

CODIFIED ORDINANCES OF SHAWNEE HILLS
PART SEVEN - BUSINESS REGULATION CODE

Chap. 709. Amusement Devices.

Chap. 719. Taxicabs.

Chap. 729. Vendors and Peddlers.

Chap. 739. Sexually Oriented Business.

Chap. 749. Hours of Business Operation.

Chap. 759. Video Service Providers.

CODIFIED ORDINANCES OF SHAWNEE HILLS
PART SEVEN - BUSINESS REGULATION CODE

CHAPTER 709
Amusement Devices

709.01 Definitions. 709.02 License required for exhibitor and distributor. 709.03 Application for licenses. 709.04 Issuance of licenses; fees and terms. 709.05 Denial of licenses. 709.06 Changes to original application. 709.07 Suspension or revocation. 709.08 Validity and transference of license. 709.09 Display and availability of licenses.	709.10 Removal and surrender of licenses. 709.11 Duplicate licenses. 709.12 Required supervision of exhibitor's premise. 709.13 Restricted placement of devices. 709.14 Confiscation. 709.15 Prohibited conduct. 709.16 Separability. 709.17 Appeals. 709.99 Penalty.
---	--

CROSS REFERENCES

Gambling - see GEN. OFF. Ch. 517

Slugs - see GEN. OFF. 545.11

Tampering with coin machines - see GEN. OFF. 545.12

709.01 DEFINITIONS.

For the purpose of this chapter, the following words are defined and shall have the meaning ascribed to them as hereafter set forth unless the context clearly requires a different meaning.

- (a) "Amusement device" means any electronic or mechanical machine, device or instrument, which upon insertion of a coin, slug, token or card, or for which a fee has been paid either in advance of or after its use, operates or may be operated as a game, a contest or test of skill, "any type of film projector", "adult mechanical ride" or other amusement of any description. Amusement device shall not include "mechanical musical instruments", "Kiddie rides", "vending machines", "adult entertainment devices" or "adult materials".

- (1) "Any type of film projector" shall include: video tapes, cartridges, discs, slides, transparencies, and other image producing devices or material.
 - (2) "Adult mechanical ride" means any machine or apparatus intended to be ridden or driven by adults; the operation or use of which is permitted, controlled, allowed, or made possible by the deposit or placing of any coin, plate, disc, token, paper currency, or key into any slot, crevice or other opening in such machine, or for which a fee has been paid either in advance or after its use.
 - (3) "Mechanical musical instrument" means any machine or apparatus designed or constructed for the sole purpose of producing, reproducing or playing any musical or vocal tone or combination of tones, the operation or use of which instrument is permitted, controlled, allowed or made possible by the deposit or placing of any coin, plate, disc, token, paper currency, or key into any slot, crevice or other opening in such instrument.
 - (4) "Kiddie ride" means any automatic ride operated like any other instrument device, but which is intended solely for use as entertainment for young children such as a merry-go-round, horse etc.
 - (5) "Vending machine" means any machine or apparatus which upon insertion of a coin or currency is designed to offer products for sale.
 - (6) "Adult entertainment device" means any machine device or instrument which upon insertion of a coin, token, slug or card or for which a fee has been paid either in advance of or after its use, operates or may be operated for use as a projector or any other image producing device which projects a motion picture on a wall or screen, when such image or picture portrays any sexual activity or other act or performance considered to be harmful to juveniles, or any booth displaying a live attendant engaged in sexual acts.
 - (7) "Adult material" means any book, magazine, newspaper, pamphlet, poster, print, picture, slide, transparency, figure, image, description, motion picture film, phonographic record or tapes, or other tangible things capable of arousing interest and thought of sexual activity through sight, sound, or touch as defined by the Ohio R.C. 2907.01(E), (F), or which is considered to be harmful to juveniles.
- (b) "Exhibitor" means any individual, corporation, partnership or other entity conducting a place of business in which there are located from one or more amusement devices for the use of entertainment of the persons patronizing such place of business.
- (1) "Place of business" means a location where any type of business, service or public assembly is permitted, and shall include the entire premise.
- (c) "Direct or indirect interest" means those shareholders having stock in that which is to be licensed.
- (d) "Good moral character" means not having been convicted of any felony, any sex offense, any assault offense or any criminal offense involving prostitution, trafficking in drugs or obscenity offenses within five years prior to application in the Village of Shawnee Hills.
- (e) "Falsified" is when an applicant knowingly makes a false statement or knowingly swears or affirms the truth of a false statement previously made on any application herein.
- (f) "Distributor" means any individual, corporation, partnership or other entity which sells, leases, rents or otherwise places or distributes amusement devices, mechanical musical instruments, kiddie rides or vending machines.
(Ord. 4-89. Passed 5-22-89.)

709.02 LICENSE REQUIRED FOR EXHIBITOR AND DISTRIBUTOR.

(a) No exhibitor shall locate, cause to be located or permit to be located any amusement device at any place of business for use as entertainment of persons patronizing such place, unless such exhibitor has first been issued a valid exhibitors license. This requirement shall not include exhibitors of only mechanical musical instruments, kiddie rides, or vending machines.

(b) No person, corporation, partnership or other entity shall sell, lease, rent or otherwise place or distribute any amusement device, mechanical musical instrument , kiddie ride, or vending machine without first obtaining a valid "Distributors License".
(Ord. 4-89. Passed 5-22-89.)

709.03 APPLICATION FOR LICENSES.

The Mayor or Mayor's designee is authorized to accept applications for the issuance of Exhibitor and Distribution Licenses.

- (a) Each application shall be upon a form prescribed by the Mayor, a part of which shall be an affidavit, by the applicants as to their truthfulness of all matters set forth.
- (b) Each application shall be filed by the Exhibitor or the Distributor to be licensed, or by their designated agent.
- (c) Each application shall contain the following information:
 - (1) Name, residential address, date of birth, and social security number of the exhibitor and or the distributor, if separate individuals.
 - (2) If the exhibitor or the distributor is an organization, a corporation, or a partnership, the application shall contain the following:
 - A. Business or corporation name, address and date of incorporation or filing with the State as a partnership etc.; and, the names, residential addresses, social security numbers of those persons having a direct or indirect interest in that which is to be licensed;
 - (3) Any other information as required by the Village administration.
(Ord. 4-89. Passed 5-22-89.)

709.04 ISSUANCE OF LICENSES; FEES AND TERMS.

(a) The Mayor is authorized to approve applications for Exhibitor and Distributor Licenses when:

- (1) Such applicant has properly filed as provided in Section 709.03.
 - (2) Such applicant has been found to be of good moral character.
 - (3) It has been found that the devices to be exhibited and/or distributed do not violate any Village ordinances.
 - (4) The fees required by this section have been paid.
 - (5) It has been determined that all other applicable requirements set forth in Village Ordinances and Zoning Laws have been met.
 - (6) It has been determined there exists no other reasonable cause to deny issuance.
- (b) The Exhibitor and/or Distributor License shall set forth:
- (1) The business name and address of the Licensee.
 - (2) The effective dates of the License.

(c) The Annual Exhibitor License Fee of five hundred dollars (\$500.00) shall be payable at time of application, or on a pro rata basis.

- (1) If, for any reason, application is denied or withdrawn, an application filing fee of one hundred fifty dollars (\$150.00) shall be retained by the Village and the amount so remaining shall be returned to the applicant.
- (2) When a particular individual, corporation, partnership or other entity is issued a license for more than one location, there shall be an additional one hundred dollar (\$100.00) fee for each added location. The fees are pro rated in subsection (g) hereof.

(d) The Annual Distributor License fee of five hundred dollars (\$500.00) shall be payable at the time of application. Pro rata charges are listed in subsection (g) hereof.

- (1) If, for any reason, an application is denied or withdrawn, an application filing fee of one hundred fifty dollars (\$150.00) shall be retained by the Village and the amount so remaining will be returned to the applicant. Pro rata charges are listed in subsection (g) hereof.

