

## **TITLE FIVE - Consumer Protection**

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### **CHAPTER 759 DEFINITIONS**

- 759.01 Short Title.  
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759.04 Unfair or deceptive consumer sales practices prohibited.

#### **CROSS REFERENCES**

- Consumer Affairs Board – see ADM. Ch. 201**  
**Consumer sales practices – see Ohio R.C. Ch. 1345**  
**Consumer protection – see Ohio R.C. Ch. 1349**

#### **759.01 SHORT TITLE.**

This Code of Regulations contained in this Title shall be known and may be cited and referred to as “Consumer Protection” or may be referred to in short as “this Code”. (Ord. 2004-455. Adopted 8-30-04.)

#### **759.02 DEFINITIONS OF TERMS.**

As used in this Title, certain terms are defined as follows:

- (a) “Appliances” means any device or instrument operated by electricity, gas, or otherwise, and designed for personal, family, or household use.
- (b) “Board” means the eleven member board who oversees and supervises the Director of Consumer Affairs in effectively protecting the consumer public in the County.
- (c) “Consumer” means a person who seeks or acquires real or personal property, goods, or services, primarily for personal, family, or household purposes.
- (d) “Consumer Transaction” means a sale, lease, assignment, award by chance, or other transfer of an item of goods, a service, a franchise, or an intangible, to an individual for purposes that are primarily personal, family, or household, or solicitation to supply any of these things. “Consumer Transaction” does not include transactions between persons defined in sections 4905.03 of the Ohio Revised Code and their customers; transactions between certified public accountants or public accountants; transactions between attorneys, physicians, or dentists, and their clients or patients; and transactions between veterinarians and their patients that pertain to medical treatment but not ancillary services. “Consumer transaction” also does not include transactions between persons, defined in 5725.01 of the Ohio Revised Code, including FDIC insured depository institutions and their operating subsidiaries, and their customers unless otherwise provided by federal or state law, statute, or rule.
- (e) “Director” means the Director of the Office of Consumer Affairs wherever used in this Code as well as Part 1, Administrative Code, Title 9, unless specifically defined otherwise.
- (f) “Goods” means all movable things, wares, merchandise, and fixtures whether or in existence at the time of the transaction except money, securities, and chattel paper but including merchandising certificates.
- (g) “Merchant” means a person who regularly deals in real or personal property, goods, or services, in a manner which results or is intended to result in consumer transaction. Merchant includes but is not limited to a seller, lessor, manufacturer, his assigns, or successors.
- (h) “Person” means any individual, partnership, partner, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents, assigns, employees, or successors.
- (i) “Services” means and includes, but is not limited to, work, labor, consumer transactions, privileges, and all other accommodations which are primarily for personal, family, or household purposes. (Ord. 2004-455. Adopted 8-30-04.)

#### **759.03 UNCONSCIONABLE CONSUMER SALES PRACTICES.**

Unconscionable consumer sales practices by persons are violations of this Code.

“Unconscionable consumer sales practices” means any act, omission, or practice indicated by Section 201.01(i) of the Codified Ordinances of the County of Summit. (Ord. 2004-455. Adopted 8-30-04.)

#### **759.04 UNFAIR OR DECEPTIVE CONSUMER SALES PRACTICES PROHIBITED.**

Unfair or deceptive trade practices by persons are hereby prohibited.

Unfair or deceptive sales practices means those practices indicated by Section 201.01(j) of the Codified Ordinances of the County of Summit. (Ord. 2004-455. Adopted 8-30-04.)

## **CHAPTER 761 ENFORCEMENT, ORDERS AND PENALTY**

- 761.01 Territorial application.
- 761.02 Waivers and disclaimers.
- 761.03 Consumer affairs personnel.
- 761.04 Enforcement actions and consumer remedies.
- 761.05 Conflict with other County ordinances.
- 761.99 Penalties.

