CITY OF HUBBARD, OHIO
RECORD OF ORDINANCES AND RESOLUTIONS

THE FRED PROCTER CO., CINTI, O.

RESOLUTION NO. .....
ORDINANCE NO. 18-25 PASSED Oct 20 20 25

AN ORDINANCE

AMENDING AND SUPPLEMENTING CHAPTER 745 OF THE CITY OF HUBBARD, OHIO CODIFIED ORDINANCES "ADULT ENTERTAINMENT AND/OR SEXUALLY ORIENTED BUSINESSES OR CLUBS".

WHEREAS, the City Council of the City of Hubbard, Ohio finds it necessary to amend Ordinances from time to time to better protect the citizens of the City of Hubbard. And,

WHEREAS, Chapter 745 of the City of Hubbard, Ohio codified ordinances require amending to better meet changes in society.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Hubbard, Trumbull County, Ohio:

SECTION 1: Chapter 745 of the City of Hubbard, Ohio Codifies Ordinances shall be amended and adopted as written in Attachment Exhibit A, incorporated by reference and as if fully written herein.

SECTION 2: All prior Ordinances or parts thereof in conflict with this Ordinance are hereby repealed.

SECTION 3: All formal actions of the City Council of Hubbard, Ohio relating to the adoption of this Ordinance, and all deliberations of the City Council of Hubbard, Ohio and any of its committees leading to such action, were in meeting open to the public as required by law.

PASSED IN COUNCIL THIS 20TH DAY OF October, 2025.

Michael A Moyer
PRESIDENT OF COUNCIL PRO TEM

ATTEST:

Karrie Brown
CLERK OF COUNCIL

APPROVED:

Benjamin A. Kyle
MAYOR

APPROVAL DATE: 10-20-25

CITY OF HUBBARD, OHIO
RECORD OF ORDINANCES AND RESOLUTIONS

THE FRED PROCTER CO., CINTI, O.

RESOLUTION NO. .....

ORDINANCE NO. 18-25 PASSED Oct 20 20 25

FIRST READING: Oct 6, 25

SECOND READING: Oct. 20, 25

THIRD READING: _____

I hereby certify that the foregoing Ordinance was published in the News of Hubbard on the dates hereinbelow set forth and was posted at the Hubbard City Municipal Building and the Hubbard Police Department on the day hereinbelow set forth.

DATES OF PUBLICATION:

_____ day of _____, 2025

_____ day of _____, 2025

_____ day of _____, 2025

POSTED:

21st day of October, 2025

ADULT ENTERTAINMENT BUSINESSES

EXHIBIT A

CHAPTER 745 Adult Entertainment and/or Sexually Oriented Businesses or Clubs

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745.01 PURPOSE AND INTENT.

It is the purpose and intent of this chapter to regulate adult entertainment and/or sexually oriented businesses or clubs to promote the health, safety, morals, and general welfare of the citizens of the city, to preserve property values, and to establish reasonable and uniform regulations to prevent any deleterious location and concentration of adult entertainment and/or sexually oriented businesses or clubs within the city, thereby reducing or eliminating the adverse secondary effects from such adult entertainment and/or sexually oriented businesses or clubs. The provision of this chapter has neither the purpose 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 or effect of this chapter to restrict or deny access by the distributors and exhibitors of adult entertainment and/or sexually oriented entertainment to their intended market. Neither is it the intent nor effect of the ordinance to condone or legitimize the distribution of obscene material.

745.02 DEFINITIONS.

For the purposes of this division, certain terms and words are defined as follows:

(a) "Adult Entertainment and/or Sexually Oriented Business or Club" is a business or club defined as follows:

(1) "Adult Arcade" means an establishment where, for any form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other image producing machines, for viewing for five or fewer persons each, are regularly used to show films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

(2) "Adult Bookstore" means a commercial establishment which derives ten percent or more of its gross income from the sale, rental of, or utilizes ten percent or more of its retail selling area for the display of any of the following:

A. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas";

B. An establishment may have other principal business purposes that do not involve the offering for sale rental or viewing of materials depicting or describing "specified sexual activities" or "specified anatomical areas" and still categorized as adult bookstore. Such other business purposes will not serve to exempt such establishments from being categorized as an adult bookstore, so long as one of its principal business purposes is offering for sale or rental, for some form of consideration, the specified materials which depict or describe "specified anatomical areas" or "specified sexual activities.

(3) "Adult Cabaret" means a nightclub, bar, restaurant, "bottle club", "juice bar", club or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features:

A. Persons who appear nude or in a state of nudity or in a semi-nudity;

B. Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or

C. Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

(4) "Adult Motel" means a motel, hotel, or similar commercial establishment which:

A. Offers public accommodations, for any form of consideration, which provide patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television; or

B. Offers a sleeping room for rent for a period of time less than ten hours; or

C. Allows a tenant or occupant to sub-rent the sleeping room for a time period of less than ten hours.

(5) "Adult Novelty Store" means a commercial establishment which derives ten percent or more of its gross income from the sale, rental of, or utilizes ten percent or more of its retail selling area for any form of consideration, instruments, devices, or paraphernalia which are designed for use, or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.

(6) "Adult Video Store" means a commercial establishment which derives ten percent or more of its gross income from the sale, rental of, or utilizes ten percent or more of its retail selling area for any one of the following:

A. Films, motion pictures, video cassettes, slides, compact discs, and/or computer generation or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or

B. An establishment may have other principal business purposes that do not involve the offering for sale rental or viewing of materials depicting or describing "specified sexual activities" or "specified anatomical areas", and still categorized as an adult video store. Such other business purposes will not serve to exempt such establishments from being categorized as an adult video store, so long as one of its principal business purposes is offering for sale or rental, for some form of consideration, the specified materials which depict or describe "specified anatomical areas" or "specified sexual activities."

(8) "Adult Theater" means a theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features persons who appear in a state of nudity or live performances which are characterized by exposure of "specified anatomical areas" or by "specified sexual activities".

(9) "Club" means a voluntary, incorporated or unincorporated, public or private association of persons for common purposes of a social, literary, investment, political nature, or the like, which membership carries exclusive use of club premises and club privileges.

(10) "Escort" means a person who, for any form of consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to publicly or privately model lingerie or to publicly or privately perform a striptease for another person.

(11) "Escort Agency" means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

(12) "Massage Parlor" means any place where, for any form of consideration or gratuity, massage, or use any method on, or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical, electrical or magnetic apparatus or appliance with or without any such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments or other similar preparations commonly used in this practice, or any other treatment manipulation of the human body which occurs as part of or in connection with unspecified sexual activities", or non-therapeutic massage, or where any person providing such treatment, manipulation, or service related thereto. exposes his or her "specified anatomical areas". Any person providing such treatment, manipulation or service related thereto, must be licensed by the State of Ohio. The definition of massage parlor for purposes of adult entertainment and/or sexually oriented businesses or clubs shall not include the practice of massage in any licensed hospital, nursing home or public health center, nor by a licensed hospital, nor by a licensed physician, surgeon, chiropractor

or osteopath, nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, nor by trainers for any amateur, semiprofessional or professional athlete or athletic team or school athletic program.

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

(1) Hospitals, nursing homes and public health centers;

(2) A person licensed or registered by the State of Ohio Medical Board while performing his/her licensed or registered profession;

(3) A person holding a certificate to practice the healing arts under the laws of the State of Ohio;

(4) A licensed cosmetologist, registered barber, registered barber apprentice, licensed chiropractor, licensed podiatrist, licensed nurse, or any other licensed health professional;

(5) A person working under the direct supervision of individuals or establishments mentioned in this subsection (c) while performing his/her licensed or registered profession.