(e) All Exhibitor and Distributor Licenses expire at mid-night on the 31st of December.

(f) Once a license is issued, regardless of whether it is later suspended or revoked, no fees will be refunded.

(g) Pro Rata Schedules:

- (1) Exhibitor and Distributor License Fees:

1 to 3 months - \$125.00	4 to 6 months - \$250.00
7 to 9 months - \$375.00	10 to 12 months - \$500.00
 - (2) Distributor - Additional Location Fees (\$100/location):

1 to 3 months - \$25.00	4 to 6 months - \$50.00
7 to 9 months - \$75.00	10 to 12 months - \$100.00
 - (3) Refunds for Denied and Withdrawn Applications:

1 to 3 months - \$0	4 to 6 months - \$100.00
7 to 9 months - \$225.00	10 to 12 months - \$350.00
- (Ord. 4-89. Passed 5-22-89.)

709.05 DENIAL OF LICENSES.

The Mayor shall deny application(s) if:

- (a) The applicant is found not to be of Good Moral Character; or,
- (b) The applicant falsifies the application;
- (c) The place of business is found to be detrimental to or interfering with the health, safety, or welfare of the general public; or
- (d) The place of business is found not to be in complete conformance with applicable ordinances. (Ord. 4-89. Passed 5-22-89.)

709.06 CHANGES TO ORIGINAL APPLICATION.

Each person licensed under the provisions of this chapter shall have the continuing responsibility to inform the Village Administration as to changes in any and all information which was required with the original application. (Ord. 4-89. Passed 5-22-89.)

709.07 SUSPENSION OR REVOCATION.

The Mayor shall suspend or revoke any license issued under the terms of this chapter when, upon satisfactory proof:

- (a) The licensee has violated any provision pursuant to this chapter; or
- (b) For any act or information concerning the licensee which would have been grounds for denial and of the original application for license.
(Ord. 4-89. Passed 5-22-89.)

709.08 VALIDITY AND TRANSFERENCE OF LICENSE.

All Licenses issued under the provisions of this chapter are valid only for the person or business name thereon and are not transferable to any other person or business.
(Ord. 4-89. Passed 5-22-89.)

709.09 DISPLAY OF AVAILABILITY OF LICENSES.

(a) Each Exhibitor License shall be displayed as near as practicable to the entrance of the premises where it can be seen by the general public.

(b) Each Distributor License shall be kept at the place of business so named on the license, and shall be made immediately available to any license officer, police officer, or other authorized Village personnel, upon request and proper I.D.
(Ord. 4-89. Passed 5-22-89.)

709.10 REMOVAL AND SURRENDER OF LICENSES.

(a) Upon expiration of Exhibitors License, it shall be removed, immediately, from public view and surrendered to the Village.

(b) Upon revocation or suspension of Exhibitor or Distributor Licenses, the license(s) shall be surrendered to the Village immediately. (Ord. 4-89. Passed 5-22-89.)

709.11 DUPLICATE LICENSES.

The Mayor, upon application by the licensee, proof of loss or destruction of the original license, and payment of five dollars (\$5.00), will issue a duplicate license.
(Ord. 4-89. Passed 5-22-89.)

709.12 REQUIRED SUPERVISION OF EXHIBITOR'S PREMISE.

Each place of business possessing an Exhibitor License shall be under the control and supervision of an adult who is at least eighteen years of age and who shall be on duty at all times when the business is open to the general public. (Ord. 4-89. Passed 5-22-89.)

709.13 RESTRICTED PLACEMENT OF DEVICES.

(a) No Distributor shall locate or allow to be located any amusement device at any place of business unless such place of business has first been issued a valid Exhibitor's license.

(b) No Distributor or Exhibitor shall cause or allow any amusement device to be located within a place of business, or any other type of location, which does not conform to Village ordinances, including, but not limited to building regulations, zoning, health and fire, as well as applicable State and Federal laws. (Ord. 4-89. Passed 5-22-89.)

709.14 CONFISCATION.

Any amusement device located in a place of business which does not possess a valid Exhibitor License will be confiscated. (Ord. 4-89. Passed 5-22-89.)

709.15 PROHIBITED CONDUCT.

(a) No Exhibitor shall allow any person under the age of eighteen years, unless such person is accompanied by a parent, guardian or adult relative, or has otherwise been given permission to:

- (1) Use or operate any amusement device during the academic year of all public, private and parochial schools of grades one through twelve, between the hours of 7:00 a.m. and 3:00 p.m. This restriction shall not be in effect on school holidays, Saturdays or Sundays.

(b) No Exhibitor shall permit the display or use of adult entertainment device or any adult materials.

(c) No Exhibitor, or their agent, shall knowingly commit a violation of any Village ordinance, or of any State or Federal statute for which a criminal penalty may be invoked against the premises. (Ord. 4-89. Passed 5-22-89.)

709.16 SEPARABILITY.

In the event any section or provision of this chapter shall be declared, by a court of competent jurisdiction, to be invalid or unconstitutional, such decision shall not affect the validity of this chapter as a whole or any part thereof, other than the part so declared to be invalid or unconstitutional. (Ord. 4-89. Passed 5-22-89.)

709.17 APPEALS.

All license(s) denial, suspension, or revocation orders issued by the Village shall be subject to appeal to Council through the Board of Appeals. (Ord. 4-89. Passed 5-22-89.)

709.99 PENALTY.

In addition to any license suspension or revocation, the following shall also be applied:

- (a) Whoever violates any provision of this chapter where another penalty is not provided shall be guilty of a minor misdemeanor, and shall be fined not more than one hundred dollars (\$100.00). Each day of violation shall constitute a separate offense.
- (b) Upon a second or subsequent violation of the provisions hereof, the violator shall be guilty of a fourth degree misdemeanor and shall not be fined more than two hundred fifty dollars (\$250.00) or imprisoned not more than thirty days, or both. Each day of violation shall constitute a separate offense.
(Ord. 4-89. Passed 5-22-89.)

CHAPTER 719
Taxicabs

719.01	License fee.	719.06	All drivers to be licensed.
719.02	Application for license.	719.07	Suspension or revocation of license.
719.03	Issuance of license.	719.08	Renewal of license.
719.04	Taxicab stands.	719.09	Vehicle inspection; requirements.
719.05	Displaying rates; excessive charges.		

CROSS REFERENCES

Power to regulate - see Ohio R.C. 715.22, 715.66
Use of taxicab and bus stands - see TRAF. 351.10

719.01 LICENSE FEE.

(a) No person, firm, or corporation shall operate or cause to be operated a taxicab or proffer the services of any vehicle as a taxicab unless the owner of the vehicle has obtained a taxicab license covering such vehicle.

(b) Every such taxicab license shall expire on December 31, for the year in which issued. Licenses issued on or after July 1, of any year shall be issued at one-half the annual license fee herein provided.

(c) The annual license fee for each taxicab shall be ten dollars (\$10.00).

719.02 APPLICATION FOR LICENSE.

Each applicant for a taxicab license shall present and file with the Clerk-Treasurer his signed application setting forth the trade name under which he intends to do business; the number of vehicles and a general description of each vehicle for which a licensee is desired, the marking or lettering to be used thereon; and any other information required by the Clerk-Treasurer pertinent to the issuance of such license.

