

CODIFIED ORDINANCES OF CLAYTON
PART SEVEN - BUSINESS REGULATION CODE

Chap. 721. Vendors, Peddlers and Solicitors.

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CHAPTER 721
Vendors, Peddlers and Solicitors

<p>721.01 Definitions.</p> <p>721.02 Itinerant vendor; license fee.</p> <p>721.03 Peddlers by hand.</p> <p>721.04 Peddlers from hand-drawn vehicles.</p>	<p>721.05 Peddlers from other vehicles.</p> <p>721.06 Solicitor; license fee.</p> <p>721.07 Exceptions; when license not required.</p> <p>721.99 Penalty.</p>
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CROSS REFERENCES

Power to inspect food products - see Ohio R.C. 715.46
 Power to regulate - see Ohio R.C. 715.61 et seq.
 Home solicitation sales - see Ohio R.C. 1345.21 et seq.
 Charitable solicitations - see Ohio R.C. Ch. 1716
 Frozen desserts - see Ohio R.C. 3717.51 et seq.
 Littering - see GEN. OFF. 521.08
 Adulterated food - see GEN. OFF. 537.13
 Trespassing - see GEN. OFF. 541.05

721.01 DEFINITIONS.

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

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

- (c) "Solicitor" means any person who travels by any means from place to place, taking or attempting to take orders for sale of goods to be delivered in the future or for services to be performed in the future.
(1979 Code 112.01)

721.02 ITINERANT VENDOR; LICENSE FEE.

Every itinerant vendor shall obtain a license before engaging in business, and shall pay therefor a fee of five dollars (\$5.00) for each week that such business is carried on. This license shall terminate automatically with the last day for which a sum shall have been paid.
(1979 Code 112.02)

721.03 PEDDLERS BY HAND.

Every peddler selling goods of any kind carried by hand shall obtain a license before engaging in business and shall pay therefor a fee of twenty-five dollars (\$25.00) per year.
(1979 Code 112.03)

721.04 PEDDLERS FROM HAND-DRAWN VEHICLES.

Every peddler selling fruits, vegetables, or goods of any kind from vehicles drawn by hand shall obtain a license before engaging in business and shall pay therefor a fee of ten dollars (\$10.00) per year for each vehicle used for such purpose.
(1979 Code 112.04)

721.05 PEDDLERS FROM OTHER VEHICLES.

Every peddler selling fruits, vegetables, or goods of every kind from vehicles drawn by means other than hand, shall obtain a license before engaging in business and shall pay therefor a fee of twenty-five dollars (\$25.00) per year for each vehicle used for such purpose.
(1979 Code 112.05)

721.06 SOLICITOR; LICENSE FEE.

Every solicitor shall obtain a license before engaging in business and shall pay therefor a fee of twenty-five dollars (\$25.00) per year.
(1979 Code 112.06)

721.07 EXCEPTIONS; WHEN LICENSE NOT REQUIRED.

The provisions of this chapter shall not apply to an owner of any product of his own raising or to the manufacturer of any article manufactured by him, who by himself or his agent, peddles or vends any such article or product; nor shall the same apply to any person who by State or federal law or constitutional provision, has been exempted from obtaining such license; nor to any sale under order of court or at a bona fide auction; nor to any sale at wholesale to a retail dealer. (1979 Code 112.07)

721.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a minor misdemeanor.

**CHAPTER 729
Outdoor Public Entertainment Activity**

- 729.01 Definitions.**
- 729.02 Registration required by sponsoring agency and operator.**
- 729.99 Penalty.**

CROSS REFERENCES

- Power to regulate - see Ohio R.C. 715.48, 715.63, 3765.02
- State licensing of portable amusement devices - see Ohio R.C. 1711.11(H)
- County license for public shows - see Ohio R.C. Ch. 3765

729.01 DEFINITIONS.

Unless otherwise expressly stated in this chapter, the following terms shall have the meanings provided in this section.

