

CODIFIED ORDINANCES OF BETHESDA
PART SEVEN - BUSINESS REGULATION CODE

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CHAPTER 721
Peddlers and Solicitors

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CROSS REFERENCES

Power to regulate - see Ohio R.C. 715.61
Trespassing - see GEN. OFF. 521.08

721.01 DEFINITIONS.

- (a) "Person" includes the singular and plural and also means and includes any person, firm or corporation, association, copartnership or society.
- (b) "Peddler" includes any person with no fixed place of business in the Municipality, who carries wares or goods with him which he is prepared to sell at the time he solicits business and who deals primarily with consumers. "Peddler" includes "hawker" and "huckster".
- (c) "Solicitor" or "canvasser" means a person with no fixed place of business in the Municipality, dealing primarily with consumers, who takes orders for goods for the future whether by telephone or by house to house or business canvassing.

(d) "Itinerant merchant" or "vendor" means a person with a fixed place of business in the Municipality, who had been located in the Municipality for a period of less than one year who offers goods or wares for sale.

(e) "Goods" or "wares" includes any item of personal property including but not limited to merchandise, appliances, magazines, magazine subscriptions, books, photographs, produce, but excluding newspapers and products or articles raised or manufactured by such persons.

(Ord. 1081. Passed 7-8-76.)

721.02 LICENSE REQUIRED.

No person shall engage in the business of peddler, solicitor, canvasser or itinerant merchant and solicit sales of, sell, offer for sale, barter, or exchange goods, wares or personal services without first obtaining a license therefor as provided herein.

(Ord. 1081. Passed 7-8-76.)

721.03 EXCEPTIONS.

A license is not required for a duly authorized solicitor soliciting the sale of goods or wares for or on behalf of any recognized educational, civic, religious or charitable organization.

(Ord. 1081. Passed 7-8-76.)

721.04 LICENSE APPLICATION AND REQUIREMENTS.

(a) Applications for license for peddlers, solicitors and itinerant merchants must be filed with the Chief of Police on a form to be furnished by the Chief which shall give the following information:

- (1) Name of applicant.
- (2) Home address.
- (3) Name and address of the person by whom employed.
- (4) Length of service with such employer.
- (5) All places of residence and all employment during the preceding year.
- (6) The nature and character of the goods to be sold or service to be furnished by the applicant.
- (7) Names of other towns in which the applicant has recently conducted a business for which a license is herein required.
- (8) A personal description and history of the applicant.

(b) The applicant shall further furnish a recent photograph of himself not more than one year old approximately three inches by three inches and fingerprints of the applicant shall be furnished in duplicate. Such application shall be made at least ten days before the license required in order to enable the Chief of Police to investigate the moral character and record of the applicant.

(c) If the Chief of Police determines after an investigation that the applicant is of good moral character and proposes to engage in a lawful commercial or professional enterprise, a license shall be issued which shall expire on December 31 in the year in which the license is issued.

(Ord. 1081. Passed 7-8-76.)

721.05 FEE.

Each applicant for a license for a peddler, solicitor or itinerant vendor shall pay to the Municipality one dollar (\$1.00) per day for each working day, excluding Sundays, for the full period that such person proposes to sell or solicit within the terms of this chapter. All fees shall be payable in advance based upon the number of days furnished by the applicant. (Ord. 1081. Passed 7-8-76.)

721.06 APPEALS.

Any applicant for a license for a peddler, solicitor or itinerant vendor whom the Chief of Police has, after investigation, denied a license may appeal to Council. Notice of such appeal shall be filed with the Fiscal Officer within five days after the denial of the license by the Chief of Police. Council, on appeal, may grant or reject the application for license. (Ord. 1081. Passed 7-8-76.)

721.07 CARRYING OR EXHIBITING LICENSE.

The License issued hereunder shall be exhibited in the place of business by itinerant merchants and shall be carried by any peddler or solicitor at all times when peddling or soliciting and shall be exhibited to any person solicited or any police officer on request. In the case of peddlers or solicitors, an identification badge shall be issued which shall be worn while engaging in business. (Ord. 1081. Passed 7-8-76.)

721.08 UNINVITED SOLICITING PROHIBITED.

Notwithstanding the licensing provisions of this chapter, the practice of going into and/or upon private residences in the Municipality by solicitors, peddlers, itinerant merchants or canvassers not having been requested or invited to do so by the owner or owners, occupant or occupants of the private residences for the purpose of soliciting orders for the sale of goods, wares, merchandise, magazines, periodicals or other articles or publications and/or disposition of and/or peddling or hawking the same is declared to be a nuisance. (Ord. 1081. Passed 7-8-76.)