719.03 ISSUANCE OF LICENSE.

(a) The Mayor shall investigate and hold a hearing upon each application for a license. If the Mayor finds upon such investigation and hearing that the public convenience and necessity do not justify the operation of the vehicle for which the license is desired, he shall forthwith notify the applicant of his findings. If he finds from such investigation and hearing that the public convenience and necessity do justify the operation of the vehicle or vehicles for which license is desired, he shall forthwith notify the applicant. Within sixty days thereafter, applicant shall furnish and file with the Clerk-Treasurer the following:

- (1) A full transcript of the information appearing on the certificate of title of each vehicle for which a license is desired, and the State license number of each such vehicle.
- (2) An unexpired official certificate from an authorized motor vehicle inspection station of the Municipality, or if none exists from a neighboring City in Ohio, that each vehicle for which a licensee is desired has been inspected and tested and found to meet the standards fixed by statute and that each such vehicle is roadworthy and safe for operation as a taxicab.
- (3) The name of each person who will operate such taxicab, with chauffeur's license number of each such person.
- (4) Insurance or bond.
 - A. A policy or policies of liability insurance issued for the life of the license applied for or longer, by a responsible insurance company, approved as to sufficiency by the treasurer and as to legality by the solicitor, providing indemnity for or protection to the applicant against loss resulting from the operation of each such taxicab to the extent of ten thousand dollars (\$10,000) on account of injury or death of one person in any one accident; twenty thousand dollars (\$20,000) on account of injury or death of more than one person in any one accident; and five thousand dollars (\$5,000) for property damage caused in any one accident.
 - B. In lieu of the policies of insurance above described, applicant may furnish a bond binding the principal and sureties to liability for the payment of a judgment or judgments to the extent of the amounts set forth above, with at least two approved persons as sureties or one approved corporate surety approved as to sufficiency by the treasurer and as to legality by the solicitor.

(b) Thereupon, the Mayor shall examine the supporting information and documents and being satisfied that applicant is the owner of any such vehicle, that the same is a safe and fit conveyance, and that satisfactory insurance or bond has been issued and is in force thereon, he shall, upon payment of the prescribed license fee, issue a license to the applicant.

(c) A certified copy of the license shall be exhibited in a prominent place in each taxicab at all times.

719.04 TAXICAB STANDS.

At the time of issuing the license, the Mayor shall designate a regular parking space for the taxicab or taxicabs, and he may prescribe rules for usage of this stand suitable to applicant's business and agreeable with the public convenience and welfare.

719.05 DISPLAYING RATES; EXCESSIVE CHARGES.

Every taxicab shall display at all times a printed list of the fares and rates to be charged passengers for transportation; and it shall be unlawful for any owner or driver to charge any amount in excess of such printed rates unless by mutual agreement between passenger and driver entered into before leaving the point of departure.

719.06 ALL DRIVERS TO BE LICENSED.

No person under twenty-one years of age and no person other than one duly licensed as such under the laws of the State shall operate a taxicab on any street or alley of the Municipality.

719.07 SUSPENSION OR REVOCATION OF LICENSE.

Whenever a licensee shall for a period of sixty days fail to make a reasonable or consistent effort to operate any such taxicab or taxicabs the Mayor may either suspend or revoke such license. This power to suspend or revoke shall not limit the powers granted to the Mayor elsewhere in this chapter.

719.08 RENEWAL OF LICENSE.

All owners of taxicabs hereby licensed, at the completion of the year for which such license was issued, shall be entitled to a renewal for each succeeding year without a finding of convenience or necessity providing all other requirements of this chapter have been complied with.

719.09 VEHICLE INSPECTION; REQUIREMENTS.

(a) It shall be unlawful for the owner or other person having possession or control of any taxicab, to operate it upon the streets unless the vehicle has an unexpired seal of inspection indicating that it has been duly inspected and found safe and roadworthy within the preceding six months.

(b) If any such taxicab is damaged by reason of a collision, or from any other cause, it shall be unlawful for the owner or other person having possession or control thereof to operate it upon the streets unless the vehicle has been tested and approved at an authorized inspection station within twenty-four hours after such vehicle has been returned to service.

(c) A violation of this section shall constitute grounds for revocation of a taxicab license.

CHAPTER 729
Vendors and Peddlers

<p>729.01 Definitions.</p> <p>729.02 Itinerant vendor; license fee.</p> <p>729.03 Peddlers by hand.</p> <p>729.04 Peddlers from hand-drawn vehicles.</p>	<p>729.05 Peddlers from other vehicles.</p> <p>729.06 Solicitor; license fee.</p> <p>729.07 Exceptions; when license not required.</p>
--	---

CROSS REFERENCES

Power to regulate - see Ohio R.C. 715.61 et seq.
Home solicitation sales - see Ohio R.C. 1345.21 et seq.

729.01 DEFINITIONS.

For purposes of this chapter the following words and phrases shall have the following meanings ascribed to them respectively.

- (a) "Itinerant vendor" includes any person, natural or artificial, who engages in or conducts a temporary or transient business of selling goods, wares, and merchandise within the Municipality with the intention of continuing in such business in any one location for a period of not more than four months and who for the purpose of carrying on such business hires, leases, or occupies in whole or in part any room, building, or structure for the exhibition and sale of such goods, wares, and merchandise. The term does not apply to hawkers or peddlers; to vendors engaged in the sale of food or food products for human consumption; to commercial travelers or selling agents when making sales in the usual course of business; or the salesmen who sell by sample for future delivery.
- (b) "Peddler" means one who sells tangible commodities from house to house, store to store, or on the streets or in any public place; his sales are not made from one established spot excepting where they are made in a street or other public place and he makes delivery at the time of the sale. Whether or not he collects at the same time is immaterial.
- (c) "Solicitor" means any person who travels by any means from place to place, taking or attempting to take orders for sale of goods to be delivered in the future or for services to be performed in the future.

729.02 ITINERANT VENDOR; LICENSE FEE.

Every itinerant vendor shall obtain a license before engaging in business, and shall pay therefor a fee of five dollars (\$5.00) for each week that such business is carried on. This license shall terminate automatically with the last day for which sum shall have been paid.

729.03 PEDDLERS BY HAND.

Every peddler selling goods of any kind carried by hand shall obtain a license before engaging in the business and shall pay therefor a fee of twenty-five dollars (\$25.00) per year.

729.04 PEDDLERS FROM HAND-DRAWN VEHICLES.

Every peddler selling fruits, vegetables, or goods of any kind from vehicles drawn by hand shall obtain a license before engaging in business and shall pay therefor a fee of ten dollars (\$10.00) per year for each vehicle used for such purpose.

729.05 PEDDLERS FROM OTHER VEHICLES.

Every peddler selling fruits, vegetables, or goods of every kind from vehicles drawn by means other than hand, shall obtain a license before engaging in business and shall pay therefor a fee of twenty-five dollars (\$25.00) per year for each vehicle used for such purpose.

729.06 SOLICITOR; LICENSE FEE

Every solicitor shall obtain a license before engaging in business and shall pay therefor a fee of twenty-five dollars (\$25.00) per year.

729.07 EXCEPTIONS; WHEN LICENSE NOT REQUIRED.

The provisions of this chapter shall not apply to an owner of any product of his own raising or to the manufacturer of any article manufactured by him, who by himself or his agent, peddles or vends any such article or product; nor shall the same apply to any person who by state or federal law or constitutional provision, has been exempted from obtaining such license; nor to any sale under order of court or at a bona fide auction; nor to any sale at wholesale to a retail dealer.

CHAPTER 739
Sexually Oriented Business

739.01	Definitions.	739.11	Special regulations for adult cabarets.
739.02	Sexually Oriented Business Use Commissioner.	739.12	Special regulations for adult stores.
739.03	Sexually oriented business licenses generally.	739.13	Special regulations for adult theaters.
739.04	Form and submittal of license application.	739.14	License responsibility for employees.
739.05	Process of license application.	739.15	License revocation or suspension.
739.06	Standards for issuance or denial of license.	739.16	Record keeping by licensee.
739.07	Inspection by the Village.	739.17	Nuisance required.
739.08	Change in information.	739.18	Computation of time.
739.09	Regulations applicable to all sexually oriented businesses.	739.99	Penalty.
739.10	Special regulations for adult booths.		