- (a) "Operator" means the person, firm, partnership, corporation, club, society, or other legal entity that operates or supervises any outdoor public entertainment activity or constructs structures incident to outdoor public entertainment.
- (b) "Outdoor public entertainment" means any carnival, fair, festival or similar enterprise which offers to the public, for a fee, any one or combination of: amusement rides; games of chance for which prizes may be awarded; sales of food or beverages; exposition of or offer for sale of goods; entertainment performance or series of performances; or musical concert.
- (c) "Sponsoring agency" means the person, firm, partnership, corporation, club, society or other legal entity that organizes, funds, promotes or sponsors any outdoor public entertainment.

729.02 REGISTRATION REQUIRED BY SPONSORING AGENCY AND OPERATOR.

- (a) No sponsoring agency other than the City shall conduct or operate or allow to be conducted or operated any outdoor public entertainment within the City without prior approved registration with the City Manager.

(b) No operator shall operate any form of outdoor public entertainment without prior approved registration with the City Manager.

(c) Such registration will be completed to the satisfaction of the City Manager on forms prescribed by the City Manager.

729.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the third degree. Each day constitutes a separate violation.

**CHAPTER 731
Payday Lenders**

731.01	Purpose and intent.	731.09	Prohibitions.
731.02	Definitions.	731.10	Buildings where located.
731.03	Applicability.	731.11	Separation requirements.
731.04	Responsibility for administration.	731.12	Cancellation of payday loan.
731.05	Severability.	731.13	Enforcement.
731.06	Permit required.	731.14	Appeal of notice of violation.
731.07	Administrative authority.	731.15	Remedies not exclusive.
731.08	Loan regulations.	731.99	Penalty.

CROSS REFERENCES

Interest on the loan - see 15 U.S.C. 1606

731.01 PURPOSE AND INTENT.

The purpose of this chapter is to provide for the health, safety, morals, and general welfare of the citizens of Clayton through the regulation of Payday Lenders. This protection is hereinafter provided by:

- (a) Requiring Payday Lenders to obtain a permit from the City;
- (b) Enacting mandatory regulations and prohibitions applicable to Payday Lenders;
- (c) Providing an enforcement mechanism for violators;
- (d) Regulating the location of Payday Lenders within the City.
(Ord. 0-03-08-07. Passed 4-17-08.)

731.02 DEFINITIONS.

For purposes of this chapter, the following shall mean:

- (a) "Payday lender" includes Payday Loan Businesses and/or Title Loan Businesses.
- (b) "Payday Loan Business" means a person or entity that for compensation, engages in whole or in part, in the business of making loans in the principal amount of five hundred dollars (\$500.00) or less for short-term against the Borrower's future paycheck(s). The aforementioned definition excludes State or Federally chartered banks, savings associations, credit unions, or industrial loan companies offering direct deposit advance service to their customer that is incidental to their main purpose or business.
- (c) "Title Loan Business" means a person or entity that makes loans with the pledge of personal property as collateral, evidenced by a certificate of title issued by the State of Ohio, and regulated under the laws of the State of Ohio.

- (d) "Borrower" means a natural person who receives a loan from a Payday Lender.
- (e) "Principal" means the original loan proceeds advanced for the benefit of the Borrower in a payday loan excluding any fee or interest charge.
(Ord. 0-03-08-07. Passed 4-17-08.)

731.03 APPLICABILITY.

(a) This chapter shall apply to all Payday Lenders operating within the City of Clayton, Ohio.

(b) A nonconforming use of land existing lawfully at the time of the enactment of this section may be continued, but shall not be extended, expanded, or enlarged. Those businesses that were in legal operation at the same location as of the effective date of this chapter shall be considered as legal nonconforming uses. An existing business shall be one that has been in continuous operation under the same business name and ownership from and after the date of enactment of this Section.
(Ord. 0-03-08-07. Passed 4-17-08.)

731.04 RESPONSIBILITY FOR ADMINISTRATION.

The City Manager and/or his/her designee, shall administer, implement, and enforce the provisions of this chapter.
(Ord. 0-03-08-07. Passed 4-17-08.)

731.05 SEVERABILITY.

The provisions of this chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter.
(Ord. 0-03-08-07. Passed 4-17-08.)

731.06 PERMIT REQUIRED.

(a) Within 60 days of the effective date of enacting this Chapter, any Payday Lender operating in the City of Clayton, Ohio shall apply for and obtain a permit to operate in the City of Clayton, Ohio as a Payday Lender. The permit and fee paid shall be in addition to any other permits or licenses required by this Code or any other applicable laws or regulations. Permits are non-transferable.