### **CROSS REFERENCES**

**Consumer Affairs Board – see ADM. Ch. 201**  
**Consumer sales practices – see Ohio R.C. Ch. 1345**  
**Consumer protection – see Ohio R.C. Ch. 1349**

#### **761.01 TERRITORIAL APPLICATION.**

This Code applies to all consumer transactions which take place within the County of Summit, regardless of the residence of any of the persons directly or indirectly affected by such transaction. (Ord. 2004-455. Adopted 8-30-04.)

#### **761.02 WAIVERS AND DISCLAIMERS.**

No agreement, whether oral or in writing, made within the County, may waive or disclaim the jurisdiction, provisions, rules, or regulations, of this Code. Any attempt to so waive or disclaim provisions of this Code is contrary to public policy, of no effect, and is void. (Ord. 2004-455. Adopted 8-30-04.)

#### **761.03 CONSUMER AFFAIRS PERSONNEL.**

The Director of Consumer Affairs shall supervise such personnel as are needed to ensure the successful administration of this Code. Such personnel shall carry out the direction of the Director in all matters relating to the enforcement of this Code and shall aid and assist the Director in the efficient discharge of his or her duties. (Ord. 2004-455. Adopted 8-30-04.)

#### **761.04 ENFORCEMENT ACTIONS AND CONSUMER REMEDIES.**

- (a) All legal actions initiated by the Director of Consumer Affairs to enforce this Code shall be brought in accordance with the language contained in County Ordinance 2004-386, section 4, upon written request by the Director of Consumer Affairs. In addition to recovery of fines as provided by this Code, actions may be brought for injunctive relief in any court of competent jurisdiction to restrain a person from violating this Code and to restrain a merchant from engaging in unfair, deceptive, fraudulent, or unconscionable practices with consumers. To establish a cause of action under this Code, it need not be shown that consumers are being or were actually damaged.
- (b) The County or any person aggrieved by a violation of Title 5, Consumer Protection Code, may at any time within two years from the date of the alleged violation or within a reasonable time after the consumer discovers or should have discovered the violation, whichever is later, may apply to any court of competent jurisdiction for appropriate relief, including but not limited to:
- (1) Injunctive relief or an order otherwise compelling compliance with this Code;
  - (2) Compensatory damages which may be trebled if the act, omission, or practice, violates Sections 759.03 or 759.04 and/or punitive damages.
  - (3) Such other or further relief as is appropriate for the enforcement of this Code and elimination and prevention of violations thereof.
- (c) The court may award to the County or the complainant reasonable attorneys' fees and costs of litigation, and the County shall recover its reasonable costs of investigation of the violation. (Ord. 2004-455. Adopted 8-30-04.)

#### **761.05 CONFLICT WITH OTHER COUNTY ORDINANCES.**

In the event of a conflict between any provision of this Code and any other ordinances of the County, the provisions of this Code shall prevail with the exception of ordinances whose standards are more restrictive than those set out in this Code. (Ord. 2004-455. Adopted 8-30-04.)

#### **761.06 EFFECT ON OTHER REMEDIES.**

The remedies in this Code are in addition to remedies otherwise available for the same conduct under federal, state, or local law. (Ord. 2004-455. Adopted 8-30-04.)

#### **761.99 PENALTIES.**

- (a) No person shall violate or participate in the violation of any provision of this Code.
- (b) If a person violates any provision of this Code, the Office of Consumer Affairs may enforce the provisions of this Code with a civil penalty of not less than one hundred dollars (\$100.00), nor more than five hundred dollars (\$500.00). A separate offense shall be deemed committed each day during or on which a violation occurs or continues.
- (c) In addition to the above penalties, any person who violates any provision of this Code shall be subject to an order of a court of competent jurisdiction when appropriate in granting equitable relief to ensure justice with regard to the transaction which is the subject of the violation of this Code.
- (d) In addition to the penalties and remedies above, any person aggrieved by any violation of this Code may pursue remedies authorized by Section 761.04 of this Code. (Ord. 2004-455. Adopted 8-30-04.)