721.99 PENALTY.

Whoever violates any provision of this chapter shall be guilty of a minor misdemeanor. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. (Ord. 1081. Passed 7-8-76.)

CHAPTER 731
Video Service Providers

731.01 Fees.

731.01 FEES.

(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 Ohio R.C. 1332.32(B). 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 an annual basis but not sooner than forty-five (45) days nor later than sixty (60) days after the end of each calendar year.

(c) The Fiscal Officer is authorized and directed to provide any video service provider with notice of the VSP Fee Percentage as determined by Council, 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. 1314-12. Passed 4-26-12.)

CHAPTER 789
Skill-based Amusement Machine Establishments

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789.03	Scope of regulations.	789.15	Records.
789.04	Permit required.	789.16	Deposits and use of fees.
789.05	Permit application; fee.	789.17	Appeals.
789.06	Inspection and investigation upon permit application.	789.18	Severability clause.
789.07	Action on application.	789.19	Remedies available to Village Solicitor/Legal Counsel.
789.08	Expiration of permit.	789.99	Penalty.
789.09	Display of permit.		
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CROSS REFERENCES
 Gambling - see GEN. OFF. Ch. 517

789.01 PURPOSE AND INTENT.

It is the purpose and intent of this chapter to regulate skill-based amusement establishments to promote the health, safety, morals and general welfare of the citizens of the Municipality and to establish reasonable and uniform regulations to prevent any deleterious location and concentration of said establishments within the Municipality, thereby reducing or eliminating the adverse secondary effects from such businesses including but not limited to addiction, congestion, crime, loitering, and other evils.
 (Ord. 1291. Passed 4-19-07.)

789.02 DEFINITIONS.

(a) "Skill-based amusement machine" means a skill-based amusement device, such as a mechanical, electronic, video, or digital device, or machine, whether or not the skill-based amusement machine requires payment for use through a coin or bill validator or other payment of consideration or value to participate in the machine's offering or to activate the machine, provided that all of the following apply:

- (1) The machine involves a task, game, play, contest, competition, or tournament in which the player actively participates in the task, game, play, contest, competition, or tournament.
- (2) The outcome of an individual's play and participation is not determined largely or wholly by chance.
- (3) The outcome of play during a game is not controlled by a person not actively participating in the game.

All of the following apply to any machine that is operated as described in subsection (a) hereof:

- A. As used in this section, "task," "game," and "play" means one event from the initial activation of the machine until the results of play are determined without payment of additional consideration. An individual utilizing a machine that involves a single task, game, play, contest, competition, or tournament may be awarded prizes based on the results of play.
- B. Advance play for a single task, game, play, contest, competition, or tournament participation may be purchased. The cost of the contest, competition, or tournament participation may be greater than a single non-contest competition, or tournament play.
- C. To the extent that the machine is used in a contest, competition or tournament, that contest, competition or tournament has a defined starting and ending date and is open to participants in competition for scoring and ranking results toward the awarding of prizes that are stated prior to the start of the contest, competition or tournament.

(b) "Skilled-based amusement machine establishment" means a building, location, lot, trailer, premises or real property where one (1) or more skill based amusement machines are located for any period of time exceeding fourteen (14) days in any calendar year.

(c) "Church" means any church, synagogue, mosque, temple, or building which is used for religious worship or related religious activities at least once every month.

(d) "Permit" means a permit to operate a skill-based amusement machine establishment.

(e) "Public park" means any public land which has been designated for park or recreational activities by any Federal, State, or local government. Public Park includes, but is not limited to a park, playground, nature trail, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian and/or bicycle paths, open space, wilderness areas, or similar public land within the Municipality.

(f) "Residential District" means those areas where the buildings and structures are primarily intended for residential purposes.

(g) “School” means any public or private educational facility including but not limited to, child care facilities, nursery schools, preschools, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, trade schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, technical colleges, community colleges, colleges and universities. “School” includes the building, premises and real property on which any school is located and all buildings, premises and real property owned or leased by any school.
(Ord. 1291. Passed 4-19-07.)

789.03 SCOPE OF REGULATIONS.

These regulations govern skill-based amusement machine establishments within the corporation limits of the Municipality and the owners, operators, persons in charge and employees of such establishments.
(Ord. 1291. Passed 4-19-07.)

789.04 PERMIT REQUIRED.

(a) No person shall engage in, operate, own, conduct, carry on, or permit to be engaged in the operation of a skill-based amusement machine establishment without first having obtained a permit from the Municipality.

(b) A separate permit is required for each location at which a skill-based amusement machine establishment is operated. (Ord. 1291. Passed 4-19-07.)

