

CODIFIED ORDINANCES OF GARRETTSVILLE
PART SEVEN - BUSINESS REGULATION CODE

- Chap. 709. Peddlers and Solicitors.
- Chap. 711. Garage Sales.
- Chap. 713. Pool and Billiard Rooms.
- Chap. 717. Service Stations.
- Chap. 721. Sound Amplifiers and Public Address Systems.
- Chap. 725. Well Drilling.
- Chap. 727. Tattooing.
- Chap. 729. Flea Markets; Open Air Markets; Auctions.
- Chap. 731. Real Estate Agents and Brokers.
- Chap. 733. Sweepstakes/Internet Device Cafes.

CODIFIED ORDINANCES OF GARRETTSVILLE
PART SEVEN - BUSINESS REGULATION CODE

CHAPTER 709
Peddlers and Solicitors

| | | | |
|--------|---------------------------------------|--------|-----------------------------------|
| 709.01 | Definitions. | 709.06 | Carrying and exhibiting license. |
| 709.02 | License required. | 709.07 | Business hours restricted. |
| 709.03 | License application and requirements. | 709.08 | License exceptions. |
| 709.04 | License fees and terms. | 709.09 | Employee peddlers to be licensed. |
| 709.05 | Appeals. | 709.10 | Revocation of license. |
| | | 709.99 | Penalty. |

CROSS REFERENCES

Power to regulate - see Ohio R. C. 715.16
Home solicitation sales - see Ohio R. C. 1345.12 et seq.
Charitable solicitations - see Ohio R. C. 2923.22
Sales of goods and services within right of way of Interstate and other State highways - see Ohio R.C. 5515.07
Retail sales license - see Ohio R. C. 5739.17

709.01 DEFINITIONS.

(a) "Peddler" means any person who carries with him for the purpose of sale at retail and immediate or future delivery, goods, wares, food or merchandise, or any person who in person as principal or agent canvasses, sells or otherwise obtains orders or commitments for the sale, repair or exchange of goods, wares, food or merchandise, or services.

(b) "Solicitor" means any person who obtains or seeks to obtain funds for any cause whatsoever by means of canvassing from place to place.

709.02 LICENSE REQUIRED.

No person, firm or corporation shall engage in the business or activity of peddler or solicitor in this Municipality without first obtaining a license as provided in this chapter. Each and every person peddling or soliciting must meet the requirements of Section 709.03 and pay the fees set forth in Section 709.04.

709.03 LICENSE APPLICATION AND REQUIREMENTS.

(a) Applications for licenses for peddlers or solicitors shall be filed with the Mayor or Police Chief on a form to be furnished by the Clerk or Police Chief, which shall require, at least, the following information:

- (1) The name of the applicant and his physical description;
- (2) The home address of the applicant and his social security number;
- (3) The name and address of the person by whom the applicant is employed or for whom he is soliciting;
- (4) The length of the applicant's service with such employer or person for whom he is soliciting;
- (5) All places of residence of the applicant and all employment during the preceding year;
- (6) The nature and character of the goods to be sold or services to be furnished by the applicant or the purpose for which funds are being solicited;
- (7) The names of other municipalities in which the applicant has recently conducted activities for which a license is herein required;
- (8) That the applicant or his employer has complied with the requirements of Ohio R.C. Chapter 1716 pertaining to charitable solicitations, if applicable.

(b) The applicant shall furnish a recent photograph of himself not more than one year old, approximately three inches by three inches square. Such application shall be made at least forty-eight hours before the license is issued.

(c) If the Mayor or Police Chief determines after an investigation, that the information furnished under the requirements of subsection (a) hereof is correct, the applicant proposes to engage in lawful commercial or professional enterprise and neither the applicant nor the enterprise upon which the applicant proposes to engage constitutes a clear and present danger to the residents of the Municipality, he shall issue a license to the applicant.

709.04 LICENSE FEES AND TERM.

The license fee charged by the Clerk for the license required by this chapter shall be five dollars (\$5.00) per day; ten dollars (\$10.00) per week; twenty-five dollars (\$25.00) per month; and fifty dollars (\$50.00) per year. All annual licenses issued under the provisions of this chapter shall expire on December 31 in the year when issued. Other licenses shall expire on the date specified in the license.

709.05 APPEALS.

Any applicant who has applied for a license in accordance with this chapter and to whom the Mayor or Police Chief has, after an investigation, denied a license may appeal to Council. Notice of such appeal shall be filed with the Clerk within five days after denial by the Mayor. Such appeal shall be heard by Council at the next regular meeting and its decision shall be final.

709.06 CARRYING AND EXHIBITING LICENSE.

The license issued under the provisions of this chapter shall be carried by any peddler or solicitor at all times when peddling or soliciting and shall be exhibited to any person being solicited and, on request, to any police officer.

709.07 BUSINESS HOURS RESTRICTED.

(a) No person shall peddle, solicit or conduct market research, door to door, at dwelling houses or businesses at random, on sidewalks or streets, at public places, at private meeting places or in any other manner or place in the Municipality between 5:00 p.m. and 9:00 a.m. or on any Sunday or holiday.