CROSS REFERENCES

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

739.01 DEFINITIONS.

(a) *Adult Booth.* Any area of a sexually oriented business establishment set off from the remainder of such establishment by one or more walls or other dividers or partitions and used to show, play, or otherwise demonstrate any adult materials or to view any live performance that is distinguished or characterized by emphasis on the exposure, depiction, or description of specified anatomical areas or the conduct or simulation of specified sexual activities.

(b) *Adult Material.* Any of the following, whether new or used:

- (1) Books, magazines, periodicals, or other printed mater, or digitally store materials that are distinguished or characterized by an emphasis on the exposure, depiction or description of specified anatomical areas or the conduct or simulation of specified sexual activities.
- (2) Films, motion pictures, video or audio cassettes, slides, computer displays, or other visual representations or recordings of any kind that are distinguished or characterized by an emphasis on the exposure, depiction, or description of specified anatomical areas or the conduct or simulation of specified sexual activities.

- (3) Instruments, novelties, or paraphernalia that are designed for use in connection with specified sexual activities, or that depict or describe specified anatomical areas.

(c) *Village Zoning Ordinances.* The part of the Codified ordinances of the Village of Shawnee Hills known and referred to as the Planning and Zoning code, as it may be amended from time to time.

(d) *Civic Building or Use.* A building or location that provides for community meetings and/or activities including, but not limited to, Municipal Hall, recreation center (public or private), Chamber of Commerce Building, Shawnee Hills Civic Association Building or other public buildings owned or operated by the Village.

(e) *Commercial Establishment.* Any place where admission, services, performances, or products are provided for or upon payment of any form of consideration.

(f) *Days.* Calendar days, unless specifically set forth in this chapter.

(g) *Licensed Premises.* The place or location described in the sexually oriented business establishment license where a sexually oriented business establishment is authorized to operate. No sidewalks, streets, parking areas, public rights-of-way, or grounds adjacent to any such place or location shall be included within the licensed premises.

(h) *Licensee.* Any person or entity that has been issued a sexually oriented business license pursuant to the provisions of this chapter.

(i) *Nude or State of Nudity.* A state of dress or undress that exposes to view (1) less than completely and opaquely covered human genitals; pubic region, anus; or female breast below a point immediately above the top of the areolae, but not including any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areolae is not exposed; or (2) human male genitals in a discernibly turgid state, even if completely and opaquely covered, or any device or covering that, when worn, simulated human male genitals in a state of discernibly turgid state.

(j) *Reviewing Departments.* The Police Department and Planning and Zoning Commission.

(k) *Semi-Nude.* A state of dress or undress in which clothing covers no more than the human genitals, anus, areolae of the female breast, as well as portions of the body covered by supporting straps or devices or by other minor accessory apparel such as hats, gloves, and socks.

(l) *Sexually Oriented Business Commissioner.* The Chair of Planning and Zoning or his/her designee, shall be the Sexually Oriented Business Use Commissioner.

(m) *Sexually Oriented Business Establishment.* A commercial establishment including, but not limited to, adult cabaret, adult store, or adult theater primarily engaged in presenting persons who appear nude/semi-nude, live performances, films or other visual representations, adult booths or sale or display of adult material.

- (1) *Adult Cabaret.* Any commercial establishment that as a substantial or significant portion of its business features or provides any of the following:
 - A. Persons who appear nude or semi-nude.
 - B. Live performances that are distinguished or characterized by an emphasis on the exposure, depiction, or description of specific anatomical areas of the conduct or simulation of specified sexual activities.
 - C. Films, motion pictures, video or audio cassettes, slides, computer displays, or other visual displays, or other visual representations or recordings of any kind that are distinguished or characterized by an emphasis on the exposure, depiction, or description of specified anatomical areas, or the conduct or simulation of specified sexual activities.
- (2) *Adult Store.* Any commercial establishment that:
 - A. Contains one or more adult booths;
 - B. As a substantial or significant portion of its business offers for sale, rental or viewing any adult materials; or
 - C. Has a segment or section devoted to the sale of display of adult materials.
- (3) *Adult Theater.* Any commercial establishment that as a substantial or significant portion of its business features or provides films, motion pictures, video or audio cassettes, slides, or other visual representations or recordings of any kind that are distinguished or characterized by an emphasis on the exposure, depiction, or description of specified anatomical areas, or the conduct or simulation of specified sexual activities.

(n) *Sexually Oriented Business Establishment Employee.* Any individual, including entertainers, who work in or at, or render any services directly related to the operation of an adult entertainment establishment; provided, however, that this definition shall not include person delivering goods, materials, (other than adult materials), food and beverages, or performing maintenance or repairs to the licensed premises.

(o) *Sexually Oriented Business Establishment License.* A license issued for a sexually oriented business establishment pursuant to the provisions of this chapter.

(p) *Sexually Oriented Establishment Patron.* A sexually oriented business patron, present in or at any sexually oriented business establishment at any time when such sexually oriented business is open for business; provided, however, that this definition shall not include persons delivering goods, materials (other than adult materials), food and beverages, or performing maintenance or repairs, to the licensed premises.

- (q) *Specified Anatomical Areas.* Any of the Following:
- (1) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolae, but not including any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areolae is not exposed.
 - (2) Human genitals in a discernibly turgid state, even if completely and opaquely covered, or any device or covering that, when worn, simulates human male genitals in a discernibly turgid state.

(r) *Specified Criminal Act.* Any unlawful, lewd, indecent, or immoral criminal conduct; specifically, but without limitation, the lewd, indecent, or immoral criminal acts specified in any of the following statutes:

- (1) Chapter 2907 of the Ohio Revised Code
- (2) Chapter 533 of the codified Ordinances of the Village of Shawnee Hills

(s) *Specified Sexual Activities.* Any of the following:

- (1) Fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.
- (2) Sex acts, actual or simulated, including intercourse, oral copulation, or sodomy.
- (3) Masturbation, actual or simulated.
- (4) Human genitals in a state of sexual stimulation, arousal or tumescence.
- (5) Excretory functions as part of or in connection with any of the activities set forth in subsections (1) through (5) of this definition.

(t) *Straddle Dance.* The use by any person, including specifically but without limitation, a sexually oriented business establishment employee, of any part of his or her body to touch the genitals, pubic region, buttock, anus or female breast of any sexually oriented business establishment patron or nay person, or the touching of the genitals, pubic regions, buttock, anus or female breast by any sexually oriented business establishment patron. Conduct shall be a straddle dance regardless of whether the “touch” or “touching” occurs while the person is displaying or exposing any specified anatomical area. Conduct shall also be a straddle dance whether the “touch” or “touching” is direct or through a medium. Conduct commonly referred to by the slang terms “lap dance,” and “face dance,” shall be included within this definition of straddle dance. (Ord. 18-2001. Passed 10-22-01.)

739.02 SEXUALLY ORIENTED BUSINESS USE COMMISSIONER.

The Chair of Planning and Zoning or his/her designee is designated the Sexually Oriented Business Use Commissioner. The Sexually Oriented Business Use Commissioner shall have the following powers and duties:

- (a) To administer and rule upon the applications for, and the issuance, renewal, suspension, and revocation of sexually oriented business licenses as set forth in this chapter
- (b) To conduct or provide for the inspection of sexually oriented businesses as shall be necessary to determine and ensure compliance with the provisions of this chapter and other applicable provisions of law.
- (c) To at least annually review the provisions of this chapter and the conduct and operation of sexually oriented business establishments, and to make such related reports and recommendations to the Village Council as the Sexually Oriented Business Use Commissioner shall deem necessary.
- (d) To conduct such hearings, studies, and reports on sexually oriented businesses as the Sexually Oriented Business Use commissioner shall deem necessary, and to conduct such hearings on the revocation or suspension of a sexually oriented business license as required pursuant to this chapter.
- (e) To take such further actions as the Sexually Oriented Business Use Commissioner deems necessary to carry out the purpose and intent of this chapter and to exercise such additional powers in furtherance thereof as are implied by the powers and duties expressly set forth in this chapter.
(Ord. 18-2001. Passed 10-22-01.)