789.05 PERMIT APPLICATION; FEE.

(a) Application for an original or renewal permit shall be made in writing on forms prescribed by the Municipality and shall be filed with the Village Administrator.

(b) An application for a renewal permit shall be filed not later than thirty (30) days prior to the expiration of the permit to be renewed.

(c) All applications shall be filed with the Village Administrator.

(d) A non-refundable fee shall be paid at the time of the filing of the application as follows:

- (1) Five hundred dollars (\$500.00) for an initial permit to operate a skill-based amusement machine establishment and in addition thereto one hundred dollars (\$100.00) for each background check of the applicant and employees, conducted by the Municipal Police Department.
- (2) Two hundred fifty dollars (\$250.00) for a renewal permit to operate a skill-based amusement machine establishment.

(e) An application for an initial or renewal permit to operate a skill-based amusement machine establishment shall contain the following:

- (1) The address where the skill-based amusement machine establishment is to be operated or is operated.
- (2) The status of the applicant as an individual, partnership, or limited partnership, domestic or foreign corporation, or other entity.

- (3) The full name, residence address, date of birth and social security number of the applicant or the person applying on behalf of a partnership, corporation or other entity.
- (4) The full name, residence address, date of birth and social security number of all employees of the skill-based amusement machine establishment.
- (5) If the application is a partnership or limited partnership, the name of the partnership or limited partnership, the status of the partnership as a general or limited partnership, the state or other jurisdiction under which it is organized, the address of its principal office in Ohio, its federal identification number, the name and address, date of birth and social security number of each partner, and the status of each partner as a general or limited partner.
- (6) If the applicant is a corporation, the name of the corporation, the state or other jurisdiction under which it is organized, the address of its principal office, the address of its principal office in Ohio, its federal identification number, the name and address of its statutory agent in Ohio, and the full name, residence address, date of birth and social security number of each shareholder holding more than two percent (2%) of the applicant's stock. If any shareholder is a corporation or a general or limited partnership, the same information shall be included for such shareholder as required for an applicant that is a corporation or general or limited partnership.
- (7) Authorization for an investigation into the background, including criminal record of the applicant and any person or entity named in the application, including authorization to conduct subsequent investigations to supplement or update the information.
- (8) The applicant's agreement to abide by these regulations and the laws of the United States of America, Ohio, and the Municipality, and any amendments, additions, or reenactments thereof.

(f) Applicants for a permit under this section shall have a continuing duty to promptly supplement application information required by this section in the event that such information changes in any way from what is stated on the application. The failure to comply with such continuing duty within thirty (30) days from the date of such change, by supplementing in writing the application on file with the Municipality shall be grounds for suspension of all permits held by the applicant. (Ord. 1291. Passed 4-19-07.)

789.06 INSPECTION AND INVESTIGATION UPON PERMIT APPLICATION.

(a) Upon receipt of an application for a permit or renewal permit to operate a skill-based amusement machine establishment, the Village Administrator shall notify the State or local authorities to conduct building, health and safety inspections of the specified premises, and to determine compliance or noncompliance with applicable building, health and safety codes. Written reports or inspections shall be prepared by the inspectors and filed with the Village Administrator within thirty (30) days after receipt of an application for permit or renewal permit to operate a skill-based amusement machine establishment and shall become a part of the application permit.

(b) Upon receipt of an application for a permit or renewal permit to operate a skill-based amusement machine establishment, the Village Administrator shall refer the applicant to the Municipal Police Department to be fingerprinted, and to conduct an investigation into the background of the applicant and of other persons or entities named in the application. A written report of the results of the investigation shall be prepared by the investigating officer or agency and filed with the Village Administrator within thirty (30) days after receipt of an application for a permit or renewal permit to operate a skill-based amusement machine establishment and shall become a part of the application for a permit.
(Ord. 1291. Passed 4-19-07.)

789.07 ACTION ON APPLICATION.

(a) The Village Administrator shall act on the application within thirty (30) days after the filing of the reports required in Section 789.05 and 789.06.

