscriber" is any person, firm, corporation, partnership or entity who or which purchases, leases, contracts for, or obtains an alarm system.

D. "Vendor" is any person, firm, corporation, partnership, or entity associated with an alarm business or company, either indirectly or directly, whose duties include but are not limited to any of the following: selling, replacing, moving, repairing, maintaining or installing an alarm system on or in any structure, building or facility.

### **751.2 DUTIES OF SUBSCRIBER AND VENDOR.**

- A. Duties of subscriber. It shall be the responsibility of each subscriber to see that the standards of installation and maintenance set forth in this chapter are adhered to.
- B. Duties of vendor. It shall be the responsibility of any vendor causing installation of or maintaining an alarm system to cause such installation or maintenance to conform to the requirements of the Fire Code and the Electric Code applicable to this City.
- C. Duty of both subscriber and of vendor. Each alarm system shall be utilized only for the purposes of summoning the Safety Department for emergency and/or life hazard situations. Without the prior express consent of the Safety Department, systems shall not be tested so as to transmit a signal to the Safety Department when an emergency or life hazard situation does not exist. It shall be the responsibility of each subscriber and also each vendor not to make or permit such tests.

### **751.3 STANDARDS REQUIRED FOR BOTH EXISTING AND FUTURE ALARM SYSTEMS.**

- A. Notification. Each subscriber must provide to the City on a form provided by the Safety Department the name, address and telephone number of the subscriber and of the vendor, if any, with whom the subscriber has contracted for maintenance of the alarm system. Each subscriber shall also provide the City with the names, addresses and home and business numbers of those persons (not less than one) who can be contacted twenty four hours a day and seven days a week to turn off or deactivate an alarm system. It shall be the obligation of the subscriber to keep this information current and correct through supplementary notifications filed from time to time on the same form.
- B. Designated telephone lines. No person shall use or cause to be used an alarm system or device of any kind that automatically dials or calls any telephone line of the offices of the City of Oakwood or any department or division thereof except such telephone line or lines as may be designated by the Safety Department for the specific purpose of receiving signals from alarm systems.
- C. Automatic dialing or calling devices. Alarm systems that automatically dial or call a telephone line designated by the Safety Department shall comply with the following requirements:
1. Total length of the recorded message being transmitted to the Safety Department (including repetition of message) shall not exceed thirty seconds duration.
  2. The recorded message transmitted shall be repeated not less than two nor more than three times.
  3. The recorded message being transmitted shall incorporate language specifically identifying the message as a "recording" with the balance of the message identifying the street number and street name the

## Alarm Systems

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location of the emergency and the nature of the event which caused the alarm system to activate. If the location of the event signaled by the alarm system is in a multi-unit building, the message shall also identify by number and by floor the particular dwelling unit, office unit or commercial unit in which the event occurred.

4. The recorded message being transmitted to the department shall be appropriate for the purpose for which the alarm system was installed and the message in its entirety shall be intelligible and spoken in the English language.
  5. The City of Oakwood's cost of providing telephone lines designated for alarm systems that use automatic dialing or calling devices, including any reoccurring fees charged, shall be paid in advance each year to this City by the subscribers. Payment shall be based upon dividing the cost of the telephone service by the number of alarm systems then utilizing such designated phone lines with the quotient thus obtained to be billed annually in advance to each subscriber and to be paid within thirty days of receipt. If not so paid, the system must be disconnected immediately in the manner described in 751.05 C.
- D. Application of standards to existing and future alarm systems:
1. Every new system installed after the passage of this chapter shall comply with the above standards.
  2. Every alarm system existing before enactment of this chapter shall be placed in compliance with the above standards no later than three months after such passage date. The Safety Department may elect not to respond to any alarm system that is not in compliance within that time period or may elect to charge each subscriber not in compliance for each such response at a rate of \$50.00 per false alarm, or to charge the City's direct and indirect costs for the time, labor, equipment and other services used in responding to such alarm, whichever is greater.