739.03 SEXUALLY ORIENTED BUSINESS LICENSES GENERALLY.

- (a) Sexually Oriented Business License Required. A sexually oriented business license shall be required to establish, operate, or maintain a sexually oriented business within the Village.
- (b) Operation Without a License Prohibited. It shall be unlawful for any person not having a current and valid sexually oriented business license to establish, operate or maintain a sexually oriented business within the Village at any time after the effective date of this chapter.
- (c) Operation in Violation of License Prohibited. It shall be unlawful for any licensee to establish, operate or maintain a sexually oriented business within the Village except in the manner authorized by, and in compliance with, the provisions of this chapter and the licensee's sexually oriented business license.
- (d) Content and Display of License. Every sexually oriented business license shall be provided by the Village and shall, at minimum, prominently display on its face the name of the licensee, the expiration date, and the address of the sexually oriented business. Every licensee shall display the license at all time in plain view in a conspicuous place on the licensed premises so that it can be easily seen and read at any time by any person entering the licenses premises.
- (e) License Term. Sexually oriented business licenses shall be operative and valid unless first terminated, suspended, or revoked, for a term of one year commencing on the date of issuance and may be renewed only by making an application. Application for renewal shall be made at least forty-five (45) days before the expiration date.
(Ord. 18-2001. Passed 10-22-01.)

739.04 FORM AND SUBMITTAL OF LICENSE APPLICATION.

- (a) Required Form. An application for a sexually oriented business license or renewal thereof, shall be made in writing to the Sexually Oriented Business Use Commissioner on a form prescribed by the Sexually Oriented Business Use Commissioner and shall be signed by (1) the applicant, if the applicant is an individual; (2) at least one of the persons entitled to share in the profits of the organization and having unlimited personal liability for the obligations of the organization and having unlimited personal liability for the obligations of the organization and the right to bind all other such persons, if the application is a partnership (general or limited), joint venture, or any other type of organization; or (3) by a duly authorized agent, if the applicant is a corporation. Each application shall specifically identify the applicant and the licensed premises for which a sexually oriented business license is being sought. Ten identical copies shall accompany each initial or renewal application.
- (b) Administrative Processing Fee. Every applicant for a sexually oriented business license shall pay an administrative processing fee in the amount of \$100.00 (One Hundred Dollars). The administrative processing fee shall in all cases be non-refundable.
- (c) Required Information and Documents. Each application shall include the following information and documents:
- (1) Names of applicants.
- A. Individuals. The applicant's legal name, all of the applicant's aliases, the applicant's business address and social security number, written proof (driver's license) of the applicant's age (date of birth) proof that the applicant is at least 18 years if age, the citizenship and place of birth of the applicant and, if a naturalized citizen, the time and place of the applicant's naturalization, and the applicant's federally issued tax identification number.

- B. *Corporations.* The applicant's corporation's complete name and official business address, legal name, all aliases and the ages, business addresses, and social security numbers of all directors, officers, and managers of the corporation and of every person owning or controlling more than 20% of the voting shares of the corporation, the corporation's date and place of incorporation and the objects for which it was formed; proof that the corporation is a corporation in good standing and authorized to conduct business in the State of Ohio; and the name of the registered corporate agent and the address of the registered office for service of process.
- C. *Partnerships (general or limited) joint ventures, limited liability companies or any other type of organization where two or more persons share in the profits and liabilities of the organization.* The applicant's organization's complete name and official business address, the legal name, all aliases, and the ages, business addresses and social security numbers of each partner (including limited partners) or any other person entitled to share in the profits of the organization, whether or not any such person is also obligated to share in the liabilities of the organization.
- (2) *The general character and nature of the business of the applicant.*
 - (3) *The location, including street address and legal description, and telephone number of the premises for which the sexually oriented business license is sought.*
 - (4) *The specific name of the business that is to be operated under the sexually oriented business license*
 - (5) *The identity of each fee simple owner of the licensed premises.*
 - (6) *A diagram showing the internal and external configuration of the licenses premises, including all doors, windows, entrances, exits and the fixed structural internal features of the licensed premises, plus the interior rooms, walls, partitions, stages, performance areas, and restrooms. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; provided, however, that each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions to an accuracy of plus or minus six inches and sufficient to show clear compliance with the provision of this chapter. The requirements of this division shall not apply for renewal application if the applicant adopts a diagram that was previously submitted for the license sought to be renewed and if the licensee certifies that the licenses premises has not been altered since the immediately preceding issuance of the license and that the previous diagram continues to accurately depict the exterior and interior layouts of the licenses premises. The approval or use of the diagram required pursuant to this division shall not be deemed to be, and shall not be interpreted or construed to constitute, any other Village approval otherwise required pursuant to applicable ordinances and regulations.*
 - (7) *The specific type or types of sexually oriented business that the applicant proposes to operate in the licensed premises.*
 - (8) *A copy of each sexually oriented license, liquor license, and gaming license currently held by the applicant or any of the individuals identified in the application.*

- (9) *The name of the individual or individuals* who shall be the day-to-day, on-site managers of the proposed sexually oriented business.
- (10) *Whether the applicant has been convicted of a specified criminal activity as defined in this ordinance*, and if so, the specified criminal activity involved, the date, place, and jurisdiction of each.
- (11) *Whether the applicant has had a previous license under this ordinance* or other similar sexually oriented business ordinance from any other village, city or county denied, suspended, or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant has been a partner in a partnership an officer, director or principal stockholder of a corporation that is licenses under this ordinance whose license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of the denial, suspension or revocation.
- (12) *A current and straight-line drawing prepared within thirty (30) days prior to application* by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented business within 1,000 feet of the property to be certified; the property lines of any established residential use or district, school, preschool, daycare, place of worship, synagogue, park, library, federal, state, county, township or village building, or other civic use or public use (within the Village of Shawnee Hills jurisdiction), any commercial establishment selling beer or alcohol for consumption on the premises, or any hotel or motel within 1,000 feet of the property to be certified. For the purposes of this Section, a use shall be considered existing or established at the time an application is submitted.
- (13) *Any application for a sexually oriented business* license that does not include all of the information and documents required pursuant to this section shall be deemed to be incomplete and shall not be acted on or processed by the Village. The Sexually Oriented Business Use Commissioner shall, within five days of such submittal, return the incomplete application tot he applicant along with a written explanation of the reasons shy the application is incomplete.
(Ord. 18-2001. Passed 10-22-01.)

739.05 PROCESS OF LICENSE APPLICATION.

(a) Upon the filing of an application for a sexually oriented business license, the Sexually Oriented Business Use Commissioner shall refer the application to the appropriate Village departments for investigation to be made on the information contained in the application. The application process shall be completed within 30 days from the date of the completed application. After the investigation, the Sexually Oriented Business Use Commissioner shall issue a license unless the requirements set forth above are not met.

(b) *Appeal.* Judicial review may be made pursuant to Chapter 2506 of the Ohio Revised Code. All parties shall comply with the commissioner's decision pending appeal.
(Ord. 18-2001. Passed 10-22-01.)

739.06 STANDARDS FOR ISSUANCE OR DENIAL OF LICENSE.

(a) Issuance. The Sexually Oriented Business Use Commissioner shall issue a sexually oriented business license to an applicant if, but only if, the Sexually Oriented Use Commissioner finds and determines all of the following based on reports, investigations, and inspections conducted by the Sexually Oriented Business Use Commissioner and any Reviewing Departments and on any other credible information on which it is reasonable for the Sexually Oriented Business Use Commissioner to rely on:

- (a) All information and documents required by this chapter for issuance of a sexually oriented business license have been properly provided and the material statements made in the application are true and correct.
- (b) No person identified on the application has been convicted of, or pleaded nolo contendere to, any criminal act within five years immediately preceding the date of the application.
- (c) No person identified in the application is overdue on payment to the Village of taxes, fees, fines, or penalties assessed against or imposed on any such individual in connection with any sexually oriented business.
- (d) The sexually oriented business and the licenses premises comply with all then-applicable building, health and safety codes and have received all necessary zoning approvals required pursuant to the then-applicable provisions of the Shawnee Hills Zoning code.
- (e) The applicant has confirmed in writing and under oath as part of the application that the applicant has read this chapter and all provisions of the Village Zoning Ordinances applicable to sexually oriented business establishments and its proposed operation are and shall be in compliance therewith.