(13) "Semi-nude Model Studio" means any place where a person regularly appears in a state of nudity or displays "specified anatomical areas" and is provided money or any form of consideration for the purpose of being observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.

(14) "Sexual Encounter Establishment" means a business or commercial establishment or club that as one of its primary business purposes offers, for any form of consideration, a place where two or more persons may congregate, associate, or consort for the purpose of "specified sexual activities" or the exposure of "specified anatomical areas" or activities when one or more of the persons is in a state of nudity or semi-nudity. The definition of adult entertainment and/or sexually oriented businesses or clubs shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in a medically approved and recognized sexual therapy.

(b) "Employee" means a person who works or performs in and/or for an adult entertainment business and/or sexually oriented business or club, regardless of whether or not said person is paid a salary, wage or other compensation by the operator of said business or club.

(c) "Establishment" means and includes any of the following:

(1) The opening or commencement of any such business or club as a new business or club;

(2) The conversion of an existing business or club, whether or not an adult entertainment and/or sexually oriented business or club, to any of the adult entertainment and/or sexually oriented businesses or clubs defined in this chapter;

(3) The addition of any of the adult entertainment and/or sexually oriented businesses or clubs defined in this chapter to any other existing adult entertainment and/or sexually oriented business or club; or

(4) The relocation of any such adult entertainment and/or sexually oriented business or club.

(d) "Minor' means any person under eighteen years of age.

(e) "Nudity or State of Nudity" means:

(1) The showing or representation of human male or female genitals, pubic area or buttocks with less than a full, opaque covering; or

(2) A female breast with less than full, opaque covering of any portion thereof below the top of the nipple or covered male genitals in a discernibly turgid state.

(f) "Operator" means and includes the owner, permit holder, custodian, manager or person in charge of any permitted or licensed premises.

(g) "Permitted or Licensed Premises" means any promises that requires a license and/or permit and that is classified as an adult entertainment and/or sexually oriented business or club.

(h) "Permittee and/or Licensee" means a person in whose name a permit and/or license to operate an adult entertainment and/or sexually oriented business or club has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.

(i) "Person" means an individual, proprietorship, partnership, corporation, association, club, or other legal entity.

(j) "Public Building" means any building owned, leased or held by the United States, the state, the county, the city, any special district, school district, or any other agency or political subdivision of the state or the United States, which building is used for governmental purposes.

(k) "Public Park" or "Recreation Area", means public land which has been designated for park or recreation 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.

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

(m) "Residential District or Use" means a single, family, duplex, townhouse, multiple family, or mobile park or subdivision and campground or residential care facility as defined in the Planning and Zoning Code.

(n) "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 grounds, but does not include the facilities used primarily for another purpose and only incidentally as a school.

(o) "Semi-Nude" means a state of dress in which clothing covers no more than the genitals, pubic regions, and areolae of the female breast, as well as portions of the body covered by supporting straps or devices.

(p) "Sexually Oriented Business and/or Adult Entertainment or Club" means an adult arcade, adult bookstore, adult novelty shop, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, massage parlor, sexual encounter establishment, escort agency or semi-nude model studio patronized by any person over the age of eighteen.

(q) "Specified Anatomical Areas" as used in this division means and includes 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; or

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(r) "Specified Sexual Activities", as used in this division, means and includes any of the following:

(1) The fondling or other intentional touching of human genitals, pubic region, buttocks, anus, or female breasts;

(2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;

(3) Masturbation, actual or simulated; or

(4) Excretory functions as part of or in connection with any of the activities set forth in subsection (1) through (3) of this division.

(s) "Substantial Enlargement of an Adult Entertainment and/or Sexually Oriented Business or Club" means increase in the floor areas occupied by the business or club by more than 10%, as the floor areas exist on June 30, 2025.

(t) "Transfer of Ownership or Control of an Adult Entertainment and/or Sexually Oriented Business or Club" means and includes any of the following:

(1) The sale, lease or sublease, or assignment of the business or club;

(2) The transfer of securities which constitute a controlling interest in the business or club, whether by sale, exchange or similar means; or

(3) The establishment of a trust, gift or other similar legal device which transfers ownership or control of the business or club, except for transfer by bequest or other operation of law upon the death of a person possessing the ownership or control.

745.03 ESTABLISHMENT AND CLASSIFICATION OF BUSINESSES OR CLUBS REGULATED.

The establishment of an adult entertainment and/or sexually oriented business or club shall be permitted only in the General Business Zoning Classification Districts, and shall be subject to the following restrictions. No person shall cause or permit the establishment of any of the following adult entertainment and/or sexually oriented businesses or clubs, as defined above, within five hundred (500) feet radius of another such business or club measured from the centerline of the front door of the establishment or within five hundred (500) feet radius of any building or use referred to in Section 745.02(j), (k), (l), (m), (n) measured from the centerline of the front door of the establishment, and are classified as follows:

(a) Adult arcade;

(b) Adult bookstore;

(c) Adult cabaret;

(d) Adult motel;

(e) Adult motion picture theater;

(f) Adult novelty store;

(g) Adult theater;

(h) Adult video store;

(i) Massage parlor;

(j) Sexual encounter establishment;

(k) Escort agency;

(l) Semi-nude model studio; or

(m) Any business establishment or club, regardless of the title or classification, that can be identified as an adult entertainment and/or sexually oriented business or club pursuant to this chapter.

745.04 MEASUREMENT OF DISTANCE.

(a) As regarding Section 745.03(a), distance between any two (2) adult entertainment and/or sexually oriented business or club shall be measured by a five hundred (500) feet radius without regard to intervening structures, measured from the centerline of the front door of each business or club.

(b) The distance between any adult entertainment and/or sexually oriented business or club and any building or use referred to in Section 745.02(j), (k), (l), (m), (n) shall be measured from the outermost wall of the structure or proposed structure of the sexually oriented business that is nearest to the property line of any building or use referred to in Section 745.02(j), (k), (l), (m), and (n), along the shortest possible course, without regard to intervening structures or objects, regardless of any customary or common route or path of travel.

745.05 LOCATION OF ADULT ENTERTAINMENT AND/OR SEXUALLY ORIENTED BUSINESSES OR CLUBS.

The City of Hubbard's Zoning Ordinance hereby requires that adult entertainment and/or sexually oriented businesses or clubs shall be permitted only as provided in Section 745.03 in which use is listed as permissible. Permits for adult entertainment and/or sexually oriented businesses or clubs shall be required and governed by the procedures and policies specified in Section 745.08 et seq. In addition, any adult entertainment and/or sexually oriented business or club shall be subject to the following provisions:

(a) Whoever violates any provision of this chapter, for which no other penalty is provided, is guilty of one (1) of the following:

(1) If the offender has not been previously convicted of or pleaded guilty to a violation of this chapter for which no other penalty is provided or of any provision of the Ohio Revised Code or of a municipal ordinance that is substantially similar to any such provision of this chapter, unless otherwise specified, a misdemeanor of the fourth degree;

(2) If, within one (1) year of the offense, the offender previously has been convicted of or pleaded guilty to one (1) violation of any provision of this chapter, unless otherwise specified, a misdemeanor of the third degree;

(3) If, within one (1) year of the offense, the offender previously has been convicted of or pleaded guilty to two (2) or more violations of any provision of this chapter, unless otherwise specified, a misdemeanor of the first degree.