(b) This section does not apply to invitees or national charitable corporations licensed to do business in Ohio with recognized periods for campaigns, provided the organizations have been licensed to solicit by the Mayor or Police Chief.

(c) The Mayor may, for good cause, grant permission to conduct the activities in subsection (a) hereof at times other than those stipulated therein. Such permission shall be granted in writing and a copy of such permission shall be delivered to the Police Department. (Ord. 2010-27. Passed 5-12-10.)

709.08 LICENSE EXCEPTIONS.

No license shall be required of a peddler or solicitor for the following:

- (a) Soliciting only the purchase of or subscription for newspapers having their principal sale or distribution in this Municipality or in the County.
- (b) Soliciting only for wholesale delivery to merchants, manufacturers or other business or manufacturing establishments.
- (c) Peddling or soliciting at the invitation or request of the person contacted.
- (d) Soliciting or peddling on behalf of and for any locally recognized religious, educational, civic or charitable organization, without compensation to the solicitor or peddler.

709.09 EMPLOYEE PEDDLERS TO BE LICENSED.

No person shall be hired by another to sell goods, wares, food, merchandise or services in the Municipality as a peddler unless such person so hired has been duly licensed as hereinbefore provided.

709.10 REVOCATION OF LICENSE.

Any license issued under the provisions of this chapter may be revoked at any time by the Mayor or Police Chief, if the licensee is guilty of fraud, misrepresentation or any unlawful act in connection with his business or the application required under Section 709.03; or if the licensee violates any provision of this chapter.

709.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than one hundred dollars (\$100.00). Each day on which sales are conducted in violation of this chapter shall constitute a separate offense.

CHAPTER 711
Garage Sales

| | | | |
|--------|---------------------|--------|---------------------------|
| 711.01 | Intent and purpose. | 711.07 | Pre-permit investigation. |
| 711.02 | Definitions. | 711.08 | Display of permit. |
| 711.03 | Permitted goods. | 711.09 | Advertising; signs. |
| 711.04 | Permit. | 711.10 | Parking. |
| 711.05 | Hours of operation. | 711.11 | Exemptions. |
| 711.06 | Exceptions. | 711.99 | Penalty. |

CROSS REFERENCES

Sidewalk obstructions prohibited - see GEN. OFF. 521.04(c)

711.01 INTENT AND PURPOSE.

(a) The provisions contained in this chapter are intended to prohibit the infringement of any businesses in any established residential areas by regulating the term and frequency of garage sales, so as not to disturb or disrupt the residential environment of the area and also apply to residences located in commercial areas.

(b) These provisions shall not seek control of sales by individuals selling a few of their household or personal items.

(c) The provisions and prohibitions hereinafter contained are enacted not to prevent but to regulate garage sales for the public health, safety and welfare of the Village's residents. (Ord. 95-10. Passed 5-10-95.)

711.02 DEFINITIONS.

For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- (a) "Garage sale" includes all general sales, open to the public, conducted from or on a residential premises in any residential zone, as defined by the Zoning Ordinance, for the purpose of disposing of personal property including but not limited to, all sales entitled "garage", "lawn", "yard", "attic", "porch", "room", "backyard", "patio", "flea market", "rummage", "basement", "barn" or "clothesline" sale. This definition shall not apply to sales of displayed items numbering five or less.
- (b) "Personal property" means property which is owned, utilized and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.
(Ord. 95-10. Passed 5-10-95.)

711.03 PERMITTED GOODS.

No person shall sell or offer for sale, under authority granted by this chapter, property other than personal property. (Ord. 95-10. Passed 5-10-95.)

711.04 PERMIT.

(a) Required. No garage sale shall be conducted unless and until the individuals desiring to conduct such sale obtain a permit therefor from the Police Department prior to the sale. Members of more than one residence may join in obtaining a permit for a garage sale to be conducted at the residence of one of them. The permit shall be signed by the Chief of Police or his designee.

(b) Written Statement. Prior to issuance of any garage sale permit, the individuals conducting such sale shall obtain and file an application with the Police Department four days in advance of the proposed sale setting forth the following information:

- (1) Full name and address of applicant.
- (2) The location at which the proposed garage sale is to be held.
- (3) The date or dates upon which the sale shall be held.
- (4) The date or dates of any other garage sales within the current calendar year.
- (5) An affirmative statement that the property to be sold was owned by the applicant as his own personal property and was neither acquired nor consigned for the purposes of resale.

(c) Fee. There shall be no fee for the issuance of such permit. If no permit is obtained prior to the sale there shall be a ten dollar (\$10.00) administrative fee to issue a permit.

(d) Conditions. The permit shall set forth and restrict the time and location of such garage sale. No more than two such permits may be issued to one residence and/or family household during any calendar year. If members of more than one residence join in requesting a permit then such permit shall be considered as having issued for each and all of such residences. (Ord. 95-10. Passed 5-10-95.)

711.05 HOURS OF OPERATION.

Such garage sales shall be limited in time to no more than the daylight hours of three consecutive days or two consecutive weekends (Saturday and Sunday).
(Ord. 95-10. Passed 5-10-95.)

