

CHAPTER 741 – ADULT CABARET BUSINESSES

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|----------------|--|---|
| Section 741.01 | Purpose and Intent..... | 1 |
| Section 741.02 | Definitions..... | 2 |
| Section 741.03 | Scope of Regulations..... | 2 |
| Section 741.04 | Permit Required..... | 2 |
| Section 741.05 | Application for Permit..... | 2 |
| Section 741.06 | Inspection and Investigation..... | 4 |
| Section 741.07 | Action on Applications..... | 4 |
| Section 741.08 | Expiration of Permit..... | 5 |
| Section 741.09 | Display of Permit..... | 5 |
| Section 741.10 | Revocation of Permit..... | 5 |
| Section 741.11 | Inspections and Investigations..... | 6 |
| Section 741.12 | Requirements for the Operation of Adult Cabaret Establishment..... | 6 |
| Section 741.13 | Rules Governing Conduct of Employees..... | 7 |
| Section 741.14 | Measure of Distance..... | 7 |
| Section 741.15 | Records..... | 8 |
| Section 741.16 | Deposits and Use of Fees..... | 8 |
| Section 741.17 | Appeals..... | 8 |
| Section 741.18 | Severability Clause..... | 8 |
| Section 741.19 | Remedies Available to Director of Law..... | 8 |
| Section 741.99 | Criminal Violations..... | 8 |

SECTION 741.01 PURPOSE AND INTENT

It is the purpose and intent of this chapter to regulate adult cabarets to promote the health, safety, morals and general welfare of the citizens of the City and to establish reasonable and uniform regulations to prevent any deleterious location and concentration of adult cabarets within the City, thereby reducing or eliminating the adverse secondary effects from such businesses. The provisions of this chapter have neither the purposes nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor affect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended

market. Neither is it the intent nor effect of the chapter to condone or legitimize the distribution of obscene material.

SECTION 741.02 DEFINITIONS

(a) "Adult Cabaret" means a nightclub, bar, restaurant, café, internet café, supper club, lounge, or similar establishment in which person(s) or character(s) appear in a state of nudity. (Ord. 02-2022 eff. 03/09/2022)

(b) "Church" means any church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities.

(c) "Nudity" means the showing of either of the following:

- (1) The human male or female genitals, pubic area, or buttocks with less than a fully opaque covering.
- (2) The female breast with less than a fully opaque covering on part of the nipple.

(d) "Permit" means a permit to operate an adult cabaret establishment, issued pursuant to these regulations.

(e) "Public Park" means public land which has been designated for park or recreational activities including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, open space, wilderness areas, or similar public land within the City which is under the control, operation or management of the City, county or state.

(f) "Residential District" means those areas zoned "Residence District" in the City of North Canton Zoning Ordinance (R-70, R-50, R-2F, RMFA and RMFB).

(g) "Residential Use" means a "dwelling" as defined in the City of North Canton Zoning Ordinance.

(h) "School" means any public or private educational facility including, but not limited to, child day care facilities, nursery schools, preschools, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities. School includes the school ground, but does not include the facilities used primarily for another purpose and only incidentally as a school.

SECTION 741.03 SCOPE OF REGULATIONS

These regulations govern adult cabaret establishments within the City of North Canton and the owners, operators, persons in charge, and employees of such establishments.

SECTION 741.04 PERMIT REQUIRED

(a) No person shall engage in, conduct or carry on, or permit to be engaged in, conducted or carried on in the City of North Canton, the operation of an adult cabaret without first having obtained a permit from the City.

(b) A separate permit is required for each location at which an adult cabaret is operated.

SECTION 741.05 APPLICATION FOR PERMIT

(a) Application for an original or renewal permit shall be in writing on forms prescribed by the City of North Canton and shall be filed with the Superintendent of Permits and Inspection.

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

(c) All applications shall be filed with the Superintendent of Permits and Inspection.

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

- (1) \$300.00 for an initial permit to operate an adult cabaret and in addition thereto, \$20.00 for each background check of the applicant and the employees, conducted by the North Canton Police Department.
- (2) \$150.00 for a renewal permit to operate an adult cabaret.

(e) An application for an initial permit to operate an adult cabaret establishment shall contain the following:

- (1) The address where the adult cabaret establishment is operated or is to be 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 the applicant or any employees applying on behalf of the adult cabaret;
- (5) If the applicant is a partnership or limited partnership, the name of the 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 offices in Ohio; its federal identification number; the name and address, date of birth, and social security number of such 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 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 is required for an applicant that is a corporation or general or limited partnership;
- (7) Authorization for an investigation into the background, including any 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 Ohio, and any amendments, additions, or reenactment 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 said information changes in any way from what is stated on the application. The failure to comply with said continuing duty within thirty (30) days from the date of such change, by supplementing the application on file with the City shall be grounds for suspension of a permit.