(b) No person shall operate or cause to be operated an adult entertainment and/or sexually oriented business or club except as provided in Section 745.03.

(c) No person shall operate or cause to be operated an adult entertainment and/or sexually oriented business or club within five hundred (500) feet measured from the

outermost wall of the structure of the sexually oriented business that is nearest to the property line of any building or use referred to in Section 745.02(j), (k), (l), (m), and (n), along the shortest possible course, without regard to intervening structures or objects, regardless of any customary or common route or path of travel.

(d) No person shall operate or cause to be operated an adult entertainment and/or sexually oriented business or club within a five hundred (500) feet radius measured from the centerline of the front door of the establishment to the centerline of the front door of another such business or club; which will include any adult arcade, adult books store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, massage parlor or any sexual encounter establishment, except as provided in Section 745.03(b).

(e) No person shall cause or permit the operation, establishment, or maintenance of more than one (1) adult entertainment and/or sexually oriented business or club within the same building, structure, or portion thereof, except as provided in Section 745.03(b), or causes the substantial enlargement of any adult entertainment and/or sexually oriented business or club in any building, structure or portion thereof containing another adult entertainment and/or sexually oriented business or club.

(f) It is a defense to prosecution under this section if a person appearing in a state of nudity did so in a modeling class operated:

(1) By a proprietary school, licensed by the State of Ohio: a college, junior college, or university supported entirely or partly by taxation;

(2) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

(3) In a structure:

A. Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and

B. Where, in order to participate in a class a student must enroll at least three (3) days in advance of the class; and

C. Where no more than one (1) semi-nude model is on the premises at any one (1) time.

745.06 REGULATIONS GOVERNING EXISTING ADULT ENTERTAINMENT AND/OR SEXUALLY ORIENTED BUSINESSES OR CLUBS.

(a) Any adult entertainment and/or sexually oriented business or club lawfully operating on the effective date of Chapter 745, or subject amendment thereto, that is in violation of Sections 745.03 and 745.05, shall be deemed an existing, non-conforming use. An existing, non-conforming use is governed by Chapter 12 of the Planning and Zoning Code of the City of Hubbard. Such existing, nonconforming uses shall not be increased,

enlarged, extended or altered except that the use may be changed to a conforming use. If two (2) or more sexually oriented businesses or clubs are within a five hundred (500) feet radius measured from the centerline of the front door of the establishments of one another and otherwise in a permissible location, the adult entertainment and/or sexually oriented business or club which was first established and continually operated at the particular location is the conforming use and the later established business(es) is non-conforming, except as provided in Section 745.03(b).

(b) An adult entertainment and/or sexually oriented business or club lawfully operating as conforming use is not rendered a non-conforming use by the location, subsequent to the grant or renewal of an adult entertainment and/or sexually oriented business or club permit and/or license of any building or use referred to in Section 745.02(j), (k), (l), (m), (n) within five hundred (500) feet measured from the outermost wall of the structure of the sexually oriented business that is nearest to the property line of any building or use referred to in Section 745.02(j), (k), (l), (m), and (n), along the shortest possible course, without regard to intervening structures or objects, regardless of any customary or common route or path of travel. This provision applies only to the renewal of a valid permit and/or license and does not apply when an application for a permit and/or license is submitted after a permit and/or license has expired or has been revoked.

(c) Any establishment subject to the provision of this section shall apply for the permit provided for by Section 745.10 within thirty (30) days of the effective date of this chapter or any amendment subsequent thereto. Any establishment, existing prior to the effective date of this chapter, shall comply with the regulations pertaining to Sections 745.20, 745.22, and 745.32, within sixty (60) days of the effective date of this chapter, and all other applicable permit regulations within thirty (30) days of the effective date of this chapter.

745.07 INJUNCTION.

In addition to the criminal penalties outlined in Section 745.05, a person who operates or causes to be operated an adult entertainment and/or sexually oriented business or club without having a valid permit due to location restrictions is subject to a suit for injunction as well as prosecution for the criminal violation. Such violation shall be punishable by a fine of $1,000.00 and/or 30 days imprisonment, and if an injunction must be sought, attorneys fees and costs will be assessed at the discretion of the Court against the adult entertainment and/or sexually oriented business or club,

745.08 ADULT ENTERTAINMENT AND/OR SEXUALLY ORIENTED BUSINESS PERMIT: PURPOSE AND INTENT.

It is the purpose of this chapter to regulate adult entertainment and/or sexually oriented business or club to promote the health, safety, morals and general welfare of the citizens of the city, to preserve property values and to establish reasonable and uniform regulations to prevent deleterious effects of adult entertainment and/or sexually oriented business or

club within the city. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction, on the content of any communicative materials, including adult entertainment and/or sexually oriented materials. Similarly, it is not the intent or effect of this chapter to restrict or to deny access by adults to adult entertainment and/or sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of adult entertainment and/or sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter in any way to condone or legitimize the distribution of materials which are obscene or harmful to minors.

745.09 PERMIT REQUIRED.

(a) No adult entertainment and/or sexually oriented business or club shall be permitted to operate without a valid adult entertainment and/or sexually oriented business or club permit issued by the City for the particular type of business or club. No person shall operate or cause to be operated an adult entertainment and/or sexually oriented business or club without said permit. Whoever violates this section shall be subject to the criminal penalties outlined in Section 745.05 and an injunction under Section 745.07.

(b) The Mayor is responsible for granting, denying, revoking, renewing, suspending, and canceling sexually oriented business or club permits for a proposed or existing sexually oriented business or club pursuant to Sections 745.11, 745.14, 745.15, and 745.16. The Mayor is also responsible for ascertaining whether a proposed adult entertainment and/or sexually oriented business or club for which a permit is being applied for complies with all location requirements of Sections 745.03, 745.05 and 745.06, which includes any building or use referred to in Section 745.02(j), (k), (l), (m), (n), and all applicable zoning laws and/or regulations now in effect or as amended or enacted subsequent to the effective date of this chapter in the City and the City Comprehensive Plan.

(c) An application for a permit must be made on a form provided by the City of Hubbard Planning and Zoning Department. Any person desiring to operate an adult entertainment and/or sexually oriented business or club shall file with the City of Hubbard Planning and Zoning Department an original and two (2) copies of a sworn permit application.

(d) The completed application shall contain the following information and shall be accompanied by the following documents:

(1) If the applicant is:

A. An individual, the individual shall state his/her legal name and any alias and submit satisfactory proof that he/she is eighteen (18) years of age;

B. A partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any;

C. A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of Ohio, the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.

(2) If the applicant intends to operate the adult entertainment and/or sexually oriented business or club under a name other than that of the applicant; he must state:

A. The adult entertainment and/or sexually oriented business or club's fictitious name; and

B. Submit the required registration documents.

(3) Whether the applicant or any of the individuals listed pursuant to Section 745.09 has, within the two (2) or five (5) year period as specified in Section 745.11 immediately preceding the date of the application, been convicted of a specified criminal act, and, if so, the specified criminal act involved, the date of conviction and the place of conviction.

(4) Whether the applicant or any of the other individuals pursuant to Section 745.09 and or licenses of this chapter has had a previous permit under ordinance or other similar sexually oriented business ordinances from another city or county denied, suspended or revoked, including the name and location of the adult entertainment and/or sexually oriented business or club for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or any other individuals listed pursuant to Section 745.09 has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is permitted under this chapter whose permit has previously been denied, suspended or revoked, including the name and location of the adult entertainment and/or sexually oriented business or club for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.