## **CHAPTER 763 DECEPTIVE ADVERTISING**

763.01 Untrue and misleading advertising.

763.02 Failure to advise of inferior merchandise.

763.03 Defective, rebuilt, or secondhand merchandise.

763.99 Penalties.

### **CROSS REFERENCES**

**Consumer Affairs Board – see ADM. Ch. 201**

**Consumer sales practices – see Ohio R.C. Ch. 1345**

**Consumer protection – see Ohio R.C. Ch. 1349**

### **763.01 UNTRUE AND MISLEADING ADVERTISING.**

No person, with intent to sell or in any way dispose of goods or service, or anything offered directly or indirectly to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, shall make, publish, disseminate, circulate, or place before the public, or cause directly or indirectly to be made, published, disseminated, circulated, or placed before the public, in the County of Summit, an advertisement of any sort regarding goods, service, or representation so offered to the public, which contains any assertion, representation, or statement, which is untrue, deceptive, or misleading, or fails to disclose that the quantity is limited, if such is the case. (Ord. 2004-455. Adopted 8-30-04.)

### **763.02 FAILURE TO ADVISE OF INFERIOR MERCHANDISE.**

(a) No person, with intent to sell or in any way dispose of merchandise which is not of the recognized highest grade for such merchandise, shall fail, neglect, or refuse to advise the public of the exact quality of the merchandise offered for sale, correctly stated in terms of the trade usage, plainly discernable upon such merchandise, or in or upon the counter, bin, or other receptacle from which it is offered to the public.

(b) Without prejudice to the generality of the prohibitions of this section and the applicability thereof, the advertising or representing of merchandise as imperfect, without stating the recognized trade designation of quality, shall be deemed a violation of this section. (Ord. 2004-455. Adopted 8-30-04.)

### **763.03 DEFECTIVE, REBUILT, OR SECOND-HAND MERCHANDISE.**

No person, firm, or corporation, in any newspaper, magazine, circular, form letter, or any open publication, published, distributed, or circulated, in the County, or on any billboard, car, label, or other advertising, shall advertise, call attention to, or give publicity to the sale of any merchandise, which merchandise is second-hand, used, or rebuilt merchandise, or which merchandise is defective in any manner, or consists of articles, units, or parts known as "seconds," or blemished merchandise, or which has been rejected by the manufacturer thereof as not first class, unless there is conspicuously displayed directly in connection with the name and description of such merchandise and each specified article, unit or part thereof, a direct and unequivocal statement, phrase, or word which will clearly indicate that such merchandise or each article, unit, or part thereof so advertised is second-hand, used, rebuilt, defective, consists of seconds, is blemished merchandise, or has been rejected by the manufacturer thereof. (Ord. 2004-455. Adopted 8-30-04.)

### **763.99 PENALTIES.**

(a) Whoever violates any provision of this Chapter shall be subject to the penalties provided in Section 761.99. Each fraudulent advertisement for the sale of such designated items or materials constitutes a separate offense.

(b) In addition to the penalties above, any person aggrieved by any violation of this Chapter may pursue remedies authorized by Section 761.04. (Ord. 2004-455. Adopted 8-30-04.)

## **CHAPTER 765 RETURNS AND REFUNDS**

765.01 Return of purchased merchandise.

765.99 Penalties.

### **CROSS REFERENCES**

**Consumer Affairs Board – see ADM. Ch. 201**

**Consumer sales practices – see Ohio R.C. Ch. 1345**

**Consumer protection – see Ohio R.C. Ch. 1349**

### **765.01 RETURN OF PURCHASED MERCHANDISE.**

No person who has sold any merchandise in any retail store in the County shall refuse, except for reasons imposed by law, including state or municipal health codes, to accept for exchange, credit, or refund the return within five business days of such merchandise, if the merchandise is in its original condition and has not been altered at the customer's request, and is accompanied by the original sales slip, for exchange, credit or refund, unless such merchandise has been sold pursuant to advertising clearly stating that such merchandise is sold on final sale and not subject to return, or there is posted prominently and conspicuously in such establishment a sign stating the terms under which the nonrefundable merchandise is offered or sold, or both offered and sold. (Ord. 2004-455. Adopted 8-30-04.)