- (b) The application shall be denied if any one of the following occurs:
- (1) The application is incomplete, contains false information or fails to comply with these regulations.
 - (2) If the applicant is a limited partnership, corporation or other entity and the applicant is not in good standing in the jurisdiction where organized.
 - (3) The operation of a skill-based amusement machine establishment at the specified premises would violate existing zoning restrictions.
 - (4) The report of the building, health and safety inspections conducted pursuant to Section 789.05(a) reveal any illegal, unsanitary, unsafe or hazardous condition on the premises subject to the permit or renewal permit or any violation of applicable health or safety codes.
 - (5) The applicant for a permit or renewal permit to operate a skill-based amusement machine establishment has failed to cooperate with any required building, health or safety inspection or background investigation.
 - (6) The applicant or any person named in the application for a permit or renewal permit to operate a skill-based amusement machine establishment is under the age of eighteen (18) at the time of the filing of the application.
 - (7) The applicant, any person named in the application for a permit or renewal permit to operate a skill-based amusement machine establishment or any employee of a skill-based amusement machine establishment has been convicted of or pleaded guilty to any offense, including a conspiracy to commit, attempt to commit or complicity in committing or attempting to commit any offense under Ohio R.C. Chapter 2915, Chapter 2925, Chapter 2913, Chapter 2907, Chapter 4301, or Chapter 4339 or a violation of an existing or former law of this or any other state, municipality or of the United States that is substantially equivalent to any of those sections.
 - (8) Any person employed at a licensed skill-based amusement machine establishment has been convicted of a violation of Section 789.99.
 - (9) The applicant has violated these regulations, or aided and abetted any violation of these regulations.
 - (10) If the location of the skill-based amusement machine establishment is within 2,000 feet from the boundaries or a parcel of real estate having situated on it a school, church, library, public park, tavern, bar, liquor establishment or another skill-based amusement machine establishment.

- (11) If the location of the skill-based amusement machine establishment is within 2,000 feet of any residential district.
- (12) If the building, structure or portion thereof already contains another skill-based amusement machine establishment, tavern, bar, or liquor establishment.

(c) If the application is denied, the Village Administrator shall promptly notify the applicant in writing of the order denying the application. If approved the Village Administrator shall promptly issue to the applicant a permit.

(d) A permit or renewal permit to operate a skill-based amusement machine establishment shall contain the address of the permit premises, the name and address of the permit holder, and the date of the issuance and date of expiration of the permit.
(Ord. 1291. Passed 4-19-07.)

789.08 EXPIRATION OF PERMIT.

(a) A permit to operate a skill-based amusement machine establishment is valid for one (1) year, and expires at 11:59 p.m. on the anniversary date of the issuance, unless sooner as provided by these regulations or if revoked pursuant to these regulations.

(b) Application for a renewal permit shall be made at least thirty (30) days before the expiration date and when made less than thirty (30) days before the expiration date, the expiration of the permit shall not be effected.
(Ord. 1291. Passed 4-19-07.)

789.09 DISPLAY OF PERMIT.

The permit to operate a skill-based amusement machine establishment shall be prominently displayed in an area of the establishment open to the public.
(Ord. 1291. Passed 4-19-07.)

789.10 REVOCATION OF PERMIT.

(a) The Municipality may at any time revoke a permit issued pursuant to these regulations, on any of the same grounds listed in Section 789.07(b) for denial of a permit or any other reason existing under these regulations. The Village Administrator shall promptly notify the permittee in writing of the order of revocation.

(b) When a permit is revoked, the revocation shall continue for a period of one (1) year from the date of the notice to the permittee. (Ord. 1291. Passed 4-19-07.)

789.11 INSPECTIONS AND INVESTIGATIONS.

(a) The Municipality may order a building health and safety inspection any time there is reasonable cause to believe that an unsanitary, unsafe or hazardous condition exists on the premises. The Village Administrator shall notify the appropriate authorities or agencies to make such inspections at the designated times. Written reports of the inspections shall be filed with the Village Administrator.

(b) Village personnel or agents may at all reasonable times inspect permit premises to insure compliance with the laws of Ohio and these regulations.

(c) At any time there is reasonable cause to do so, the Municipality may order a background investigation, including the criminal record, of any of the permittees, persons named in the application for a permit or employees of the skill-based amusement machine establishment. A written report of the investigation may be filed with the Village Administrator. (Ord. 1291. Passed 4-19-07.)

789.12 OPERATION REQUIREMENTS.

(a) The skill-based amusement machine establishment shall be closed all day Sunday and further shall not be operated between the hours of 2:00 a.m. and 6:00 a.m. Monday through Saturday.

(b) All parts of the establishment shall, at all times, be maintained in a neat, clean, sanitary and safe condition.

(c) The owner, operator or person in charge of the establishment shall allow Federal, State or local authorities, including law enforcement officers, access to any and all parts of the premises for purposes of making any building, health or safety inspection pursuant to these regulations, and shall cooperate fully in any background investigation.

(d) No person under the age of eighteen (18) shall be employed by the establishment in any capacity, whether full-time or part-time, or with or without remuneration or compensation in any form.