(5) Whether the applicant or any other individual listed pursuant to Section 745.09 holds any other permits and/or licenses under this chapter or other similar adult entertainment and/or sexually oriented business ordinance from another city or county and, if so, the names and locations of such other permitted businesses or clubs.

(6) The single classification of permit for which the applicant is filing.

(7) The location of the proposed adult entertainment and/or sexually oriented business or club, including a legal description of the property, street address and telephone number(s), if any.

(8) The applicant's mailing address and residential address.

(9) A photograph taken within thirty (30) days of the date of application of the applicant(s).

(10) The applicant's driver's license number, social security number, and or his/her state or federally issued tax identification number.

(11) The application shall be sworn to be true and correct by the applicant.

(12) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business or club. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

(13) The applicant shall bear the cost of a current certificate and straight-line drawing prepared within thirty (30) days prior to application by an Ohio registered land surveyor depicting the property lines and the structures containing any established existing uses regulated by this chapter within five hundred (500) feet of the property to be certified; the property lines of any building or use referred to in Section 745.02(j), (k), (l), (m), (n) within a five hundred (500) feet radius from the outermost wall of the structure or proposed structure of the sexually oriented business to the property line, along the shortest possible course, without regard to intervening structures or objects, regardless of any customary or common route or path of travel any residentially zoned area or residential property.

(14) If a person who wishes to operate an adult entertainment and/or sexually oriented business or club is an individual, he/she must sign the application for a permit as applicant. If a person who wishes to operate an adult entertainment and/or sexually oriented business or club is other than an individual, each individual who has a ten (10) percent or greater interest in the business or club must sign the application for a permit as applicant. If a corporation is listed as owner of an adult entertainment and/or sexually oriented business or club or as the entity which wishes to operate such business or club, each individual having a ten (10) percent or greater interest in the corporation must sign the application for a permit as applicant.

(15) If a person wishes to operate an adult entertainment and/or sexually oriented business or club which shall exhibit on the premises films, video cassettes, or other video reproductions that depict specified sexual activities or specified anatomical areas, then said person shall comply with the application requirements stated at Section 745.20 et seq.

(g) 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 Mayor, shall be grounds for suspension of a permit.

(h) In the event that the Mayor determines or learns at any time that the applicant has improperly completed the application for a proposed adult entertainment and/or sexually oriented business or club, the Mayor shall promptly notify the applicant for such fact and allow the applicant ten (10) days to properly complete the application. (The time period for granting or denying a permit shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the application.)

(i) The applicant must be qualified according to the provisions of this chapter and the premises must be inspected and found to be in compliance with health, fire and building codes and laws.

(j) The applicant shall be required to pay a non-refundable application fee of one thousand dollars ($1,000.00) at the time of filing an application under this section.

(k) Prior to obtaining any permit or license to operate an adult entertainment and/or sexually oriented business or club defined in this chapter, and as part of any application for a permit under this section, the applicant shall obtain from the City or its designee a certification that the proposed location of such business or club complies with the location requirements of Sections 745.02(j), (k), (l), (m), (n), 745.05 and 745.06.

(l) The fact that a person possesses other types of state or city permits and/or licenses does not exempt him/her from the requirements of obtaining an adult entertainment and/or sexually oriented business or club permit.

(m) By applying for a permit under this chapter, the applicant shall be deemed to have consented to the provisions of this chapter and to the exercise by the Mayor, the Hubbard City Police Department and all other City agencies charged with enforcing the laws, ordinances and codes applicable in the City of their respective responsibilities under this chapter.

(n) The applicant shall be required to provide the City with the names of any and all employees who are required to be licensed pursuant to Section 745.19. This shall be a continuing requirement even after a permit is granted or renewed.

745.10 INVESTIGATION AND APPLICATION.

(a) Upon receipt of an application properly filed with the City of Hubbard Planning and Zoning Department and upon payment of the $1,000.00 nonrefundable application fee, the City of Hubbard Planning and Zoning Department shall immediately stamp the application as received and shall immediately thereafter send photocopies of the application to the Hubbard City Police Department and any other city, township, county or state agency responsible for the health, fire and building codes and laws. Each department or agency shall promptly conduct an investigation of the applicant, application and the proposed sexually oriented business or club in accordance with its responsibilities under law and as set forth in this chapter and the laws of the State of Ohio. Said investigation shall be completed within 45 days of receipt of the application by the City of Hubbard Planning and Zoning Department. The Hubbard City Police Department shall only be required to certify the NCIC records request check mentioned at Section 745.11. The Mayor will grant, deny, revoke, renew, suspend and cancel an adult entertainment and/or sexually oriented business or club permit for a proposed and existing adult entertainment and/or sexually oriented business and club pursuant to Sections 745.11, 745.14, 745.15, 745.16.

(b) The Mayor shall disapprove an application if it finds that the proposed adult entertainment and/or sexually oriented business or club will be in violation of any

provision of any statute, code, ordinance, regulation or other law in effect in the city, and the laws of the State of Ohio.

745.11 ISSUANCE OF PERMIT.

(a) Subsequent to payment of the annual permit fee, the Mayor shall grant or deny an application for a permit within 60 days from the date of its proper filing. Upon the expiration of the 60th day, unless the applicant requests and is granted a reasonable extension of time, the applicant shall be permitted to begin operating the business or club for which the permit is sought, unless and until the Mayor notifies the applicant of the denial of the application and states the reason(s) for that denial.

(b) Grant of Application for Permit.

(1) The Mayor shall grant the application unless one or more of the criteria set forth in division (c) below is present.

(2) The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the adult entertainment and/or sexually oriented business or club. The permit shall indicate that the adult entertainment and/or sexually oriented business or club whether permitted or not may be subject to prohibitions against Public Nudity and Indecency pursuant to the United States Supreme Court decision in Barnes v. Glen Theater, Inc., 501 U.S. 560 (1991). The permit shall be posted in a conspicuous place at or near the entrance to the adult entertainment and/or sexually oriented business or club so that it can be read easily at any time.

(c) Denial of Application for Permit.

(1) The Mayor shall deny the application for any of the following reasons:

A. An applicant is under eighteen years of age;

B. An applicant or applicant's spouse is overdue on his/her payment to the city of taxes, fees, fines, or penalties assessed against him/her or imposed upon him/her in relation to an adult entertainment and/or sexually oriented business or club;

C. An applicant is residing with a person who has been denied a permit by the city to operate an adult entertainment and/or sexually oriented business or club within the preceding 12 months, or residing with a person whose permit to operate an adult entertainment and/or sexually oriented business or club has been revoked within the preceding 12 months;

D. An applicant has failed to provide information required by this section or permit application for the issuance of the permit or has falsely answered a question or request for information on the application form;

E. The premises to be used for the adult entertainment and/or sexually oriented business or club has not been approved as being in compliance with health, fire and

building codes by the department or agency responsible under law for investigating said compliance;

F. The application or permit fees required by this chapter have not been paid;

G. An applicant of the proposed business or club is in violation of, or is not in compliance with, any of the provisions of this chapter including but not limited to the zoning location requirements for an adult entertainment and/or sexually oriented business or club under Sections 745.02 (j), (k), (l), (m), (n), 745.03, 745.05 and 745.06;

H. The granting of the application would violate a statute, ordinance, or court order;

I. The applicant has a permit under this chapter which has been suspended or revoked;

J. An applicant has been convicted of a "specified criminal" act for which:

1. Less than two years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a misdemeanor offense for the "specified criminal" acts which are sexual crimes against children, sexual abuse, rape or crimes connected with another adult entertainment and/or sexually oriented business or club including but not limited to distribution of materials which are obscene and harmful to minors, prostitution, pandering, or tax violations;

2. Less than five years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a felony offense; for the "specified criminal" acts which are sexual crimes against children, sexual abuse, rape or crimes connected with another adult entertainment and/or sexually oriented business or club including but not limited to distribution of materials which are obscene and harmful to minors, prostitution, pandering, or tax violations;

3. Less than five years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the convictions are of two or more misdemeanor offenses for "specified criminal" acts which are sexual crimes against children, sexual abuse, rape or crimes connected with another adult entertainment and/or sexually oriented business or club including but not limited to distribution of materials which are obscene and harmful to minors, prostitution, pandering, or tax violations; offense occurring within any 24 month period;

4. The fact that a conviction is being appealed shall have no effect on disqualification of the applicant;

5. An applicant who has been convicted of the above "specified criminal" acts may qualify for an adult entertainment and/or sexually oriented business or club permit only when the time period required above in Section 745.11(j) has elapsed.