711.06 EXCEPTIONS.

(a) Sale Not Held Because of Inclement Weather. If a garage sale is not held on the dates for which the permit is issued or is terminated during the first day of the sale because inclement weather conditions, and an affidavit by the permit holder to this effect is submitted, the Police Department may issue another permit to the applicant for a garage sale to be conducted at the same location within thirty days from the date when the first sale was to be held.

(b) Third Sale Permitted. A third garage sale shall be permitted in a calendar year if satisfactory proof of a bona-fide change in ownership of the real property is first presented to the Police Department. (Ord. 95-10. Passed 5-10-95.)

711.07 PRE-PERMIT INVESTIGATION.

Before issuing a permit, the Police Department may conduct an investigation as may reasonably be necessary to determine if there is compliance with this chapter. (Ord. 95-10. Passed 5-10-95.)

711.08 DISPLAY OF PERMIT.

Any permit in possess of the holder or holders of a garage sale shall be posted on the premises in a conspicuous place so as to be seen by the public and the Police Department. (Ord. 95-10. Passed 5-10-95.)

711.09 ADVERTISING; SIGNS.

Only the following specified signs may be displayed in relation to a pending garage sale:

One sign announcing the sale may be erected on the premises at which the sale is being conducted and two signs may be erected off the premises. Such signs shall be erected no earlier than the night before the first day of the sale and such signs shall be removed no later than the close of the final day of the sale. The signs or placards may be no larger than three square feet and must be without illumination, movement or illusion of movement. No sign or placard shall be attached in any manner to any utility pole, fence or any other structure within any public right of way. (Ord. 95-10. Passed 5-10-95.)

711.10 PARKING.

All parking of vehicles shall be conducted in compliance with all applicable laws and ordinances. Further, the Police Division may enforce such temporary controls to alleviate any special hazards and /or congestion created by any garage sale. (Ord. 95-10. Passed 5-10-95.)

711.11 EXEMPTIONS.

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

- (a) Persons selling goods pursuant to an order or process of a court of competent jurisdiction.
- (b) Persons acting in accordance with their powers and duties as public officials.
- (c) Any sale conducted by any merchant or mercantile or other business establishment from or at a place of business wherein such sale would be permitted by the zoning regulations of the Village or under the protection of the nonconforming use section thereof or any other sale conducted by a manufacturer, dealer or vendor and which sale would be conducted from properly zoned premises and not otherwise prohibited in other ordinances.

- (d) Any bona-fide charitable, eleemosynary, educational, cultural or governmental institution or organization when the proceeds from the sale are used directly for the institution's or organization's charitable purposes and the goods or articles are not sold on a consignment basis.
- (e) Any person conducting a sale for the purpose of moving out of a residence for reason of liquidating all personal effects may conduct the sale for nine consecutive days. (Ord. 95-10. Passed 5-10-95.)

711.99 PENALTY.

Whoever violates or fails to comply with any provision of this chapter is guilty of a minor misdemeanor. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues. (Ord. 95-10. Passed 5-10-95.)

CHAPTER 721
Sound Amplifiers and Public Address Systems

| | | | |
|--------|----------------------------------|--------|-------------|
| 721.01 | Permit required. | 721.04 | Exceptions. |
| 721.02 | Issuance; fee; effective period. | 721.99 | Penalty. |
| 721.03 | Credit of moneys received. | | |

CROSS REFERENCE
Disorderly conduct - see GEN. OFF. 509.03

721.01 PERMIT REQUIRED.

No person, firm or corporation shall use or operate a sound amplifying device or loud speaker system within or upon the streets or in the public places of the Village without first obtaining a permit therefor.

(Ord. 218. Passed 7-6-38.)

721.02 ISSUANCE; FEE; EFFECTIVE PERIOD.

The permit shall be issued by the Mayor, or in his absence by the Clerk, who shall charge therefor five dollars (\$5.00) and such permit shall expire at a time to be stated therein, but in no case longer than thirty days from the date of issuance.

(Ord. 218. Passed 7-6-38.)

721.03 CREDIT OF MONEYS RECEIVED.

Moneys collected from permits issued in accordance with this chapter shall be credited to the General Fund of the Village.

(Ord. 218. Passed 7-6-38.)

721.04 EXCEPTIONS.

The provisions of this chapter shall not apply to regularly licensed tent shows or exhibits.

(Ord. 218. Passed 7-6-38.)

721.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than one hundred dollars (\$100.00). Each day's violation shall constitute a separate offense.

(Ord. 218. Passed 7-6-38.)