(b) A separate permit shall be required for each location a Payday Lender operates in the City and each permit must be renewed annually.

(c) The permit application shall be in a form to be determined by the City Manager.

(d) The City Manager shall require the Payday Lender to report its fee schedule in the application.

(e) No person or entity shall operate a Payday Lending Business or loan any funds without a current permit issued by the City of Clayton.

(f) The amount of the permit fee is one hundred dollars (\$100.00).
(Ord. 0-03-08-07. Passed 4-17-08.)

731.07 ADMINISTRATIVE AUTHORITY.

(a) The City Manager is authorized and directed to enforce all provisions of this chapter. The City Manager shall have the power and authority to investigate any and all complaints regarding alleged violations of this chapter. The City Manager may delegate any or all authority granted under this section to a designee.

(b) The City reserves the right to review and/or copy the records of any Payday Lender for purposes of auditing or complaint resolution. Such records shall be made available for inspection during normal business hours within 24 hours of written notice by the City Manager or designee.

(c) The City Manager is authorized to adopt and enforce administrative rules interpreting and applying this Chapter. The City Manager or designee shall make written findings of fact and conclusions of law to support all administrative rules.

(d) Prior to adoption of a new administrative rule, the City Manager shall give public notice of the terms of the proposed rule, and shall conduct a public hearing to consider public comment. Public notice shall be given when administrative rules have been adopted. At the public hearing, the City Manager or designee shall hear oral and written testimony concerning the proposed rule. The City Manager shall have the power to establish and limit the matters to be considered at the hearing, to prescribe procedures for the conduct of the hearings, to hear evidence, and to preserve order.

(e) The City Manager, after considering testimony received during the public hearing, shall adopt, modify or reject the proposed rule.

(f) Unless otherwise stated, all rules shall be effective upon adoption by the City Manager. All rules adopted by the City Manager shall be filed by and with the Clerk of Council. Copies of all current rules shall be available to the public upon request.

(g) Notwithstanding any other provision of this Section, the City Manager may adopt an interim rule without prior public notice upon a finding that failure to act promptly may result in serious prejudice to the public interest or the interest of the affected parties. Such interim rules shall detail the specific reasons for such prejudice. Any interim rule adopted pursuant to this paragraph shall be effective for a period not to exceed 180 days.
(Ord. 0-03-08-07. Passed 4-17-08.)

731.08 LOAN REGULATIONS.

(a) A Payday Lender with a valid permit may engage in the business of making loans provided that the Payday Lender complies with all of the following:

- (1) The total amount of each loan may not exceed five hundred dollars (\$500.00);
- (2) The duration of each loan may not exceed six months;
- (3) The interest on the loan is calculated in compliance with 15 U.S.C. 1606 and does not exceed an annual percentage rate greater than thirty-six per cent;
- (4) The loan must be made pursuant to a written loan agreement that sets forth the terms and conditions of the loan, and discloses clearly and concisely all of the following:

- A. The total amount of fees and charges the Borrower will be required to pay in connection with the loan;
 - B. The rate of interest contracted for under the loan contract;
 - C. The total amount of each payment, when each payment is due, and the total number of payments;
 - D. Any disclosures required by the Truth in Lending Act.
- (5) All Payday Lenders must retain copies of all documents signed by the Borrower or which relate to the loan given to the Borrower for at least a period of two years from the date the loan was granted.
(Ord. 0-03-08-07. Passed 4-17-08.)

731.09 PROHIBITIONS.

No Payday Loan Business shall do any of the following:

- (a) Operate before the hour of 8:00 a.m. or after the hour of 6:00 p.m.;
- (b) Make a loan that does not comply with the provisions of this Chapter;
- (c) Make a loan without having obtained a permit from the City or make a loan after a previously issued permit has expired;
- (d) Make a loan which requires the Borrower to waive the Borrower's right to legal recourse under any otherwise applicable provision of law;
- (e) Engage in any device or subterfuge to evade the requirements of this chapter.
(Ord. 0-03-08-07. Passed 4-17-08.)

731.10 BUILDINGS WHERE LOCATED.

Each Payday Lender Business shall be located within a multi-tenant commercial building, housing not less than four separate occupancies.
(Ord. 0-03-08-07. Passed 4-17-08.)