(e) The owner, operator or person in charge of the skill-based amusement machine establishment shall exercise adequate supervision to insure that the employees of the establishment comply at all times with these regulations.

(f) Signs.

- (1) Buildings and structures shall not be painted or surfaced with garish colors or textures or any design that would simulate sign or advertising message.
- (2) Advertisements, signs or any other exhibit depicting skill-based amusement activities shall be placed within the interior of the buildings or premises and shall be arranged or screened to prevent public viewing from outside such building or premises.
- (3) No outdoor loudspeakers or other outdoor sound equipment advertising or directing attention to a skill-based amusement machine establishment is permitted.
- (4) Upon order of the Code Enforcement Officer, graffiti appearing on any exterior surface of a building or premises, when graffiti is within public view, shall be removed and that surface shall be restored within seventy-two (72) hours of notification to the owner or person in charge of the premises.

(g) No person shall operate or cause to be operated a skill-based amusement machine establishment, and recklessly allow the following:

- (1) Admit a person under eighteen (18) years of age to the business premises unless accompanied by an adult or guardian.
- (2) A person under eighteen (18) years of age to remain at the business premises unless accompanied by an adult or guardian.
- (3) A person under eighteen (18) years of age to play a skill-based amusement machine without the specific consent of a parent or guardian, or
- (4) If the interior of the premises is visible from outside the premises, so that any matter that is harmful to minors is visible from outside the premises, the owner or manager of the premises shall install opaque covering over all windows through which persons outside the premises could view inside.
(Ord. 1291. Passed 4-19-07.)

789.13 RULES GOVERNING EMPLOYEE CONDUCT.

No person under the age of eighteen (18) shall accept or continue employment at a skill-based amusement machine establishment, in any capacity, whether full-time or part-time, with or without remuneration or compensation in any form.
(Ord. 1291. Passed 4-19-07.)

789.14 MEASURE OF DISTANCE.

The required minimum distance between any two-skill based amusement machine establishments or to any bar, tavern, or liquor establishment shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of each such business. The distance between any skill-based amusement machine establishment and any school, public park, church, library or residential district shall be measured in a straight line, without regard to intervening structures, from the closest school, public park, church, library or residential district. (Ord. 1291. Passed 4-19-07.)

789.15 RECORDS.

The Village Administrator shall keep a complete record of all documents and proceedings under these regulations, including, without limitation, applications, reports, copies of permits issued, notices, correspondence, board proceedings, resolutions, orders and petitions and any others required by these regulations or otherwise required by law. All documents shall be endorsed by the Village Administrator with the date of filing.
(Ord. 1291. Passed 4-19-07.)

789.16 DEPOSITS AND USE OF FEES.

Fees collected by the Municipality for permits under these regulations shall be deposited in the Village General Fund.
(Ord. 1291. Passed 4-19-07.)

789.17 APPEALS.

Any person adversely affected by an order of the Village Administrator denying or revoking a permit to operate a skill-based amusement machine establishment may appeal from the order of the Village Administrator within ten (10) days of the issuance of the denial or revocation to the Village Council. The Village Council shall hear testimony and arguments on said appeal within thirty (30) days from the filing of the appeal. The Village Council shall render a decision on any appeal within thirty (30) days from the date of the conclusion of the hearing.
(Ord. 1291. Passed 4-19-07.)

789.18 SEVERABILITY CLAUSE.

If any provision, clause, condition and/or portion thereof is determined by a court of competent jurisdiction to be unconstitutional, invalid, and/or unenforceable, for any reason, the same shall not affect in any manner the validity, enforcement and/or constitutionality of any other clause, condition, or portion thereof and the same shall remain in full force and effect.
(Ord. 1291. Passed 4-19-07.)

789.19 REMEDIES AVAILABLE TO VILLAGE SOLICITOR/LEGAL COUNSEL.

The Village Solicitor/Legal Counsel or his designee may institute appropriate legal action, either civil or criminal, as authorized by law, or as may be otherwise available and appropriate either at law or in equity, which may, in the judgment of the Village Solicitor/Legal Counsel or his designee, be necessary for the enforcement of any order or orders issued pursuant to this chapter. Any such suits or proceedings are to be brought in the name of the Municipality.
(Ord. 1291. Passed 4-19-07.)

789.99 PENALTY.

(a) Whoever engages in, conducts or carries on, or permits to be engaged in, conducted or carried on in the Municipality, the operation of a skill-based amusement machine establishment without first having obtained a permit from the Municipality is guilty of a misdemeanor of the first degree.

(b) Whoever violates any other section of these regulations shall be guilty of a misdemeanor of the third degree.
(Ord. 1291. Passed 4-19-07.)