CHAPTER 725
Well Drilling

| | | | |
|--------|---------------------------------------|--------|------------------------------------|
| 725.01 | Permit required and wells prohibited. | 725.04 | Inspection and sampling. |
| 725.02 | Fee. | 725.05 | Withdrawal and redeposit of water. |
| 725.03 | Information to be given the Board. | 725.99 | Penalty. |

CROSS REFERENCES

Oil and gas wells - see Ohio R. C. Ch. 1509

Oil and gas well drilling - see OAC Ch. 1501:9-1, 1501:9-9

Oil and gas wells regulated - see P. & Z. Ch. 1195

725.01 PERMIT REQUIRED AND WELLS PROHIBITED.

All persons, firms or corporations desiring to drill a water well or wells within the Village shall, prior to the commencement of drilling, apply to and obtain a permit for such drilling from the Board of Trustees of Public Affairs. No permit shall be issued for a well to be drilled where there is an existing Village water main on the street on which the property abuts or is in closest proximity to, however, the Board of Public Affairs shall have the authority to issue a permit subject to the EPA guidelines upon proof that the denial of a permit would create an undue hardship and that the issuance of the permit shall post no threat to the Village water system.

(Ord. 98-41. Passed 11-11-98.)

725.02 FEE.

There shall be payable the sum of five dollars (\$5.00) as a charge for each permit issued under this chapter. Such permits as are necessary shall be available at the office of the Clerk of the Board of Trustees of Public Affairs.

(Ord. 502. Passed 8-7-63.)

725.03 INFORMATION TO BE GIVEN THE BOARD.

The owner of the property or premises upon which the well has been drilled shall, within ten days after the completion of drilling, furnish to the Board of Trustees of Public Affairs the following information:

- (a) The size of the well;
- (b) The depth of the well;
- (c) The type of casing and the size of casing used in the well; and
- (d) The amount of water being produced by the well.

(Ord. 502. Passed 8-7-63.)

725.04 INSPECTION AND SAMPLING.

The Superintendent of the Water and Sewer Department is hereby granted the authority to periodically visit such wells as have been drilled following the enactment of this chapter and such Superintendent shall have authority to take samples of the water from such wells for test purposes.

(Ord. 502. Passed 8-7-63.)

725.05 WITHDRAWAL AND REDEPOSIT OF WATER.

Every person withdrawing water from such wells where such water is being used or to be used for cooling purposes shall return such water to the earth in approximately the same area from which such water was withdrawn.

(Ord. 502. Passed 8-7-63.)

725.99 PENALTY

Whoever violates any provision of this chapter shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both.

CHAPTER 727
Tattooing

727.01 Prohibited.

727.99 Penalty.

727.01 PROHIBITED.

For the purposes of this chapter, the following words and phrases when used herein shall be construed as follows:

- (a) "Tattoo" means to mark or color the skin by pricking in to form indelible marks or figures or by the production of scars.
- (b) "Tattoo establishment" means any room or space where tattooing is practiced or when the business of tattooing is conducted or any part thereof.
- (c) "Tattoo operator" means any person who controls, operates, conducts or manages any tattoo establishment, whether actually performing the work of tattooing or not.
- (d) "Tattoo artist" means any person who actually performs the work of tattooing.

No person in the Village shall operate a tattoo establishment or engage in the practice or business of tattooing, as a tattoo operator or as a tattoo artist.
(Ord. 95-28. Passed 9-13-95.)

727.99 PENALTY.

Any person who violates any provision of this chapter is guilty of a misdemeanor of the third degree, and each day's operation shall constitute a separate offense.
(Ord. 95-28. Passed 9-13-95.)

CHAPTER 729
Flea Markets; Open Air Markets; Auctions

729.01 Definitions.
729.02 Prohibited.

729.99 Penalty.

729.01 DEFINITIONS.

As used in this section the following terms shall have the following meanings unless the context clearly indicates that a different meaning is intended:

- (a) Flea Market: a market, indoors or out of doors, where new or used items are sold from individual locations, with each location being operated independently from the other locations. Items sold include but are not limited to household items, antiques, rare items, decorations, used books and used magazines.
- (b) Open Air Markets or Auction: A periodic market, or auction held out of doors, in an open area or vacant lot where groups of individual sellers offer goods for sale to the public.
- (c) Excluded from these definitions would be annual or semiannual clearance sales by existing businesses, Farmers' Markets pursuant to Section 1149.05(t), and auctions conducted in conjunction with an estate or moving sale.
(Ord. 2009-58. Passed 12-9-09.)

729.02 PROHIBITED.

No person shall operate a flea market or open air market or auction facility within the Municipality for the sale of any and all articles of any kind and nature whatsoever.
(Ord. 95-27. Passed 9-13-95.)

729.99 PENALTY.

Whoever violates Section 729.01 is guilty of a minor misdemeanor and each day said violation exists shall constitute a separate and chargeable violation.
(Ord. 95-27. Passed 9-13-95.)

CHAPTER 731
Real Estate Agents and Brokers

731.01 Required notice by real estate agents and brokers.

731.01 REQUIRED NOTICE BY REAL ESTATE AGENTS AND BROKERS.

(a) No real estate broker, agent or salesperson, or any other person acting on behalf of a purchaser or seller of real estate within the Village shall advise, permit or authorize any prospective purchaser or seller to enter into a listing agreement, contract of sale or other agreement for the purchase of real estate located in the Village without first having advised the prospective seller and the prospective purchaser, in writing, of the current zoning designation of the property, and the permitted uses of the property pursuant to the Zoning Ordinances of the Village.