SECTION 741.06 INSPECTION AND INVESTIGATION

(a) Upon receipt of an application for a permit or renewal permit to operate an adult cabaret, the Superintendent of Permits and Inspection 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 of inspection shall be prepared by the inspectors and filed with the Superintendent within thirty (30) days after receipt of an application for a permit or renewal permit to operate an adult cabaret, and shall become part of the application for a permit.

(b) Upon receipt of an application for a permit or renewal permit to operate an adult cabaret, the Superintendent shall refer the applicant to the City of North Canton 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 Superintendent within thirty (30) days after receipt of an application for a permit or renewal permit to operate an adult cabaret, and shall become a part of the application for a permit.

SECTION 741.07 ACTION ON APPLICATIONS

(a) The Superintendent shall act on the application within thirty (30) days after the filing of the reports required in Sections 741.05 and 741.06.

- (b) The application will be denied if:
- (1) The application is incomplete, contains any false information or fails to comply with these regulations;
 - (2) If the applicant is a limited partnership, corporation or other entity, the applicant is not in good standing in the jurisdiction where organized;
 - (3) The operation of an adult cabaret establishment at the specified premises would violate existing zoning restrictions;
 - (4) The report of the building, health and safety inspections conducted pursuant to Section 741.06(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 an adult cabaret 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 an adult cabaret is under age eighteen;
- (7) The applicant or any person named in the application for an initial or renewal permit to operate an adult cabaret within the past five years has been convicted of or pleaded guilty to an offense under Ohio Revised Code Chapter 2907 or substantially equivalent offense under a municipal ordinance in Ohio, or under the laws of another state or territory or of the United States, or under a municipal ordinance in any such jurisdiction;
- (8) The Liquor Control Commission has revoked, under Section 4301.25 of the Revised Code, a permit held by any one of the persons named on the application;
- (9) The applicant has violated these regulations, or aided and abetted any violation of these regulations;
- (10) If the location of the adult cabaret is within one thousand feet from the boundaries of a parcel of real estate having situated on it a school, church, library, public park, tavern, bar, or another adult cabaret;
- (11) If the location of the adult cabaret is within one thousand feet from the boundaries of any residential district or residential use;
- (12) If the building, structure, or portion thereof already contains another adult cabaret, a bar or tavern.

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

(d) A permit or renewal permit to operate an adult cabaret establishment shall contain the address of the permit premises, the name and address of the permit holder, and the date of issuance and date of expiration of the permit.

SECTION 741.08 EXPIRATION OF PERMIT

(a) A permit to operate an adult cabaret establishment is valid for one year, and expires on the anniversary of the date of issuance, unless sooner revoked as provided in these regulations.

(b) Application for renewal 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 will not be affected.

SECTION 741.09 DISPLAY OF PERMIT

The permit to operate an adult cabaret establishment shall be prominently displayed in an area of the establishment open to the public.

SECTION 741.10 REVOCATION OF PERMIT

(a) The City may at any time revoke a permit issued pursuant to those regulations, on any of the same grounds listed in Section 741.07(b) for denial of the permit. The Superintendent shall promptly notify the permittee in writing of the order of revocation.

(b) When a permit is revoked, the revocation shall continue for one year.

SECTION 741.11 INSPECTIONS AND INVESTIGATIONS

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

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

(c) At any time there is reasonable cause to do so, the City may order a background investigation, including the criminal record, if any, of the permittee, person named in the application for a permit or employee of a permittee. Written report of the investigation shall be filed with the Superintendent.

SECTION 741.12 REQUIREMENTS FOR THE OPERATION OF ADULT CABARET ESTABLISHMENT

(a) The establishment shall be closed all day Sunday and further, shall not be operated between the hours of 1:00 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 state or local authorities, including law enforcement officers, access to any and all parts of the premises for the purpose of making any building, health or safety inspection pursuant to these regulations, and shall cooperate in any background investigation.

(d) No person under age eighteen 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 establishment shall exercise adequate supervision to insure that the employees of the establishment comply at all times with these regulations and the laws of Ohio.

(f) Signs.

- (1) Exterior painting, buildings and structures shall not be painted or surfaced with garish colors or textures or any design that would simulate a sign or advertising message.
- (2) Advertisements, signs, or any other exhibit depicting adult entertainment activities placed within the interior of buildings or premises shall be arranged or screened to prevent public viewing from outside such buildings or premises.
- (3) No outdoor loudspeakers or other outdoor sound equipment advertising or directing attention to an adult entertainment use is allowed.
- (4) Upon order of the Superintendent, 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 hours of notification to the owner or person in charge of the premises.