(b) Denial. If the Sexually Oriented Business use Commissioner determines that the applicant has not met any one or more of the conditions set forth herein, then the Sexually Oriented Business use Commissioner shall deny issuance of the sexually oriented business license and shall give the applicant a written notification and explanation of such denial. The Commissioner will only accept and process to completion one (1) application per location at a time. No new applications for any location will be accepted while an application for this location is the subject of any appeal process.

(c) License Deemed Issued. If the Sexually Oriented Business use Commissioner does not issue or deny the sexually oriented business license within 30 days after the properly completed application is submitted, then the sexually oriented business license applied for shall be deemed to have been issued. (Ord. 18-2001. Passed 10-22-01.)

739.07 INSPECTION BY THE VILLAGE.

(a) Authority. The Sexually Oriented Business Use Commissioner and other Village representatives and departments with jurisdiction shall periodically inspect all sexually oriented businesses as shall be necessary to determine compliance with the provisions of this chapter and all other applicable law.

(b) Licensee Cooperation. A licensee shall permit representatives of the Village to inspect the licenses premises and the sexually oriented business establishment for the purpose of determining compliance with the provisions of this chapter and all other applicable law at any time during which the licensed premises is occupied or the sexually oriented business establishment is open for business.

(c) Interference or Refusal Illegal. It shall be unlawful for the licensee, any sexually oriented business employee, or any other person to prohibit, interfere with, or refuse to allow, any lawful inspection conducted by the Village pursuant to this chapter or any other authority.

(d) Suspension or Revocation. Any such prohibition, interference, or refusal shall be grounds for suspension or revocation of the sexually oriented business license. (Ord. 18-2001. Passed 10-22-01.)

739.08 CHANGE IN INFORMATION.

During the tendency of any application for, or during the term of, any sexually oriented business license, the applicant or licensee shall promptly notify the Sexually Oriented Business Use Commissioner in writing of any change in any material information given by the applicant or licensee in the application for such license, including specifically, but without limitation, any change in managers of the sexually oriented business establishment or in the individual identified in the application pursuant to this chapter, or any of the events constituting grounds for suspension or revocation pursuant to this chapter occur. (Ord. 18-2001. Passed 10-22-01.)

739.09 REGULATIONS APPLICABLE TO ALL SEXUALLY ORIENTED BUSINESSES.

(a) General Compliance. All licenses and sexually oriented business establishments shall comply with the provisions of this chapter, and with the provisions of all other applicable Village ordinances, resolutions, rules, and regulations and all other federal, state and local laws.

- (b) Hours of Operation.
- (A) No sexually oriented business establishment shall be open for business at any time on Sunday, State of Ohio, or Federal Holiday.
 - (B) No sexually oriented business establishment shall be open for business between the hours of 12:00 a.m. and 11:00 a.m. on any day.

(c) Animals. No animals, except seeing eye dogs required to assist the blind, shall be permitted at any time or in any sexually oriented business establishment or licensed premises.

(d) Restrooms. All restrooms in sexually oriented business establishments shall be equipped with standard toilets, sinks, and other traditional lavatory facilities. No adult materials or live performances shall be provided or allowed at any time in the restrooms of a sexually oriented business establishment. Separate male and female restrooms shall be provided for and used by sexually oriented business establishment employees and patrons.

(e) Restricted Access. No sexually oriented business establishment patron shall be permitted at any time to enter into any of the non-public portions or any sexually oriented business establishment, including specifically, but without limitation, any storage areas or dressing or other rooms provided for the benefit of sexually oriented business employees. This subsection shall not apply to persons delivering goods and materials, food and beverages, or performing maintenance or repairs to the licensee premises. This person shall remain in the non-public areas only for the purposes and to the extent and time necessary to perform their job duties.

- (f) Specific Prohibited Acts.
- (1) No sexually oriented business employee or any person at any sexually oriented business establishment, other than a sexually oriented business employee employed to provide adult entertainment in accordance with the regulations of this chapter shall appear, be present, or perform while nude or semi-nude; further no such employee shall appear, be present, or perform while nude at any sexually oriented business establishment that serves or otherwise provides alcoholic liquor pursuant to a license issued by the State of Ohio.
 - (2) No sexually oriented business employee or any other person at any sexually oriented business establishment shall perform or conduct any specified sexual activity with or for any sexually oriented business patron or any other persons at any sexually oriented business establishment, or any other sexually oriented business employee, or any other person. No sexually oriented business establishment patron or any other person at any sexually oriented business establishment shall perform or conduct any specified sexual activity with or for any sexually oriented business establishment employee patron or any other person.
 - (3) Straddle dances shall be prohibited at all sexually oriented business establishments.

(g) Exterior Display. No sexually oriented business establishment shall be maintained or operated in any manner that causes, creates, or allows public viewing of any adult material, or any entertainment depicting, describing, or relating to specified sexual activities or specified anatomical areas, from any sidewalk, public or private right-of-way, or any property other than the lot on which the licensed premises is located. No portion of the exterior of a sexually oriented business establishment shall utilize or contain any flashing lights, search lights, or spotlights, or any other similar lighting systems, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner, except to the extent specifically allowed pursuant to Section 1121.06 of the Village Planning and Zoning Code with regard to signs. This subsection shall apply to any advertisement, display, promotional material, decoration, or sign; to any performance or show; and to any window, door or other opening.

(h) Noise. No loudspeakers or sound equipment audible beyond the licensed premises shall be used at any time.

(i) Gambling and related devices prohibited. No sexually oriented business establishment shall contain any video, pinball, slot, bagatelle, pigeon-hole, pool, or any other games, machines, tables or implements.

(j) Manager's Station. Each sexually oriented business establishment shall have one or more manager's station. The interior of each sexually oriented business establishment shall be configured in such a manner that there is a direct and substantially unobstructed view from at least one manager's station to every part of each area, except restrooms, of the establishment to which any sexually oriented business establishment patron is permitted for any purpose.

(k) Alcohol Prohibition. No sexually oriented business establishment shall serve or otherwise provide beer or alcohol to be sold or consumed on the premises.
(Ord. 18-2001. Passed 10-22-01.)

739.10 SPECIAL REGULATIONS FOR ADULT BOOTHS.

(a) Prohibited except in Adult Stores. Adult booths shall be prohibited in all sexually oriented business establishments except adult stores.

(b) Occupancy and Prohibited Acts. Only one individual shall occupy an adult booth at any time. No individual occupying an adult booth shall engage in any specified sexual activities. No individual shall damage or deface any portion of an adult booth.

(c) Open Booth Requirements. In addition to satisfying the manager's station requirements of this chapter, all adult stores containing adult booths shall be physically arranged in such a manner that the interior portion of each adult booth shall be visible from the common area of the adult store. To satisfy this requirement, there shall be permanently open and unobstructed entranceway for each adult booth and for the entranceway from the adult store that provides other adult materials to the area of the adult store containing the adult booths. Each of these entranceways shall not be capable of being closed or obstructed, entirely or partially, by any door, curtain, partition, drapes or any other obstruction whatsoever that would be capable of wholly or partially obscuring the area of the adult store containing the adult booths or any person situated in an adult booth. It shall be unlawful to install adult booths within a sexually oriented business establishment for the purpose of providing secluded viewing of adult materials or live performances.

(d) Aisle Required. There shall be one continuous lighted aisle alongside the adult booths provided in any adult store. Each person situated in a booth shall be visible at all time from the aisle.