(b) In the event of a co-brokerage situation, it shall be the duty of the listing broker to advise the seller of the matters set forth in subsection (a) hereof, and it shall be the duty of the purchaser's real estate agent to advise the purchaser of such matters.

(c) The Zoning Inspector, on behalf of the Planning Commission, shall provide copies of this legislation annually to each real estate broker which in their judgment is likely to do business within the Village, and to the Ohio Association of Realtors, which notice shall be deemed actual notice of the requirements set forth herein to each employee and salesperson employed by such broker. The Village shall provide written forms that may be relied upon by persons to be held responsible as complying with this section.

(d) Any violation of this section shall constitute a minor misdemeanor for a first offense, and any subsequent offenses shall constitute a third degree misdemeanor. Additionally, any violation of this section shall be reported to the Ohio Real Estate Commission. (Ord. 2009-59. Passed 12-9-09.)

CHAPTER 733
Sweepstakes/Internet Device Cafes

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|--------|---------------------------------------|--------|---------------------|
| 733.01 | Purpose and applicability. | 733.07 | Hours of operation. |
| 733.02 | Definitions. | 733.08 | Prohibited conduct. |
| 733.03 | License application and requirements. | 733.09 | Miscellaneous. |
| 733.04 | Location. | 733.10 | Nuisance. |
| 733.05 | License fee; transfer and display. | 733.11 | Severability. |
| 733.06 | Revocation; hearing procedure. | 733.99 | Penalty. |

CROSS REFERENCES
Gambling - see GEN. OFF. Ch. 517

733.01 PURPOSE AND APPLICABILITY.

(a) Applicability. This Chapter shall apply to the operation of computerized sweepstakes terminals and internet cafes or establishments operating such terminals. This Chapter shall only apply to the operation of such terminals that are lawfully operating pursuant to the Ohio Revised Code and nothing in this Chapter shall be construed to legalize, license or authorize any operation of a device that is unlawful to operate pursuant to the Ohio Revised Code. This Chapter shall apply immediately to all devices, arcades and/or internet cafes that commence operation after the date of enactment of this Chapter. All arcades, internet cafes, or establishments in existence at the time of enactment of this Chapter shall come into compliance with all Sections of this Chapter no later than thirty (30) days after enactment unless otherwise stated herein.

(b) Purpose. It is the purpose of this Chapter and the policy of the Village of Garrettsville to establish standards for licensing and regulation of computerized sweepstakes devices and arcades and/or internet cafes upon which they are located and operated. This Chapter is designed to prevent safety and fire hazards, prevent disturbances, preserve the peaceful enjoyment of neighboring establishments and residences, and preventing gambling and other criminal behavior in the Village.
(Ord. 2011-13. Passed 4-13-11.)

733.02 DEFINITIONS.

For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

- (a) “Computerized Sweepstakes Device”. Any computer, machine, game or apparatus which operates upon the insertion of a coin, token, access number, magnetic card, or similar object, or upon the payment of anything of value, and which may be operated by the public generally for use as a contest of skill or chance, entertainment or amusement, whether or not registering a score, and which provides the user with a chance to win anything of value that is not de minimus, and which is not gambling under state or local laws. “Computerized Sweepstakes Device” shall not include billiard or pool tables or the game of bowling as regulated by Chapter 713 of the Codified Ordinances. Machines designated for use by the State Lottery Commission are not Computerized Sweepstakes Devices for purposes of this Chapter 733.
- (b) “Operator”. Any person or persons having authority to control the premises of an arcade and/or sweepstakes/internet café.
- (c) “Licensee”. The person or persons who sign an application for a license hereunder and to whom such license is issued.
- (d) “Anything of value”. Cash, cash equivalents, tangible objects, credits to play, and any other tangibles or intangibles, no matter how slight. Anything of value includes playing a game, viewing a video display, hearing an audio transmission, and reading entries or outcomes from any other kind of device. A person who gives anything of value for a product or service, whether tangible or intangible, in any way, directly or indirectly, in association with being given access to the use of an entertainment device, is deemed to have given value for the access to the entertainment device.
- (e) “Owner”. Any person who possesses a pecuniary interest, either directly or indirectly, of twenty-five percent (25%) or more in a sweepstakes/internet café.
- (f) “Sweepstakes/Internet Café”. Any premises upon which any computerized sweepstakes device is located for the use or entertainment of the public, whether or not such premises have other business purposes of any nature whatsoever. (Ord. 2011-13. Passed 4-13-11.)

733.03 LICENSE APPLICATION AND REQUIREMENTS.

(A) No person, partnership, corporation, or other entity shall operate or conduct a sweepstakes/internet café without first obtaining a license from the Village. Every person, partnership, corporation, organization or other entity shall make an application in writing to the Village, which application shall set forth:

- (1) The name under which the business is to be conducted;
- (2) The location where the business is conducted, with a description of the premises, including a scaled diagram;
- (3) The name, address, and date of birth of any manager, supervisor, and all other employees;
- (4) The name, address, and date of birth of the owner or owners of the entertainment devices; and
- (5) The name, address, date of birth, and principal occupation of every person with an interest in the business.