K. An applicant knowingly has in his or her employ, an employee who does not have a valid license as required in Section 745.19 of this chapter.

(2) If the Mayor denies the application, the Mayor shall notify the applicant of the denial and state the reason(s) for the denial.

(3) If a person applies for a permit for a particular location within a period of 12 months from the date of a denial of a previous application for a permit at the location, and there has not been an intervening change in the circumstances which could reasonably be expected to lead to a different decision regarding the former reasons for denial, the application shall be denied.

745.12 ANNUAL PERMIT FEE.

The annual fee for an adult entertainment and/or sexually oriented business or club permit is $1,000.00, which must be paid prior to the operation of the adult entertainment and/or sexually oriented business or club.

745.13 INSPECTION.

(a) An applicant or permittee shall permit representatives of the Code Enforcement Office, the County Health Department / Board of Health and the Fire Department to inspect the premises of an adult entertainment and/or sexually oriented business or club for the purpose of insuring compliance with the law, at any time it is occupied or open for business, and for the safety of patrons and employees. The current facility inspection fee established by the cost methodology per OAC 3701-36-14 of the Trumbull County Health Department shall be paid by the City of Hubbard.

(b) No person shall operate an adult entertainment and/or sexually oriented business or club regardless of whether or not a permit has been issued for said business under this chapter, or an agent or employee refuse to permit such lawful inspection of the premises at any time that it is occupied or open for business. Such action shall be cause for the Mayor to suspend the permit for 30 days or until such time that inspection has been permitted.

(c) Whoever violates this provision, for which no other penalty is provided, is guilty of a misdemeanor of the first degree, subject to a $1,000.00 fine.

745.14 EXPIRATION OF PERMIT.

(a) Each permit shall expire one year from the date of issuance and may be renewed only by making application for issuance of a permit the same as provided in Section 745.11 (the filing of original survey shall be sufficient for renewal permits) of this chapter. Application for renewal permit shall be made at least 30 days before the expiration date of the current permit. The renewal permit is to be issued within 30 days of application for a renewal permit. If the application for renewal is made less than thirty 30 days of expiration of the current permit, a renewal permit is to be issued within 30 days of application date.

(b) When the Mayor denies renewal of the permit, the applicant shall not be issued a permit under this chapter for one year from the date of denial. If the city or its designee finds that the basis for denial of the renewal permit has been corrected, the applicant shall be granted a permit.

745.15 SUSPENSION OF PERMIT.

(a) The Mayor shall suspend a permit for a period not to exceed 30 days if the Mayor determines that a permittee, or an employee of a permittee, has:

(1) Violated or is not in compliance with any section of this chapter; or

(2) Been under the influence of alcoholic beverages while working in the adult entertainment and/or sexually oriented business or club premises; or

(3) Refused to allow an inspection of the adult entertainment and/or sexually oriented business or club premises as authorized by this chapter; or

(4) Knowingly permitted gambling by any person on the adult entertainment and/or sexually oriented business or club premises; or

(5) Operated the adult entertainment and/or sexually oriented business or club in violation of a building, fire, health, or zoning statute, code, ordinance or regulation, whether federal, state, or local, said determination being based on investigation by the division, department or agency charged with enforcing said rules or laws. In the event of such statute, code, ordinance or regulation violation, the city or its designee shall promptly notify the permittee of the violation and shall allow the permittee a seven day period in which to correct the violation. If the permittee fails to correct the violation before the expiration of the seven day period, the city or its designee, shall forthwith suspend the permit and shall notify the permittee of the suspension;

(6) Engaged in permit transfer contrary to Sections 745.18 of this chapter. In the event that the city or its designee, suspends a permit on the ground that a permittee engaged in a permit transfer contrary to Section 745.18 of this chapter, the Mayor shall forthwith notify the permittee of the suspension. The suspension shall remain in effect until the applicable section of this chapter has been satisfied;

(7) Operated the adult entertainment and/or sexually oriented business or club in violation of the hours operation Section 745.23;

(8) Knowingly employs a person who does not have a valid license as required in Section 745.19 of this chapter;

(b) The suspension shall remain in effect until the violation of the statute, code, ordinance or regulation in question has been corrected.

(c) If permittee fails to suspend operation of the adult entertainment and/or sexually oriented business or club upon notice of permit suspension, permittee agrees to pay to the

city, $500.00 for each day permittee operates the business or club under a suspended permit.

745.16 REVOCATION OF PERMIT.

(a) The Mayor shall revoke a permit if a cause of suspension in Section 745.15 of this chapter occurs and the permit has been suspended within the preceding 12 months.

(b) The Mayor shall revoke a permit upon determining that:

(1) A permittee gave false or misleading information in the material submitted during the application process that tended to enhance the applicant's opportunity for obtaining a permit; or

(2) A permittee or an employee has knowingly allowed possession, use or sale of controlled substances in or on the premises; or

(3) A permittee or an employee has knowingly allowed prostitution on the premises; or

(4) A permittee or an employee knowingly operated the adult entertainment and/or sexually oriented business or club during a period of time when the permittee's permit was suspended; or

(5) A permittee has been convicted of a "specified criminal" act for which the time period required in Section 745.11 of this chapter has not elapsed; or

(6) On two or more occasions within a 12 month period, a person or persons committed an offense, occurring in or on the permitted premises, constituting a "specified criminal" act for which a conviction has been obtained, and the person or persons were employees of the adult entertainment and/or sexually oriented business or club at the time the offenses Were committed. The fact that a conviction is being appealed shall have no effect on the revocation of the permit; or

(7) A permittee is convicted of tax violations for any taxes or fees related to adult entertainment and/or sexually oriented business or club; or

(8) A permittee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or any other specified sexual activities to occur in or on the permitted premises; or

(9) A permittee has been operating more than one adult entertainment and/or sexually oriented business or club under a single roof except as provided in Section 745.03(b).

(c) When the Mayor revokes a permit, the revocation shall continue for one year and the permittee shall not be issued an adult entertainment and/or sexually oriented business or club permit for one year from the date revocation became effective. If, subsequent to revocation, the Mayor finds that the basis for revocation under Section 745.16 of this chapter has been corrected, the applicant shall be granted a permit if at least 90 days have

elapsed since the date revocation became effective. If the permit was revoked under Section 745.16 of this chapter, an applicant may not be granted another permit until the number of years required under Section 745.16 have elapsed.

(d) Permittee agrees to pay the city $1000.00 for each day permittee operates businesses or club under a revoked permit.