(e) Holes Prohibited. Except for the open entranceway, the walls and partitions of each adult booth shall be constructed and maintained of solid walls or partitions without any holes or openings whatsoever.

(f) Signage. A sign shall be posted in a conspicuous place at or near the entranceway to each adult booth that states:

- (1) That only one person is allowed ion an adult booth at any one time;
- (2) That it is unlawful to engage in any specified sexual activities while in an adult booth, and
- (3) That it is unlawful to damage or deface any portion of an adult booth.

(g) Age Limitations.

(A) No sexually oriented business establishment employee or sexually oriented business establishment patron at an adult booth or a licensed premises that includes an adult booth shall be under the age of 18.

(B) No person under the age of 18 shall be admitted to any booth or any licensed premises that includes an adult booth.

(C) No person under the age of 18 shall be allowed or permitted to remain at any adult booth or any premises that includes an adult booth.

(D) No person under the age of 18 shall be allowed or permitted to purchase or receive, whether for consideration or not, any adult material or other goods or services at or from any adult booth or any licensed premises that includes an adult booth. (Ord. 18-2001. Passed 10-22-01.)

739.11 SPECIAL REGULATIONS FOR ADULT CABARETS.

(a) Performance Area. The performance area of an adult cabaret shall be limited to one or more stages or platforms permanently anchored to the floor (a “Cabaret Stage”). Each Cabaret Stage shall be elevated above the level of, and separate from, the patron seating areas. Each Cabaret Stage shall be separated by a distance of at least three (3) feet from all areas of the premises to which sexually oriented business establishment patrons have access. A continuous barrier at least two feet in height and located at least three (3) feet from all points of each Cabaret Stage shall separate each Cabaret Stage from all patron seating areas. No adult patron shall be allowed at any time on any Cabaret Stage.

(b) Lighting. Sufficient lighting shall be provided and equally distributed throughout the public areas of the adult cabaret so that all objects are plainly visible at all times. A minimum lighting level of not less than 30 lux horizontal, measured at 30 inches from the floor and on 10-foot centers shall be maintained at all times for all areas of the adult cabaret where sexually oriented business establishment patrons are admitted.

(c) Tippling. No sexually oriented business establishment patron shall offer, and no sexually oriented business establishment employee having performed on any Cabaret Stage shall accept any form of tip or gratuity offered directly or personally to the employee by the sexually oriented business establishment patron. Rather, all tips and gratuities to sexually oriented business establishment employees performing on any Cabaret Stage shall be placed into a receptacle provided for receipt of such tips and gratuities by the sexually oriented business establishment or shall be placed by the sexually oriented business establishment patron on the Cabaret Stage on which the sexually oriented business establishment employee is performing.

(d) Notice of Select Rules. A sign at least two feet by two feet, with letters at least one inch high shall be conspicuously displayed on or adjacent to every Cabaret Stage stating the following:

THIS ADULT CABARET IS REGULATED BY THE VILLAGE OF SHAWNEE HILLS. ENTERTAINERS ARE:

- (A) NOT PERMITTED TO ENGAGE IN ANY TYPE OF SEXUAL CONDUCT
- (B) NOT PERMITTED TO ACCEPT ANY TIPS DIRECTLY OR PERSONALLY FROM PATRONS. ANY SUCH TIPS MUST BE PLACED INTO THE RECEPTACLE PROVIDED BY MANAGEMENT OR MUST BE PLACED DIRECTLY ON THE CABARET STAGE.

(e) Notice of Alcohol Policy. No beer or alcohol shall be sold or consumed on the premises.

- (f) Age Limitations.
- (1) No sexually oriented business establishment employee or sexually oriented business establishment patron at an adult cabaret or licensed premises for an adult cabaret shall be under the age of 21.
 - (2) No person under the age of 21 shall be admitted to any adult cabaret or to any licensed premises used for an adult cabaret.

- (3) No person under the age of 21 shall be allowed or permitted to remain at any adult cabaret or any licensed premises used for an adult cabaret.
- (4) No person under the age of 21 shall be allowed or permitted to purchase or receive, whether for consideration or not, any adult material or other goods or services at or from any adult cabaret or any licensed premises used for an adult cabaret. (Ord. 18-2001. Passed 10-22-01.)

739.12 SPECIAL REGULATIONS FOR ADULT STORES.

- (a) Windows. Window areas for adult stores shall not be covered or obstructed in any way.
- (b) Age Limitations.
 - (A) No sexually oriented business establishment employee or sexually oriented business patron at an adult store or a licensed premises used for an adult store shall be under the age of 18.
 - (B) No person under the age of 18 shall be admitted to any adult store or any licensed premises used for an adult store.
 - (C) No person under the age of 18 shall be allowed or permitted to remain at any adult store or any licensed premises used for an adult store.
 - (D) No person under the age of 18 shall be allowed or permitted to purchase or receive, whether for consideration or not, any adult material or other goods or services at or from any adult store or any licensed premises used for an adult store. (Ord. 18-2001. Passed 10-22-01.)

739.13 SPECIAL REGULATIONS FOR ADULT THEATERS.

- (a) Seating. Each adult theater shall provide seating only in individual chairs with arms or in seats separated from each other by immovable arms and not on couches, benches, or any other multiple person seating structures. The number of seats shall equal the maximum number of person who may occupy the adult theater.
- (b) Aisle. Each adult theater shall have a continuous main aisle alongside the seating area in order that each person seated in an adult theater shall be visible from the aisle at all times.
- (c) Sign. Each adult theater shall have a sign posted in a conspicuous place at or near each entranceway to the auditorium or similar area that lists the maximum number of persons who may occupy the auditorium area, which number shall not exceed the number of seats in the auditorium area.
- (d) Age Limitations.
 - (A) No sexually oriented business establishment employee or sexually oriented business establishment patron at an adult theater or a licensed premises used for an adult theater shall be under the age of 18.
 - (B) No person under the age of 18 shall be admitted to any adult theater or to any licenses premises used for an adult theater.
 - (C) No person under the age of 18 shall be allowed or permitted to remain at any adult theater or any licensed premises used for an adult store.
 - (D) No person under the age of 18 shall be allowed or permitted to purchase or receive, whether for consideration or not, any adult material or other goods or services at or from any adult theater or any licensed premises used for an adult theater. (Ord. 18-2001. Passed 10-22-01.)

739.14 LICENSEE RESPONSIBILITY FOR EMPLOYEES.

Every act or omission by a sexually oriented business establishment employee constituting a violation of the provisions of this chapter shall be deemed to be the act or omission of the licensee if such act or omission occurs either with the authorization, knowledge, or approval of the licensee, or as a result of the licensee's negligent failure to supervise the sexually oriented business establishment employee. The licensee shall be punished for any such act or omission in the same manner as if the licensee committed the act or caused the omission. Accordingly, any such act or omission of any such employee constituting a violation of the provisions of this chapter shall be deemed, for purposes of determining whether the licensee's sexually oriented business establishment license shall be revoked, suspended, or renewed, to the act or omission of the licensee. (Ord. 18-2001. Passed 10-22-01.)

739.15 LICENSE REVOCATION OR SUSPENSION.

(a) *Grounds.* Pursuant to the procedures set forth in this section, the Sexually Oriented Business Use Commissioner may suspend for not more than 30 days, or revoke, any sexually oriented business establish license if the commissioner, based on credible and reasonably reliable information and evidence, determines that any one or more of the following has occurred:

- (A) The licensee has violated any of the provisions or requirements of this chapter or the sexually oriented business establishment license issued pursuant hereto, or the provisions of the Village Zoning Code applicable to the licenses premises or the sexually oriented business establishment.
- (B) The licensee knowingly or negligently furnished false or misleading information or withheld information on any application or other document submitted to the Village for the issuance or renewal of any sexually oriented business establishment license, or knowingly or negligently caused or suffered any other person to furnish or withhold any such information on the licensee's behalf.
- (C) The licensee has committed or knowingly or negligently allowed a felony or specified criminal act to take place on the licensed premises.
- (D) The licensee authorizes approval, or, as a result of the licensee's negligent failure to supervise the licensed premises or the sexually oriented business establishment, allows a sexually oriented business establishment employee, a sexually oriented business establishment patron, or any other person to (i) violate any of the provisions or requirements of this chapter or of the provisions or requirements of the sexually oriented business establishment license issued pursuant hereto, or (ii) commit any felony or specified criminal act on the licensed premises. The licensee, or any person identified in this chapter becomes disqualified for the issuance of a sexually oriented business establishment license at any time during the term of the license at issue.