If the business is conducted by:

- A. A sole proprietorship: the name, home address, date of birth and principal occupation of that individual.
 - B. A firm or partnership: the names, home addresses, dates of birth, and principal occupations of each member of the firm or partnership.
 - C. A corporation: the names, home addresses, dates of birth and principal occupations of all directors, officers and shareholders owning more than twenty-five percent (25%) of the outstanding shares.
- (6) The name, description, model number and serial number of each computerized sweepstakes device on the premises and any other device on the premises that is necessary to the operation of the computerized sweepstakes device.
 - (7) A list of each separate prize that may be given out and each separate dollar amount that may be given; and the odds of winning any offered prize or dollar amount awarded for the participation in any game, activity, program, scheme or play, use or participation in any way in a computerized sweepstakes device or participation in any other activity or promotion in the sweepstakes/internet café, whether or not the determination of the giving of the thing of value or the delivery of the thing of value occurs totally within the confines of the premises or requires some event, occurrence or happening at another location.
 - (8) The name and address of any and all persons, businesses or organizations that provide games, computer software, equipment, or services or operate devices linked to the computerized sweepstakes devices or to devices necessary to operate the entertainment devices, whether any such provisions are sold, leased or licensed.
 - (9) The tax account number of the business from the Village of Garrettsville Income Tax Division.
 - (10) The application is to include supporting documentation from a Certified Independent Regulatory Compliance Test Laboratory that the software performs in similar fashion as other permitted sweepstakes commercially offered to the public and that the entries are drawn from a pre-created finite static pool of entries with assigned values. To be certified, the Independent Regulatory Compliance Testing Laboratory must be authorized to test regulated gaming equipment by at least one state government gaming regulatory agency.

(b) The person, partnership, corporation, or other entity operating or conducting the business shall have a continuing duty to inform the Village as to changes in the information required in this section. No person, partnership, corporation, or other entity shall operate or conduct a sweepstakes/internet café at any time unless the information on file with the Village is current and accurately reports the licensing information at the time of operation.

(c) If an application is not approved, the Village shall notify the applicant in writing, with reasons for rejection.

(d) The Village shall not issue a license to any person, partnership, corporation, or other entity if any of the persons with an interest in the business or if any of the employees of the business have been convicted of a violation of a federal or state statute or of any local ordinance pertaining to gambling or other crime of moral turpitude within five years preceding the application. All owners, employees and persons having an interest in the business, as set forth in Section 733.03(a)(5), shall consent to a criminal history check by the Garrettsville Police Department.

(e) As a prerequisite to the issuance of such license, an inspection shall be made of the premises by the Fire Department and the premises must be in compliance with all applicable fire regulations. The sweepstakes/internet café shall be open to inspection and viewing of operations by law enforcement officers and fire department personnel at all times of operation. No operator shall fail to immediately permit entry to any such Village officials.

(f) Failure to register or pay a license fee for a computerized sweepstakes device shall be grounds for suspension or revocation of the license for the establishment and said device shall be seized and forfeited to the Village.
(Ord. 2011-13. Passed 4-13-11.)

733.04 LOCATION.

(a) Sweepstakes/internet cafés shall only be permitted in the "C-2" Zoning District of the Village, as set forth in the Village of Garrettsville Codified Ordinances Chapter 1179 and as delineated by the Zoning Map of the Village of Garrettsville, and any subsequent amendments thereto.

(b) No license shall be granted to a sweepstakes/internet café that will conduct its business at a location that is within one thousand (1000) feet from the boundaries of a parcel of real estate having situated on it a school, public library, public playground, church, or religious institution, or within two hundred fifty (250) feet of any establishment that has been issued a liquor permit by the State of Ohio.

(c) This section shall not apply to:

- (1) Any sweepstakes/internet café locations in existence at the time of the passage of this ordinance;
- (2) Any duly licensed sweepstakes/internet café locations in existence at the time a school, public library or public playground moves within one thousand (1000) feet of said sweepstakes/internet café;
- (3) Any duly licensed sweepstakes/internet café locations in existence at the time an establishment that has been issued a liquor permit by the State of Ohio moves within two hundred fifty (250) feet of said sweepstakes/internet café.

However, any change in ownership of the sweepstakes/internet café or change in location will remove said sweepstakes/internet café from this exception. "Change in ownership" in the case of a partnership or corporation for the purpose of this section means more than fifty percent change in partners or shareholders from the partners or shareholders owning the partnership or corporation as of the date the school, public library, church, religious institution or public playground moves within one thousand (1000) feet, or liquor permit establishment moves within two hundred fifty (250) feet of said sweepstakes/internet café. (Ord. 2011-13. Passed 4-13-11.)

733.05 LICENSE FEE; TRANSFER AND DISPLAY.

(a) The license fee, payable to the Village at the time of application and annually thereafter, shall be five thousand dollars (\$5,000.00) for each business location per year or any part thereof ending on December 31 of each year. In the event that an application is denied under this Chapter, one-half (1/2) of the application fee shall be returned to the applicant. In the event that a license is revoked or suspended hereunder, no portion of the license fee shall be returned.