### **751.4 STANDARDS REQUIRED ONLY FOR FUTURE ALARM SYSTEMS.**

Systems installed after enactment of this Chapter 751 on October 5, 1981, shall comply with the following standards as to installation and maintenance in addition to the standards set forth in Section 751.03:

- A. Alarm systems must incorporate a device that allows an adequate delay before the time at which activation of the system would directly or indirectly signal the Safety Department or signal other parties who in turn might be expected to notify the Safety Department. This delay is to permit the subscriber to stop a false alarm from being transmitted.

## Alarm Systems

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B. The alarm system shall incorporate a device that limits any exterior signal to a period of time not to exceed fifteen minutes in duration. At the expiration of the maximum time permitted, the alarm system shall automatically cease to remit a signal.

### **751.5 EXCESSIVE FALSE ALARMS.**

A. If any alarm system produces three false alarms in any twelve consecutive months, written notice of that fact shall be given by certified mail or delivery to the subscriber or other appropriate party listed in the notification required in Section 751.03 A. Thereafter, the Safety Director shall have the power to require the subscriber to comply with any one or more of the requirements set forth below as would minimize, in his judgment, the occurrence of such false alarms in the future:

1. The subscriber may be charged for the direct and indirect costs to the City of time, labor, equipment and other services rendered in responding to each subsequent alarm or may be charged \$50.00 per false alarm, whichever is higher. Such charges shall continue for each excessive false alarm until six consecutive months have elapsed during which no false alarms have been registered, and must be paid within fifteen days after notice thereof is given in the same manner as provided by this section for notice of excessive false alarms.
2. The subscriber may be required to cause the alarm system to comply immediately with the applicable standards referred to in Section 751.04 (those standards otherwise being imposed only on alarm systems installed after enactment of this chapter).
3. The subscriber may be required to disconnect the alarm system immediately in such fashion that signals are not emitted so as to notify Safety Department personnel directly or indirectly through automatic telephone recording devices or to register a signal which is so audible, visible or in other ways perceptible outside a protected building, structure or facility as to notify persons in the neighborhood who may in turn notify Safety Department personnel of the signal.
4. If the subscriber fails to pay when due any \$50.00 false alarm charge levied under sub-section (1) above, the subscriber may be required to disconnect the alarm system from public safety department notification, to the same extent as a disconnect order may be given under sub-section (3) immediately above for excessive false alarms.

B. Notice of the determination of the Safety Director shall be given in the same manner as provided by this section for notice of excessive false alarms.

**751.6 NO LIABILITY ON THE PART OF THE CITY.**

Nothing in this chapter nor the existence of any other fact(s) shall be construed to require a response by the Safety Department to an address or location registering an alarm. The City shall neither assume nor bear any liability for its failure to respond to such an alarm signal.

**751.99 PENALTY.**

A. Any person found in violation of 751.02 shall be deemed to have committed a fourth degree misdemeanor.

B. Any person who fails to adhere to the standards and otherwise comply with Section 751.03 or 751.04 shall be deemed to have committed a minor misdemeanor.

C. Any person who fails to comply with the specific direction of the Safety Director as provided for under 751.03 or 751.05 shall be deemed to have committed a third degree misdemeanor.

Legislative history: (Ord. 3228, passed 10/5/81; Ord. 4103, passed 12/23/91)

**CHAPTER 759**  
**Business Regulation Appeals Board**

759.1 License applicants may appeal.

759.3 Right of appeal to court.

759.2 Creation of appeals board.

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**759.1 LICENSE APPLICANTS MAY APPEAL.**

An applicant who or which is denied any permit, license, approval or permission under any of the sections of the Business Regulation Code may, in the absence of a specifically established appeal board, appeal such adverse decision to the Business Regulation Appeals Board, upon payment of the required fee. The applicant shall have the burden of proving by clear and convincing evidence that the decision appealed from was incorrect.

**759.2 CREATION OF APPEALS BOARD.**

There is hereby created a Business Regulation Appeals Board to conduct hearings and make determinations as provided in this chapter. The members of the Sewer and Water Appeals Board appointed under Chapter 167 of the Administrative Code shall also constitute the Appeals Board.

**759.3 RIGHT OF APPEAL TO COURT.**

Decision of the board shall be final administrative decisions and shall be subject to judicial review upon appeal to the court system by either the applicant or the City or both.

Legislative history: (Ord. 2795, passed 11/20/72.)