(g) No person shall operate or cause to be operated an adult cabaret business, and knowingly or with reasonable cause to know, permit, suffer, or allow:

- (1) Admittance of a person under eighteen (18) years of age to the business premises unless accompanied by a parent or guardian;
- (2) A person under eighteen (18) years of age to remain at the business premises unless accompanied by a parent or guardian;
- (3) A person under eighteen (18) years of age to purchase goods or services at the business premises 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 minors could view any harmful matter and install a privacy curtain at all entrances of the premises through which minors could view any harmful matter.

SECTION 741.13 RULES GOVERNING CONDUCT OF EMPLOYEES

(a) A person under age eighteen (18) shall not accept or continue employment by an adult cabaret establishment, in any capacity, whether full-time or part-time, or with or without remuneration or compensation in any form.

(b) No employee of the establishment, in the performance of his or her duties, shall do any of the following:

- (1) Place his or her hand upon, touch with any part of his or her body, fondle in any manner, or massage the genitals, pubic area, or buttocks of any other person or the breast of any female or, if the employee is a female, of any other female, for the purpose of sexual stimulation.
- (2) Perform, offer, or agree to perform any act that would require the touching of the genitals, pubic area or buttocks of any other person or the breasts of any female or, if the employee is a female, of any other female, for the purpose of sexual stimulation.

- (3) Uncover the genitals, pubic area, or buttocks of any other person or the breast of any female or, if the employee is a female, of any other female.

SECTION 741.14 MEASURE OF DISTANCE

The required minimum distance between any two adult cabaret or to any bar or tavern 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 adult cabaret establishment and any school, public park, church, library, residential district, or residential use shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of the adult cabaret business to the closest property line of school, public park, church, library, residential district, or residential use.

SECTION 741.15 RECORDS

The Superintendent 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 and orders, and petitions. All documents shall be endorsed by the Superintendent with the date of filing.

SECTION 741.16 DEPOSITS AND USE OF FEES

Fees collected by the City for permits under these regulations shall be deposited in the City general fund.

SECTION 741.17 APPEALS

Any persons adversely affected by an order of the Superintendent denying or revoking a permit to Operate an adult cabaret may appeal from the order of the Superintendent to the Board of Zoning Appeals.

SECTION 741.18 SEVERABILITY CLAUSE

If any provision, clause, condition, and/or portions thereof is determined by a court of competent jurisdiction to be unconstitutional, invalid, and/or unenforceable, for any reason, the same shall not effect in any manner the validity, enforcement, and/or constitutionality of any other clause, condition, or portion hereof and the same shall remain in full force and effect.

SECTION 741.19 REMEDIES AVAILABLE TO DIRECTOR OF LAW

The Director of Law or his designee may institute appropriate legal action, either civil or criminal, as authorized herein, or as may be otherwise available and appropriate either at law or in equity, which may, in the judgment of the Director of Law 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 City.

SECTION 741.99 CRIMINAL VIOLATIONS

(a) Whoever engages in, conduct or carry on, or permit to be engaged in, conducted or carried on in the City of North Canton, the operation of an adult cabaret without first having obtained a permit from the City is guilty of a misdemeanor of the first degree.

(b) Whoever violates any of the following is guilty of a misdemeanor of the third degree.

- (1) If the owner or operator of an adult cabaret located in the City knowingly:
 - (A) Refuses to allow appropriate state or local authorities, including police officers, access to the adult cabaret for any building, health or safety inspection, or any other inspection conducted to ensure compliance with the regulations adopted by the City under this Code;
 - (B) Operates during the hours designated as prohibited hours of operation;
 - (C) Employs any person under the age of eighteen;
 - (D) Establishes or operates an adult cabaret within one thousand feet from the boundaries of a parcel of real estate having situated on it a school, church, library, public park, tavern, bar, a "sexually oriented business" or another adult cabaret; or within one thousand feet from the boundaries of any residential district or residential use.
- (2) If an employee of the establishment, in the performance of his or her duties, does any of the following:
 - (A) Places his or her hand upon, touch with any part of his or her body, fondle in any manner, or massage the genitals, pubic area, or buttocks of any other person or the breast of any female or, if the employee is a female, of any other female, for the purpose of sexual stimulation;
 - (B) Performs, offers, or agrees to perform any act that would require the touching of the genitals, pubic area, or buttocks of any other person or the breasts of any female or, if the employee is a female, of any other female, for the purpose of sexual stimulation;
 - (C) Uncovers the genitals, pubic area, or buttocks of any other person or the breast of any females or, if the employee is a female, of any other female.