(b) The fee for each computerized sweepstakes device shall be one hundred dollars (\$100.00) for each device on the premises for each year or any part thereof ending on the last day of the year.

(c) The fees, which are paid at the time of application, are not refundable in any case. The license fee shall be paid for each device brought to the facility before the device is put into use. For purposes of determining licensing fees, each device that is operable by one or more persons is a separate device.

(d) Licenses issued under this article shall not be transferable to any other person, partnership, corporation, or other entity and the business may be conducted only at the location for which the license is issued. The license must be so placed as to be made conspicuously visible and shall list each device with serial number.

(e) Failure to register any computerized sweepstakes device before placement on the premises is an unclassified misdemeanor and the operators shall each be liable for a mandatory fine of one hundred fifty dollars (\$150.00) for each day the device is not registered, and said fine shall not be reduced or suspended.
(Ord. 2011-13. Passed 4-13-11.)

733.06 REVOCATION; HEARING PROCEDURE.

(a) The license may be suspended or revoked at any time by the Village on satisfactory proof that violation of the laws of the state, ordinances of the Village, or of this Chapter occur on the premises. In addition to any license suspension, the Village may assess the licensee a penalty fee of not less than five hundred dollars (\$500.00) nor more than one thousand five hundred dollars (\$1,500.00) for any violation of this article. Each day a continuing violation exists shall constitute a separate violation for purpose of assessing penalty fees. Suspensions, revocations and assessments of penalty fees is in addition to and separate from any criminal liability and does not preclude criminal prosecution for any violation of this article or other village, state or federal laws.

(b) Any person may submit a written complaint to the Village in regard to any sweepstakes/internet café location, which shall include the name and address of the complainant, the location of the sweepstakes/internet café, and the specific reasons why the resident is complaining. The designated Village official or a designee from law enforcement shall regularly inspect the premises, the operation, the computerized sweepstakes devices and the licensee's records and may issue a complaint to the licensee for any violations.

(c) The Mayor, or his/her designee from law enforcement, shall meet with the complainant and inquire as to the specific reasons for the complaint. The complaint may be dismissed if it is determined that:

- (1) The specific reasons listed in the complaint are not proper grounds for suspension or revocation of the license.
- (2) There are not substantial credible facts to support the complaint by the resident.

(d) No appeal shall lie from the decision to dismiss a complaint.

(e) If the complaint is not dismissed, the Mayor, or his/her designee, will then notify the licensee and the owner of the devices on the premises, as listed on the license application, that a complaint has been filed and will set a date for a conference on the matter. Extensions will be granted and necessary investigations will be conducted at the discretion of the Mayor who may request the assistance of any person in law enforcement to assist in the investigation. The Village and its designee and any law during all times that the computerized sweepstakes devices are available for play.

(f) At the time of the conference, the complainant, the licensee, the Mayor, or his/her designee, and the owner of the devices will meet and attempt to amicably resolve the situation. If the complainant, licensee, Mayor, or his/her designee, and the owner of the devices can reach an amicable solution, the Village will direct the licensee to comply with the solution in his notice of reconciliation.

(g) If the parties cannot agree upon an amicable solution to the problem, the complaint shall be transmitted to the Village Solicitor for consideration. The recommendation may be for dismissal of the complaint, suspension of the license and assessment of penalty fees, or revocation of the license.

(h) Consideration of the complaint shall be a public hearing which shall be held within thirty days after said notice is given. The complainant, the licensee and the owner of the devices, as listed on the license application, shall be notified at least fifteen (15) days in advance of the hearing by certified mail; and they may, if they so choose, be present during consideration of the complaint. The licensee shall have the right to be represented by counsel, and have the right to examine and cross-examine witnesses and introduce evidence. The Solicitor shall enter its decision the day of the hearing unless additional time is needed. In the event of a decision and ruling adverse to the licensee, the licensee shall have the right to appeal such decision and ruling to a court of competent jurisdiction under authority of and pursuant to the provisions of Ohio Revised Code Chapter 2506.

(i) This complaint process is separate and distinct from any law enforcement action taken to enforce the laws of the State or the Village and is not a condition precedent or otherwise an impediment to enforcement of said laws by criminal prosecution.
(Ord. 2011-13. Passed 4-13-11.)

733.07 HOURS OF OPERATION.

No operator of a sweepstakes/internet café shall permit the same to be or remain open except as follows:

- (a) Between the hours of 10:00 a.m. and 10:00 p.m. on Mondays, Tuesdays, Wednesdays and Thursdays;
 - (b) Between the hours of 10:00 a.m. and midnight on Fridays and Saturdays;
 - (c) Between the hours of 1:00 p.m. and 10:00 p.m. on Sundays.
- (Ord. 2011-13. Passed 4-13-11.)