### **765.99 PENALTIES.**

(a) Whoever violates Section 765.01 shall be subject to the penalties provided in Section 761.99.

(b) In addition to the penalties above, any person aggrieved by any violation of this Chapter may pursue remedies authorized by Section 761.04. (Ord. 2004-455. Adopted 8-30-04.)

## **CHAPTER 767 LAYAWAY AGREEMENTS**

767.01 Definitions.

767.02 Execution of agreement.

767.03 Contents of agreement.

767.04 Duties of seller.

767.05 Default by buyer; cancellation of agreement before default.

767.99 Penalties.

### **CROSS REFERENCES**

**Consumer Affairs Board – see ADM. Ch. 201**

**Consumer sales practices – see Ohio R.C. Ch. 1345**

**Consumer protection – see Ohio R.C. Ch. 1349**

### **767.01 DEFINITIONS.**

(a) "Cash Price" means the retail selling price for which goods subject to a layaway agreement may be purchased for cash from the seller by the buyer at the time of the execution of the layaway agreement.

(b) "C.O.D. Transaction" means an agreement by which the seller requires the buyer to pay the full cash price of the goods upon delivery or tender of the delivery by the seller, less any down payment made by the buyer. A C.O.D. transaction does not include an agreement by which the seller requires the buyer to pay interim payments before such delivery or tender of delivery.

(c) "Consumer" shall have the same meaning ascribed to the word "consumer" in Section 759.02.

(d) "Goods" shall have the same meaning ascribed to the word "goods" in Section 759.02.

(e) "Merchant" shall have the same meaning ascribed to the word "merchant" in Section 759.02.

(f) "Layaway Agreement" means a written contract for the retail sale of goods negotiated or entered into in the County between a consumer and a merchant, under this or any other name, under which:

(1) Part of or the entire layaway price is payable in one or more payments subsequent to the making of the layaway agreement.

(2) The goods are specific existing goods identified from the seller's stock or inventory at the time of the making of the layaway agreement.

(3) The seller retains possession of such goods until the layaway price is paid in full.

(4) "Layaway Agreement" includes a "Special Order Transaction," as defined in subsection (j) hereof. "Layaway Agreement" does not include a bona fide "C.O.D. Transaction" as defined in subsection (b) hereof.

(g) "Layaway Charge" means a charge assessed to the buyer for exercising the layaway option.

(h) "Layaway Price" means the sum of the cash price, service charges, and assessed taxes.

(i) "Service Charge" means any fee charged to the buyer in addition to the cash price of the goods, excluding taxes.

(j) "Service Order Transaction" means a contract negotiated or entered into for the retail sale of goods under which such goods:

(1) Are ordered by the buyer to his or her unique specifications;

(2) Are not carried by the seller, either in the seller's own showroom or warehouse;

(3) Are ordered from a manufacturer or supplier; and

(4) Are not resalable by the seller at the sale price negotiated with the buyer; or

(5) Have been alerted at the request of the buyer so that the goods are no longer salable to the general public.

(Ord. 2004-455. Adopted 8-30-04.)

### **767.02 EXECUTION OF AGREEMENT.**

A layaway agreement shall be in writing, contain all of the agreements of the parties, and be signed and dated by all the parties thereto. (Ord. 2004-455. Adopted 8-30-04.)