745.17 JUDICIAL REVIEW OR PERMIT DENIAL, SUSPENSION OR REVOCATION.

After denial of an application, or denial of a renewal of an application, or suspension or revocation of a permit, the applicant or permittee may seek prompt review of such administrative action of the City Council. City Council shall affirm or overrule the denial, suspension or revocation within 30 days of application by permittee. If Council is on recess during August, the 30 days shall be tolled until Council returns for session. If the denial, suspension or revocation is affirmed upon review, the administrative action may be reviewed by a Court.

745.18 TRANSFER OF PERMIT.

(a) A permittee shall not operate an adult entertainment and/or sexually oriented business or club under the authority of a permit at any place other than the address designated in the application for permit.

(b) A permittee shall not transfer a permit to another person unless and until the following requirements are met:

(1) The new permittee obtains an amendment to the permit from the Mayor which amendment may be obtained only if an application is completed and properly filed with the Mayor setting forth the information called for under Section 745.11 of this chapter in the application; and

(2) Pays a transfer fee of 20% of the annual permit fee set by this chapter.

(c) No permit shall be transferred when the Mayor has notified the permittee that suspension or revocation proceedings have been or will be brought against the permittee.

(d) A permittee shall not transfer his permit to another location.

(e) Any attempt to transfer a permit either directly or indirectly in violation of this section is hereby declared void and the permit shall be deemed revoked.

(f) The permittee agrees to pay to the city the sum of $1,000.00 for each day the permittee operates the business or club under a permit which has been revoked pursuant to Section 745.16(e) (above).

745.19 ADULT ENTERTAINMENT AND/OR SEXUALLY ORIENTED BUSINESS OR CLUB EMPLOYEE LICENSE.

(a) Each individual to be employed in an adult entertainment and/or sexually oriented business or club, as defined in Section 745.02 of this chapter, who engages in the services rendered by a semi-nude model studio, escort or escort agency, sexual encounter establishment, massage parlor or a live performer or entertainer in an adult cabaret or "juice bar" shall be required to obtain an Adult Entertainment and/or Sexually Oriented Business or Club Employee License. Each applicant shall pay a non-refundable license fee of $50.00. Said fee is to cover reasonable administrative costs of the licensing application process.

(b) Before any applicant may be issued an Adult Entertainment and/or Sexually Oriented Business or Club Employee License, the applicant shall submit on a form to be provided by the city or its designee, the following information:

(1) The applicant's name, or any other names (including "stage" names) or aliases used by the individual;

(2) Age, date, and place of birth;

(3) Height, weight, hair and eye color,

(4) Present residence address and telephone number;

(5) Present business address and telephone number;

(6) State Drivers License or identification number;

(7) Social Security Number; and

(8) Acceptable written proof that the individual is at least 18 years of age.

(9) Attached to the application form as provided above, a color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the Hubbard City Police Department. Any fees for the photographs and fingerprints shall be paid by the applicant.

(10) A statement detailing the license or permit history of the applicant for the five years immediately preceding the date of the filing of the application, including whether such applicant previously operating or seeking to operate in this or any other county, city, state, or country has ever had a license, permit, or authorization to do business denied, revoked, or suspended, or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, applicant shall state the date, the name of the issuing or denying jurisdiction, and describe in full the reasons for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.

(11) Whether applicant has been convicted of a "specified criminal" act as defined in Section 745.11(j) of this chapter. This information shall include the date, place, nature of each conviction or plea of nolo contendere and identifying the convicting jurisdiction.

(12) The application shall be sworn to be true and correct by the applicant.

(13) The Mayor shall refer the Adult Entertainment and/or Sexually Oriented Business or Club Employee License Application to the Hubbard City Police Department for an investigation to be made of such information as is contained in the application. The application process shall be completed within ten days from the date the completed application is filed. After the investigation, the Mayor shall issue a license unless the report from the Police Department finds that one or more of the following findings are true:

A. That the applicant has knowingly made any false, misleading, or fraudulent statement of a material fact in the application for a license, or in any report required to be filed with the Police Department or other department of the city;

B. That the applicant is under 18 years of age;

C. That the applicant has been convicted of "specified criminal" act as defined in Section 745.11(j) of this chapter;

D. That the Adult Entertainment and/or Sexually Oriented Business or Club Employee License is to be used for employment in a business or club prohibited by local or state law, statute, rule or regulation, or prohibited by particular provisions of this chapter;

E. That the applicant has had an Adult Entertainment and/or Sexually Oriented Business or Club Employee License revoked by the city within two years of the date of the current application.

(c) Renewal of License.

(1) A license granted pursuant to this section shall be subject to annual renewal by the Mayor upon the written application by the applicant and a finding that the applicant has not been convicted of any "specified criminal" act as defined in Section 745.11(j) of this chapter or committed any act during the existence of the previous license period which would be grounds to deny the initial permit application.

(2) The renewal of the license shall be subject to payment of a $50.00 renewal fee.

745.20 REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS OR VIDEOS IN VIDEO BOOTHS.

(a) A person who operates or causes to be operated an adult entertainment and/or sexually oriented business or club, or a sexually oriented motel/hotel which exhibits on the premises in a viewing room of less than 250 square feet of floor space, a film, video cassette or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

(1) Upon application for an adult entertainment and/or sexually oriented business or club permit, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations, the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. The diagram shall also designate the place at which this permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale with marked dimensions sufficient to show the various internal dimension of all areas of the interior of the premises to an accuracy of plus of minus six (6) inches. 'The Mayor may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared;

(2) The application shall be sworn to be true and correct by the applicant;

(3) No alteration in the configuration or location of a manager's station may be made without the prior approval of the city or its designee;

(4) It is the duty of the permit holder, owners and operator of the premises to insure that at least one employee is on duty and situated at each manager's station at all times that any patron is present inside the premises;

(5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding rest rooms. Rest rooms may not contain video reproduction equipment. If the premises have two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's stations;

(6) It shall be the duty of the permit holder, owners and operator, and it shall also be the duty of any agents and employees present on premises to insure that the viewing area specified in subsection (5) remains unobstructed by any doors, walls, merchandise, display racks or other materials or persons at all times and to insure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to division (a) of this section;

(7) No viewing room may be occupied by more- than one person at any one time. No holes, commonly known as "glory holes" or "peep holes", shalt be allowed in the walls or partitions which separate each viewing room from an adjoining viewing room or rest room;

(8) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place, to which patrons are permitted access and an illumination of riot less than two foot candle as measured at the floor level;

(9) It shall be the duty to of the permit holder, owners and operator and it shall also be the duty of any agents and employees present on the premises to insure that the illumination described above is maintained at all times when any patron is present on the premises;

(10) No person having a duty under Section 745.20(a) (1) through (9) shall knowingly fail to fulfill that duty. Whoever, violates this provision shall be subject to the criminal penalties outlined in Section 745.05.

745.21 PROHIBITIONS REGARDING MINORS AND ADULT ENTERTAINMENT AND/OR SEXUALLY ORIENTED BUSINESSES OR CLUBS.

No person shall operate or cause to be operated an adult entertainment and/or sexually oriented business or club, regardless of whether or nor a permit has been issued for said business or club under this chapter, and knowingly or with reasonable cause to know, permit, suffer, or allow:

(a) Admittance of a person under 18 years of age to the business or club premises unless accompanied by a parent or guardian;

(b) A person under 18 years of age to remain at the business or club premises unless accompanied by a parent or guardian;

(c) A person under 18 years of age to purchase goods or services at the business or club premises; or

(d) A person who is under 18 years of age to work at the business or club premises as an employee.