733.08 PROHIBITED CONDUCT.

No licensee of a sweepstakes/internet café by himself/herself, directly or indirectly, or by any servant, agent or employee, shall permit or fail to take active steps to eliminate or prevent the activities specified in this section from occurring on the premises. All such licensees shall have a duty to diligently pursue enforcement of this section. The actions or inactions of the operator and the failure to take action by the operator shall be imputed to the licensees. No such licensee shall:

- (a) Permit any indecent, immoral or profane language, or indecent, immoral or disorderly conduct, upon the premises;
 - (b) Permit the premises to become a gathering place for disorderly persons of any type;
 - (c) Permit the gambling in any form or the possession or use of gambling paraphernalia upon the premises;
 - (d) Permit intoxication or the possession or use of alcoholic beverages upon the premises;
 - (e) Permit the possession or use of any unlawful drug, narcotic or controlled substance;
 - (f) Permit the public streets, sidewalks, alleys or walkways adjacent to the premises to become littered;
 - (g) Permit the premises or the activity conducted thereon to become a public nuisance to the surrounding environs;
 - (h) Permit the walkways to become obstructed in any manner so that pedestrian traffic is hindered;
 - (i) Permit any computerized sweepstakes device thereon to be operated at any time the premises is not open for business, or permit the entrance to be locked at any time that the premises are open for business;
 - (j) Permit the premises to become overcrowded so as to constitute a hazard to the health or safety of persons therein or to be in violation of any of the Village's fire, health or sanitation codes;
 - (k) Permit any computerized sweepstakes device to be offered to the public for operation unless fully operable and in safe operating condition;
 - (l) Permit the premises to be open for business without displaying the licenses therefore in a conspicuous place thereon;
 - (m) Permit the operation of any unlicensed computerized sweepstakes device upon the premises;
 - (n) Permit any violation of any ordinance of the Village or statute of the State to take place upon the premises.
- (Ord. 2011-13. Passed 4-13-11.)

733.09 MISCELLANEOUS.

(a) Any sweepstakes/internet café shall have an adult who is twenty-one years of age or over on the premises and supervising at all times the computerized sweepstakes devices during all hours of operation.

(b) The interior of the sweepstakes/internet café shall provide a minimum area of forty (40) square feet per computerized sweepstakes device in each room in which such devices are located.

(c) No operator shall permit the sale, possession or consumption of alcoholic beverages on the premises of a sweepstake/internet café.

(d) No operator shall fail to maintain order and quiet on the premises so as not to violate the public peace.

(e) No persons under the age of twenty one (21) years shall be permitted on the premises of any sweepstakes/internet café.

(f) The operator shall require a photo identification of every person to whom anything of value is given in connection with the sweepstakes/internet café and shall record the person's name, date of birth, and home address and a description of the thing given, a stated dollar value of the thing given, the date and time of the giving and, if an entertainment device is involved in the circumstances of the giving, the serial number or other identifying description of the device. If the dollar value given for any single event for which there is a chance of winning, as calculated by the odds of winning provided to the Village in Section 733.03, is six hundred dollars (\$600.00) or more the operator shall also include in the record a copy of the photo identification and record the person's social security number. By the second Tuesday of each month the operator shall cause to be delivered to the Village Income Tax Administrator a copy of the record containing the information set forth above for the preceding month. The operator and the Village Income Tax Administrator shall not disclose the social security number of any person to anyone except as required by the laws of the State of Ohio and the United States government.

(g) The operator shall post in a conspicuous place on the premises in the room where the computerized sweepstakes devices are located in no less than twenty point type:

- (1) Each separate prize that may be given and each separate dollar amount that might be given.
- (2) The odds as stated in the filing with the Village, as required in Section 733.03(a)(7).
- (3) A complete statement of the rules and conditions pertaining to the giving of any prizes or anything of value to any person, whether or not the determination of the giving of the thing of value or the delivery of the thing of value occurs totally within the confines of the premises or requires some event, occurrence or happening at another location.

(h) The operator shall keep a complete set of all records of the operations at the premises at all times, including all federal, state and local tax records, all records of payments and receipts, all records of expenses and revenues of the operation, all banking records, all contracts, leases and agreements affecting the premises, equipment and operation, all personnel records and all other records pertaining to the business. Records shall be maintained for ten (10) years.

(i) No applicant shall make a false or incorrect statement in an application for a license and no operator shall fail to update the information supplied to the Village to reflect existing operations as required in Section 733.03(b).

(j) It is the intent of this Chapter that operators are strictly liable for any violations of this article.

(k) No person shall be denied any license or the right to use a licensed computerized sweepstakes device under this Chapter in the Village because of race, color, creed, sex, religious belief or natural origin.
(Ord. 2011-13. Passed 4-13-11.)

733.10 NUISANCE.

A violation of this Chapter shall constitute a nuisance and is subject to civil proceedings, including an injunction, in addition to prosecution for criminal violations of the State of Ohio and Codified Ordinances of the Village of Garrettsville.
(Ord. 2011-13. Passed 4-13-11.)

733.11 SEVERABILITY.

In the event any provision of this Chapter shall be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of this Chapter as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.
(Ord. 2011-13. Passed 4-13-11.)

733.99 PENALTY.

Whoever violates any provision of this Chapter for which a specific penalty is not otherwise stated shall be guilty of a misdemeanor of the first degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. In addition to the penalties set forth herein, the license for the sweepstakes/internet café shall be permanently revoked.
(Ord. 2011-13. Passed 4-13-11.)