### **767.03 CONTENTS OF AGREEMENT.**

No merchant shall accept payment from a consumer to be applied to the purchase of goods on a layaway plan without first clearly and conspicuously disclosing to the consumer, in a layaway agreement, the following information:

(a) The full name and post office address of the seller;

(b) A description of the goods to be purchased on the layaway plan, including, as appropriate, the type of item, the name of the manufacturer, and the brand name, color, size, style, and model number of such goods;

(c) The cash price of such goods;

(d) A specific itemization of service charges, including, but not limited to, any layaway charge (not to exceed three percent (3%) of the cash price of the goods or five dollars (\$5.00), whichever is greater), and charges for delivery, installation, assembly, repair, or other services to the goods, which are separate from the cash price;

(e) The layaway price;

(f) The amount of the buyer's down payment, together with a statement of the respective amounts credited for cash or credits, the agreed value of any goods to be traded in and a description of such goods;

(g) The total sum which remains owing by the buyer to the seller, the number of installment payments, the amount of such payments, the dates by which such payments are due, and any penalties for late payment where the buyer is not in default;

(h) A clear and concise statement of circumstances constituting buyer default and all consequences of such default, including any imposition of liquidated damages, as permitted under paragraphs (d), (e), and (f) of Section 767.05. The statement shall further include the following:

(1) The buyer will not be in default until a required payment remains unpaid for at least thirty (30) days after the scheduled payment date, as provided in paragraph (a) of Section 767.05;

(2) Where the layaway agreement contains liquidated damages clause, the buyer shall not be in default until at least ten (10) days after the seller mails notice of default to the buyer, as provided in paragraph (b) of Section 767.05;

(3) Where the layaway agreement does not contain a liquidated damages clause, or if the layaway price of the specific goods subject to the layaway arrangement is one hundred dollars (\$100.00) or less, the seller is not required to mail notice of default as a prerequisite to the buyer's default, as provided in paragraph (c) of Section 767.05; and

(4) Upon default, the seller may cancel the layaway agreement as provided in paragraphs (1)-(3) above and in paragraph (d) of Section 757.05; and

- (i) A clear and conspicuous statement of the buyer's rights to cancel such layaway agreement as provided in paragraph (f) of Section 767.05. (Ord. 2004-455. Adopted 8-30-04.)

#### **767.04 DUTIES OF SELLER.**

- (a) The seller shall give the buyer an exact copy of the signed layaway agreement at the time the agreement is executed.
- (b) Upon execution of a layaway agreement, the seller shall hold for the buyer, or agree to deliver to the buyer, upon full payment of the layaway price, goods that are identical in every respect to those originally selected by the buyer, provided that the buyer complies with all the terms of the layaway agreement.
- (c) The seller shall bear the risk of loss or damage while holding the goods purchased pursuant to a layaway agreement.
- (d) Whenever a payment is made on a layaway agreement account, the seller shall give the buyer a dated receipt evidencing such payment.
- (e) If the buyer requests the status of the layaway account, the seller, within ten (10) days after such request, shall give the buyer a written statement setting forth:
  - (1) The total cost of the layaway transaction;
  - (2) The total amount paid by the buyer to date;
  - (3) The balance due to the seller and the date by which remaining payments are due.
- (f) The seller may not increase the layaway price of goods sold under a layaway agreement.
- (g) Upon the seller's breach of any of the seller's duties, the seller shall give to the buyer a full refund in cash or by due bill, at the option of the buyer. (Ord. 2004-455. Adopted 8-30-04.)