(b) *Procedure.* A sexually oriented business establishment license may be suspended for not more than 30 days or revoked pursuant to the terms and conditions set fourth in this division.

- (1) Notice. Upon determining that one or more of the grounds for suspension or revocation under subsection (a) hereof may exist, the Sexually Oriented Business Use Commissioner shall serve a written notice on the licensee in person or by certified mail, postage prepaid, return receipt requested, addressed to the licensee's address as set forth in the licensee's application. The written notice shall, at a minimum, state that the Sexually Oriented Business Use Commissioner determined that the sexually oriented business establishment license may be subject to suspension or revocation pursuant to this chapter, identify the specific grounds for the commissioner's determination; and set a date for a hearing regarding the commissioner's determination as to the possibility of suspension or revocation of the sexually oriented business establishment license. The date of the hearing shall be no less than five days after service of the Commissioner's notice, unless an earlier or later date is agreed to by the licensee and the Sexually Oriented Business Use Commissioner.
- (2) Hearing. The hearing shall be conducted by the Sexually Oriented Business Use Commissioner. At the hearing, the licensee may present and submit evidence and witnesses to refute the grounds cited by the Sexually Oriented Business Use Commissioner for suspending or revoking the license and the Village and any other persons may submit evidence to sustain such grounds. The administrative record compiled on the sexually oriented business establishment pursuant to this chapter shall be made part of the hearing record. Within three days after the close of the hearing, the Sexually Oriented Business use Commissioner shall, having considered the record made at hearing, render a decision in writing, setting forth the reasons for the decision. The action taken by the Commissioner shall be final and shall be subject to judicial review pursuant to chapter 2506 of the Ohio Revised Code. The sexually oriented business establishment may remain in operation pending the outcome of the appeal.
- (3) Notice and Effective Date of suspension or Revocation. The Sexually Oriented Business Use Commissioner's written decision shall be served on the licensee in person or by certified U.S. mail, postage prepaid, return receipt requested, addressed to the licensee's address as set forth in the licensee's application. Any suspension or revocation, as the case may be, shall take effect on the day that the Sexually Oriented Business Use Commissioner's written decision is delivered in person or three days after it is placed in the U.S. mail as provided in this subsection.
- (4) Surrender of License. Upon the suspension or revocation of sexually oriented business establishment license pursuant to this chapter, the Sexually Oriented Business Use Commissioner shall take custody of the suspended or revoked license.

The Sexually Oriented Business Use Commissioner shall cause to be kept in the commissioner's office an accurate record of every sexually oriented business establishment license application received and acted on, together with all relevant information and material pertaining to such application, any sexually oriented business establishment license issued pursuant to such sexually oriented business establishment license.
(Ord. 18-2001. Passed 10-22-01.)

739.16 RECORD KEEPING BY LICENSEE.

The license of every sexually oriented business establishment shall maintain a register of all its sexually oriented business establishment employees. For each such employee, the register shall include the following information:

- (a) Legal name
- (b) Any and all aliases
- (c) Date of birth
- (d) Gender
- (e) Social Security number
- (f) Date of commencement of employment
- (g) Date of employment termination, if applicable
- (h) Specific job or employment duties

The register shall be maintained for all current employees and all employees employed at any time during the preceding 36 months. The licensee shall make the register of all its sexually oriented employees available for inspection by the Village immediately upon demand at all reasonable times. (Ord. 18-2001. Passed 10-22-01.)

739.17 NUISANCE DECLARED.

Any sexually oriented business establishment established, operated or maintained in violation of any of the provisions or requirements of this chapter of any sexually oriented business establishment license shall be, and the same is, declared to be unlawful and a public nuisance. The Village may, in addition to or in lieu of any other remedies set forth in this chapter, commence an action to enjoin, remove or abate such nuisance in the manner provided by law and shall take other steps and apply to such court or courts as may have jurisdiction to grant such relief as well as abate or remove such public nuisance, and restrain and enjoin any person from establishing, operating, or maintaining a sexually oriented business establishment contrary to the provisions of this chapter. (Ord. 18-2001. Passed 10-22-01.)

739.18 COMPUTATION OF TIME.

Unless otherwise specifically set forth in this chapter, the time within which any act required by this chapter is to be done shall be computed by excluding the first day and including the last day, unless the last day is Saturday, Sunday or a Federal or State of Ohio holiday, in which case, it shall be excluded. If the immediately following such Saturday, Sunday or holiday is also a Saturday, Sunday, or holiday, then such succeeding day shall be excluded.

(Ord. 18-2001. Passed 10-22-01.)

739.99 PENALTY.

Any person who violates, neglects, refuses to comply with, or assists or participates in any way in the violation of any of the provisions or requirements of this chapter or any of the provision or requirements of any sexually oriented business establishment license, shall be fined not more than five hundred dollars (\$500.00) for each violation. Each day such violation continues shall constitute a separate offense. The Sexually Oriented Business Use Commissioner shall give written notice to any such person of any such violation and the fine imposed by serving a citation in person or by certified U.S. mail, postage prepaid, return receipt requested, addressed to the licensee's address as set forth in the licensee's application.

(Ord. 18-2001. Passed 10-22-01.)

CHAPTER 749
Hours of Business Operation

749.01 Hours of operation; lighting.

749.01 HOURS OF OPERATION; LIGHTING.

(a) No person, being the owner or in charge or control of any store or other place of business, including but not limited to all permitted commercial and retail uses as defined by the Zoning Code for the Village of Shawnee Hills, shall transact any business in any store or place of business, or cause or permit the store or place of business to open for the transaction of business after 2:30 a.m. or before 5:30 a.m. of any day.

(b) Any store or other place of business which is subject to regulation pursuant to subsection (a) hereof and is also operating under a valid permit to sell or serve alcoholic beverages, as issued by the State of Ohio pursuant to Title 43 of the Ohio Revised Code, shall be exempt from the provisions of this Chapter only to the extent necessary to avoid conflict between the regulations herein and State law governing such liquor permit holders, provided further that nothing in the provisions of this chapter shall be construed to sanction or permit the sale or service of alcoholic beverages in violation of State law.

(c) For the purpose of this chapter, the terms “store or other place of business” shall not be construed to include hotels, motels, hospitals and emergency medical centers, regardless of their location in relation to any residential district, and are therefore exempt from the provisions of this Hours of Business Operation code.

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

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

(f) Whoever violates any provision of this chapter is guilty of a minor misdemeanor for a first offense and a misdemeanor of the fourth degree for each subsequent offense. (Ord. 20-2002. Passed 11-25-02.)

CHAPTER 759
Video Service Providers

759.01 Fee.

759.01 FEE.

(a) Council hereby establishes a VSP Fee that is calculated by applying a VSP Fee Percentage of three percent (3%) to the video service provider's gross revenues as defined in Section 1332.32(B) of the Video law. All video service providers and cable television operators providing video service in the Village shall apply the VSP Fee Percentage against gross revenues as defined in the Video Law.

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

(c) The Mayor is authorized and directed to provide any video service provider with notice of the VSP Fee Percentage as determined by this Council above, which notice shall be given by certified mail, upon receipt of notice from such video service provider that it will begin providing video service in the Village pursuant to a state-issued video service authorization.
(Ord. 14-2008. Passed 9-8-08.)