(e) Whoever violates this provision shall be guilty of a misdemeanor of the first degree.

745.22 ADVERTISING AND LIGHTING REGULATIONS.

(a) No person shall operate or cause to be operated an adult entertainment and/or sexually oriented business or club, regardless of whether or not a permit has been issued for said business or club under this chapter, and advertise the presentation of any activity prohibited by any applicable state statute or local ordinance.

(b) No person shall operate or cause to be operated an adult entertainment and/or sexually oriented business or club regardless of whether or not a permit has been issued for said business or club under this chapter, and display or otherwise exhibit the materials and/or performances at such adult entertainment and/or sexually oriented business or club in any advertising which is visible outside the premises. This prohibition shall not extend to advertising of the existence or location of such adult entertainment and/or sexually oriented business or club.

(c) The permittee shall not allow any portion of the interior premises to be visible from outside the premises.

(d) All off-street parking areas and premise entries of the adult entertainment and/or sexually oriented business or club shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one foot candle of light on the parking surface and/or walkways. This required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the adult entertainment and/or sexually oriented business or club for the personal safety of patrons and employees and to reduce the incidence of vandalism and criminal conduct. The lighting shall be shown on the required sketch or diagram of the premise.

(e) Nothing contained in this section shall relieve the operator(s) of an adult entertainment and/or sexually oriented business or club from complying with the requirements of the City of Hubbard, commonly known as the Adult Entertainment and/or Sexually Oriented Business or Club Ordinance, as it may be amended from time to time, or any subsequently enacted city ordinances or regulations.

(f) Whoever violates this provision shall be subject to the criminal penalties outlined in Section 745.05.

745.23 HOURS OF OPERATION.

(a) No person shall operate or cause to be operated an adult entertainment and/or sexually oriented business or club, regardless of whether or not a permit has been issued for said business or club under this chapter, and allow such business or club to remain open for business, or to permit any employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, between the hours of 1:00 a.m. and 1:00 p.m. of any particular day, excluding Sunday on which the business or club may not operate.

(b) No person shall work as an employee of an adult entertainment and/or sexually oriented business or club, and engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service between the hours of 1:00 a.m. and 9:00 a.m. of any particular day, excluding Sunday on which the business or club may not operate.

(c) Whoever, violates this provision shall be subject to the criminal penalties outlined in Section 745.05.

745.24 REGULATIONS PERTAINING TO TOILET FACILITIES.

(a) A person who operates or causes to be operated an adult entertainment and/or sexually oriented business or club, regardless of whether or not a permit has been issued to said business or club under this chapter, shall have the premises inspected by the Chief

Building Official or County Health Department to ensure compliance with the following requirements:

(1) Construction of rooms used for toilets, tubs, steam baths and showers shall be waterproofed with approved waterproof materials;

(2) Toilet facilities shall be provided in convenient locations. Where five or more employees and patrons of different genders are on the premises at the same time, separate toilet facilities shall be provided. A single water closet per section shall be provided for each 20 or more employees or patrons of that gender on the premises at any one time. Urinals may be substituted for water closets after one water closet has been provided. Toilets shall be designated as to the gender accommodated therein.

(3) Lavatories or washbasins provided wi0th both hot and cold running water shall be installed in either the toilet room or vestibule. Lavatories or washbasins shall be provided with soap in a dispenser and with sanitary towels.

(b) The Chief Building Official or County Health Department shall certify that the proposed adult entertainment and/or sexually oriented business or club complies with all the requirements of this section of this chapter, and shall give or send such certification to Mayor.

745.25 MASSAGE PARLOR OPERATING REQUIREMENTS.

(a) A person who operates or causes to be operated a massage parlor, regardless of whether or not a permit has been issued to said business or club under this chapter, shall keep every portion of the premises, including appliances and apparatus clean, and in a sanitary condition.

(b) All masseurs/masseuses shall be licensed by the State of Ohio pursuant to Section 745.02(a)(12).

(c) All employees and masseurs/masseuses shall be clean and wear clean opaque outer garments which use is restricted to the massage parlor. All employees of massage parlors shall wear underwear at all times and the underwear of a licensee may not be exposed to any patron of a licensee at any time. The genitals or breasts of any employee of a massage parlor may not be exposed to any patron at any time.

(d) All employees and masseurs/masseuses must be modestly attired. Such employees and masseurs'/masseuses' clothing shall be neat and clean at all times and be similar to clothing worn by personnel in the health and medical fields.

(e) All massage parlors shall be provided with clean, laundered sheets and towels in sufficient quantity and shall be laundered after each use thereof and stored in an approved sanitary manner.

(f) Wet and dry heat rooms, shower compartments and toilet rooms shall be thoroughly cleaned each day the business or club is in operation. Bathtubs shall be cleaned thoroughly after each use.

(g) No permit holder or person who operates or causes to be operated a massage parlor, regardless of whether or not a permit has been issued to said business or club under this chapter, shall place, publish, distribute or cause to be placed, published or distributed any advertising material that depicts any portion of the human body that would reasonably suggest to the prospective patrons that any services are available other than those described in Section 745.02(a)(12).

(h) It shall be the duty of the permit holder, licensee, owners and operators, and it shall also be the duty of any agents and employees present on the premises to insure that the genital area of male or female patrons and the breasts of female patrons are covered by a sheet, towel, or other opaque clothing at all times, Should the genitals of male or female patrons or the breasts of female patrons become unintentionally or accidentally uncovered, the physical contact between the masseur/masseuse and the patron must cease.

745.26 NUDITY AT ADULT ENTERTAINMENT AND/OR SEXUALLY ORIENTED BUSINESSES OR CLUBS PROHIBITED.

(a) The United States Supreme Court decision in Barnes v. Glen Theater, Inc., 501 U.S. 560, 111 (1991) which upheld the rights of cities to prohibit live public exposure of a person('s) private parts, specifically applies to adult entertainment and/or sexually oriented businesses or clubs (regardless of whether or not a permit has been issued to said businesses or clubs under this chapter, including businesses or clubs where no alcoholic beverages are sold, served, or consumed at the premises.

(b) Public nudity is prohibited within the City of Hubbard, including any adult entertainment and/or sexually oriented business or club. Any adult entertainment and/or sexually oriented business or club which is found in violation of this section shall have its permit suspended pursuant to the provisions of Section 745.15.

745.27 REGULATIONS PERTAINING TO LIVE ENTERTAINMENT.

(a) For purposes of this section, "live entertainment" is defined as a person who appears live before a live audience and is semi-nude, and performs by the exposure of "specified anatomical areas" or by "specified sexual activities".

(b) No person shall perform live entertainment for patron(s) of an adult entertainment and/or sexually oriented business establishment or club except upon a stage at least 18 inches above the level of the floor which is separated by a distance of at least ten feet from nearest area occupied by patron(s). No patron shall be permitted within ten feet of the stage while the stage is occupied by a performer.

(c) The adult entertainment and/or sexually oriented business establishment or club shall provide separate dressing room facilities for female and male performers which shall not be occupied or used in any way by anyone other than performers.

(d) The adult entertainment and/or sexually oriented business establishment or club shall provide access for performers between the stage and dressing rooms which is completely separated from the patrons. If such separate access is not physically feasible, the establishment shall provide a minimum four foot wide walk aisle for performers between the dressing room area and the stage, with a railing, fence or other barrier separating the patrons and the performers which prevents any physical contact between patrons and performers.