731.11 SEPARATION REQUIREMENTS.

No permit shall be issued for any Payday Lender that is located within one thousand (1,000) feet of any other Payday Lender Business or within one thousand (1,000) feet of any property used primarily for a two family dwelling or multi-family dwelling, town home, apartment building, school, religious place of worship or any place serving or selling alcohol. The separation distances shall be measured from or to the outer wall of the Payday Lender Business and from or to the property line of the property containing the above identified use(s). The minimum separation distances shall be measured from any Payday Lender Business located within the City limits of Clayton or outside and immediately adjacent to the City limits. This separation provision shall not apply to an existing business that has been in continuous operation at the same location and under the same business name and ownership from and after the date of enactment of this Section.
(Ord. 0-03-08-07. Passed 4-17-08.)

731.12 CANCELLATION OF PAYDAY LOAN.

- (a) A Payday Lender shall cancel a Payday Loan without any charge to the Borrower if, within one business day of taking out the loan, the Borrower:
 - (1) Informs the Payday Lender in writing that the Borrower wishes to cancel the Payday Loan and any future payment obligations; and
 - (2) Returns to the Payday Lender the uncashed check or proceeds given to the Borrower by the Payday Lender or cash in an amount equal to the principal amount of the Payday Loan.

(b) A Payday Lender shall conspicuously disclose to each Borrower that the right to cancel a Payday Loan as described in this Section is available to the Borrower. The Payday Lender shall disclose this requirement to the Borrower in a minimum of bold 12 point type.

(c) For purposes of this Section, a "business day" shall begin at the minute the Payday Lender tenders the loaned money to the Borrower and end at the same minute on the next day that the Payday Lender is regularly open for business.
(Ord. 0-03-08-07. Passed 4-17-08.)

731.13 ENFORCEMENT.

(a) Whenever the City Manager or his/her designee finds that a person or entity has violated a provision of this Chapter or failed to meet a requirement of this Chapter, the City Manager or his/her designee may order compliance by written Notice of Violation(s) to the responsible person or entity. The notice shall set forth a deadline to correct the violation(s). The notice shall also advise that should the violator fail to comply with the order specified in the notice within the established deadline, the City may, without limitation, cite the person or entity pursuant to Section 731.99 and/or revoke or suspend the permit for said person or entity.

(b) The written notice specified herein shall be served by certified mail, return receipt requested, to the last known address of the violator. If the violator cannot be located, nor an address ascertained, this notice shall be deemed properly served if a copy thereof is placed in a conspicuous place in or about the building or structure where the Payday Lender Business is located. If notice is by certified mail, then the compliance period stated within the notice begins to run as of the date the violator received the notice as evidenced by the return receipt. If certified mail is refused or unclaimed as evidenced by the return of such certified mail with an endorsement showing such refusal or that the envelope was unclaimed, the notice shall be re-issued by ordinary mail. The certified mail envelope and endorsement shall be retained as evidence of such failure of certified mail service; and service of the notice shall be deemed completed upon mailing of the ordinary mail notice.

(Ord. 0-03-08-07. Passed 4-17-08.)

731.14 APPEAL OF NOTICE OF VIOLATION.

Any person or entity receiving a Notice of Violation may appeal the determination to the City Manager by filing a Notice of Appeal with the City Manager. The Notice of Appeal must be in writing and must be received by the City Manager within ten (10) calendar days from the date of the issuance of the Notice of Violation. Hearing on the appeal before the City Manager shall take place within fifteen (15) calendar days from the date of receipt of the Notice of Appeal. The City Manager shall issue a written decision within thirty (30) calendar days of the hearing. The decision of the City Manager shall be final.

(Ord. 0-03-08-07. Passed 4-17-08.)

731.15 REMEDIES NOT EXCLUSIVE.

The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the City to seek cumulative remedies. (Ord. 0-03-08-07. Passed 4-17-08.)

731.99 PENALTY.

Whoever violates or fails to comply with any of the provisions of this Chapter is guilty of a minor misdemeanor and shall be fined not more than one hundred dollars (\$100.00). A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues. (Ord. 0-03-08-07. Passed 4-17-08.)