#### **767.06 DEFAULT BY BUYER; CANCELLATION OF AGREEMENT BEFORE DEFAULT.**

- (a) No buyer shall be in default under a layaway agreement until a required payment remains unpaid for at least thirty (30) days after the scheduled payment date.
- (b) If the seller's layaway agreement includes a liquidated damages clause as permitted in paragraph (e) of this Section, the buyer shall not be in default until at least ten (10) days after the seller mails a notice of the default to the last known address of the buyer. The notice shall be mailed using certified mail, return receipt requested, or by regular mail evidenced by a properly completed and stamped certificate of mailing by regular mail. Such notice shall state:
  - (1) The fact that the buyer has failed to comply with the layaway arrangements;
  - (2) In what manner the buyer has failed to comply with the layaway arrangements;
  - (3) The date upon which the buyer will be in default should payment not be forthcoming;
  - (4) The amount of money which must be paid by the buyer to avoid default; and
  - (5) The exact consequences of the buyer's default.
- (c) If the seller's layaway agreement does not include a liquidated damages clause, or if the layaway price of the specific goods subject to the layaway arrangement is one hundred dollars (\$100.00) or less, no written notice need be sent to the buyer as a prerequisite to the buyer's default.
- (d) Upon the buyer's default, the seller may cancel the layaway agreement and the balance of the monies paid shall be refunded by the seller to the buyer. Where the layaway agreement contains a liquidated damages provision, cancellation shall be in accordance with paragraph (b) of this Section, and the seller may recover liquidated damages as permitted in paragraph (e) of this Section.
- (e) If the buyer defaults under a layaway agreement, and the agreement contains a liquidated damages provision, the seller may retain as liquidated damages an amount not to exceed the lesser of twenty-five dollars (\$25.00) or ten percent (10%) of the cash price of the goods subject to the layaway agreement. Any balance due to the buyer shall be refunded by the seller in cash or by due bill at the option of the buyer.
- (f) The buyer may, at any time before delivery or tender of delivery, and before default, cancel the layaway agreement. In such event, the seller may retain from the refund due the buyer liquidated damages in an amount not to exceed the layaway charge plus the lesser of either twenty-five dollars (\$25.00) or ten percent (10%) of the cash value of the goods subject to the layaway agreement. The balance shall be refunded by the seller to the buyer in cash or by due bill at the option of the buyer.
- (g) Unless otherwise provided in the layaway agreement, paragraphs (d), (e), and (f) of this Section do not apply to a special order transaction. (Ord. 2004-455. Adopted 8-30-04.)

#### **767.99 PENALTIES.**

- (a) Whoever violated any provision of this Chapter shall be subject to the penalties provided in Section 761.99.
- (b) In addition to the penalties above, any person aggrieved by any violation of this Chapter may pursue remedies authorized by Section 761.04. (Ord. 2004-455. Adopted 8-30-04.)

**CHAPTER 769 MOTOR VEHICLE REPAIRS.**

- 769.01 Definitions.
- 769.02 Maintenance of records.
- 769.03 Notice of storage policy.
- 769.04 Regulations governing motor vehicle repairs or services.
- 769.99 Penalties.

**CROSS REFERENCES**

**Consumer Affairs Board – see ADM. Ch. 201**  
**Consumer sales practices – see Ohio R.C. Ch. 1345**  
**Consumer protection – see Ohio R.C. Ch. 1349**

**769.01 DEFINITIONS.**

For purposes of this Chapter:

- (a) "Motor Vehicle Repair Garage" shall mean a business or individual regularly engaged in the repair of motor vehicles, except:
  - (1) A business which performs motor vehicle servicing solely to the extent of fueling, checking fluid levels, replacing filters, and other minor servicing functions;
  - (2) A garage or shop engaged exclusively in repairing the motor vehicles of its own fleet.
- (b) "Repair" shall mean mechanical repairs, service, maintenance, alterations, diagnostic testing or body work, or the addition of equipment, supplies, or parts to a motor vehicle.
- (c) "Motor Vehicle Repair Person" shall mean any person who performs repairs, as defined in division (b) of this Section, for compensation, other than a person who performs repairs only on his or her own motor vehicles or vehicles or while in the employ of an entity described in division (a)(1) or (a)(2) of this Section. (Ord. 2004-455. Adopted 8-30-04.)