(e) No entertainer, either before, during or after a performance, shall have physical contact with any patron and no patron shall have physical contact with any entertainer before, during or after a performance. This section shall only apply to physical contact while in or on the premises of the establishment.

(f) Fixed rail(s) at least 30 inches in height shall be maintained establishing the separations between performers and patrons required by this section.

(g) No patron shall directly pay or give any gratuity to any entertainer. A patron who wishes to pay or give a gratuity to a performer shall place the gratuity in a container that is at all times located separately from the performers for the purpose of preventing any physical contact between a patron and a performer. No performer shall solicit any gratuity from any patron.

(h) No operator of an adult entertainment and/or sexually oriented business establishment or club shall cause or allow a performer to contract or engage in any entertainment such as a "couch", "straddle" or "lap" dance with a patron while in or on the establishment or club premises. No performer shall contract to or engage in a " couch", "straddle" or "lap" dance with a patron while in or on 'the establishment or club premises. For purposes of this subsection, "couch", "straddle" or "lap" dance is defined as an employee of the establishment or club intentionally touching or coming within ten feet of any patron while engaged in the display or exposure of any "specified anatomical area", or any "specified sexual activity". For purposes of this subsection, employee is defined as it is in Section 745.02 (b).

(i) Section 745.27 shall not apply to an employee of an establishment who, while acting as a waiter, host, hostess, or bar tender, comes within ten feet of a patron. No employee shall engage in any "specified sexual activity" or display or expose any "specified anatomical area" while acting as a waiter, waitress, host, hostess or bar tender.

(j) Compliance with this section:

(1) For purposes of this section, establishment is defined as it is in Section 745.02 (c) of this chapter. No establishment or club shall be in compliance with this section until the city's designated agent(s) have inspected and approved of the establishment or club's compliance. The city shall have ten business days from the date it receives written notice

from the operator that the establishment or club is ready for inspection to approve or disapprove the compliance required by this section. Failure to approve or disapprove compliance within ten business days constitutes a finding of compliance under this section;

(2) The permit holder, or operator of an establishment or club, that has been providing live entertainment under an adult entertainment and/or sexually oriented business or club permit, shall have the time periods listed below in which to bring the establishment into compliance with this section. Failure to do so while continuing to provide live entertainment shall cause the establishment's permit to be suspended under Section 745.15 of this chapter. The permit shall remain suspended until the establishment is approved by the city's designated agent(s) as being in full compliance with this section;

(3) The operator of the establishment, that has been operating under a valid permit for another classification of an adult entertainment and/or sexually oriented business or club and who wishes to provide live entertainment at that establishment or club, shall apply for and receive an adult entertainment and/or sexually oriented business or club permit for the operation of an establishment or club providing live entertainment before any live entertainment is provided at that establishment or club. No live entertainment permit shall be issued until the establishment or club is approved as being in full compliance with this section and all other applicable requirements of this chapter;

(4) The applicant for a permit to operate a new establishment or club, who wishes to provide live entertainment, shall apply for and receive an adult entertainment and/or sexually oriented business or club permit for the operation of an establishment or club providing live entertainment before any live entertainment is provided. No live entertainment permit shall be issued until the establishment or club is approved as being in full compliance with this section and all other applicable requirements of this chapter.

745.28 ADDITIONAL CRIMINAL PROHIBITIONS FOR THE OPERATION OF AN ADULT ENTERTAINMENT AND/OR SEXUALLY ORIENTED BUSINESS OR CLUB WITHOUT A VALID PERMIT.

No person shall operate or cause to be operated an adult entertainment and/or sexually oriented business or club, regardless of whether or not a permit has been issued for such business or club under this chapter, and said person knows or should know that:

(a) The business or club does not have an adult entertainment and/or sexually oriented business or club permit under this chapter for any applicable classification;

(b) The business or club has a permit which is under suspension;

(c) The business or club has a permit which has been revoked; or

(d) The business or club has a permit which has expired.

(e) Whoever violates this provision shall be subject to the criminal penalties outlined in Section 745.05.

745.29 EXEMPTIONS.

(a) It is a defense to prosecution for any violation of this chapter that a person appearing in a state of nudity did so in a modeling class operated:

(1) By a college, junior college, or university supported entirely or partly by taxation;

(2) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

(3) In a structure:

A. Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing: and

B. Where, in order to participate in a class a student must enroll at least three days in advance of the class; and

C. Where no more than one nude model is on the premises at any one time.

(b) It is a defense to prosecution for a violation of this chapter that an employee of an adult entertainment and/or sexually oriented business or club, regardless of whether or not it is permitted under this chapter, exposed any specified anatomical area during the employee's bona fide use of a rest room, or during the employees bona fide use of a dressing room which is accessible only to employees.

745.30 CRIMINAL PENALTIES AND ADDITIONAL LEGAL, EQUITABLE, AND INJUNCTIVE RELIEF.

(a) In addition to whatever penalties are applicable under the Hubbard Codified Code, if any person fails or refuses to obey or comply with or violates any of the criminal provisions of this chapter, unless as otherwise provided, such person upon conviction of such offense, shall be guilty of a misdemeanor of the fourth degree. Each violation or non-compliance shall be considered a separate and distinct offense. Further, each day of continued violation or non-compliance shall be considered as a separate offense.

(b) Nothing herein contained shall prevent or restrict the city from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any violation of non-compliance. Such other lawful actions shall include, but shall not be limited to, an equitable action for injunctive relief or an action at law for damages.

(c) All remedies and penalties provided for in this section shall be cumulative and independently available to the city and the city shall be authorized to pursue any and all remedies set forth in this section to the full extent allowed by law.

745.31 NEWSRACKS.

(a) No person shall knowingly display to public view in any newsrack or other displaying device, any material which is defined by the Hubbard City Code Section 533.11, as harmful to juveniles, photographs or pictorial representations of the commission of any of the following acts: sodomy, oral copulation, sexual intercourse, masturbation, bestiality or an exposed penis in an erect and turgid state, unless such material is:

(1) Kept behind devices commonly known as "blinder racks", so that the lower two-thirds (2/3) of the material is not exposed to view and the invited members of the general public, prior to viewing the entire material, present identification that the requesting party is not a juvenile; or

(2) Kept out of normal viewing of the invited general public and the titles are listed in a separate binder available upon request to invited members of the general public who are not juveniles and invited members of the general public, prior to viewing the entire material, present identification that the requesting party is not a juvenile.

(b) A person commits the offense of displaying and disseminating harmful material to juveniles, as defined under Section 533.11 of the Hubbard City Code, if with, or without consideration and knowing the character or content of the material, he knowingly:

(1) Sells, furnishes, presents, displays, or distributes to a juvenile material that is harmful to juveniles; without consent of a parent or guardian; or

(2) Allows a minor to review or peruse material that is harmful to juveniles without consent or a parent or guardian.

(c) Penalty.

(1) Any person violating any of the provisions of this section shall be guilty of a misdemeanor of the first degree if the material or the performance involved is harmful to juveniles but not obscene, and, upon conviction thereof, shall be subject to a fine not to exceed $1,000.00, and/or imprisonment not to exceed 180 days.

745.32 IMMUNITY FROM PROSECUTION.

The city and its designee, the Hubbard City Police Department and all other departments and agencies, and all other city officers, agents and employees, charged with enforcement of State and local laws and codes shall be immune from prosecution, civil or criminal, for reasonable, good faith trespass upon an adult entertainment and/or sexually oriented business or club while acting within the scope of authority conferred by this chapter.