**769.02 MAINTENANCE OF RECORDS.**

Every person who operates a motor vehicle repair garage shall keep records which shall include all work orders, estimates, and invoices of all consumers for whom motor vehicle repairs have been performed. Such records shall be made available for inspection and copying by the Director or his designee for not less than two (2) years after their creation. Upon request by a consumer and payment of a reasonable cost therefore, a motor vehicle repair garage shall provide the documents maintained by the motor vehicle repair garage which reflect any transaction to which said customer was a party. (Ord. 2004-455. Adopted 8-30-04.)

**769.03 NOTICE OF STORAGE POLICY.**

Each motor vehicle repair garage shall give reasonable notice of its policy on storage charged. It shall be prima facie evidence of such notice if there is posted in a conspicuous place within the motor vehicle garage, a legible sign stating its storage charge policy; provided that no charge shall accrue or be due and payable for a period of forty-eight (48) hours (two business days) from the date of notification to a consumer that the repair of the consumer's motor vehicle has been completed. (Ord. 2004-455. Adopted 8-30-04.)

**769.04 REGULATIONS GOVERNING MOTOR VEHICLE REPAIRS OR SERVICES.**

- (a) In connection with a consumer transaction involving a motor vehicle repair or any service on a motor vehicle where the anticipated cost exceeds twenty five dollars (\$25.00) and there has been face-to-face contact at the supplier's place of business during the hours such repairs or services are offered, between the consumer or his representative, prior to the commencement of the repair, no supplier shall:
  - (1) Fail, at the time of initial face-to-face contact and prior to the commencement of any repair or service, to provide the consumer with a form which indicates the date, the identity of the supplier, the consumer's name and phone number, the reasonably anticipated completion date, and, if the consumer chooses to be provided with a written estimate, the anticipated cost of the repair or service. The form shall also clearly and conspicuously contain a disclosure in substantially the following language:

ESTIMATE

You have the right to an estimate if the expected cost of repairs or services will be more than Twenty-Five Dollars (\$25.00). Your bill will not be higher than the estimate by more than ten percent (10%) unless you approve a larger amount before repairs are finished. Initial your choice:

- \_\_\_\_\_Written Estimate
- \_\_\_\_\_Oral Estimate
- \_\_\_\_\_No Estimate

- (2) Fail to post a sign in a conspicuous place within that area of the supplier's place of business to which consumers requesting a repair or service are directed by the supplier or to give the consumer a separate form at the time of the initial face-to-face contact and prior to the commencement of any repair or service which clearly and conspicuously contains the following language:

NOTICE

IF THE EXPECTED COST OF REPAIR OR SERVICE IS MORE THAN TWENTY-FIVE DOLLARS (\$25.00), YOU HAVE THE RIGHT TO RECEIVE A WRITTEN ESTIMATE OR ORAL ESTIMATE BEFORE WE BEGIN WORK. YOUR BILL WILL NOT BE HIGHER THAN THE ESTIMATE BY MORE THAN TEN PERCENT (10%) UNLESS YOU APPROVE A LARGER AMOUNT BEFORE REPAIRS ARE FINISHED. OHIO LAW REQUIRED US TO GIVE YOU A FORM SO THAT YOU CAN CHOOSE EITHER A WRITTEN, ORAL OR NO ESTIMATE.

- (3) Fail, where a consumer requests a written estimate of the anticipated cost of repairs or services, to make a bona fide effort during the initial face to- face contact to provide the written estimate on the form required by paragraph (a)(1) of this Section;
  - (4) Fail, where a consumer requests a written or oral estimate, to give the estimate to the consumer before commencing the repair or service;
- (b) In connection with a consumer transaction involving the performance of either repairs or any service upon a motor vehicle where there has not been face-to-face contact between the consumer or his representative and the supplier or his representative prior to the commencement of the repair or service, no supplier shall:
- (1) Fail to make available to a consumer who makes a supplier-authorized delivery of a motor vehicle for repair or service at the supplier's place of business during non-business hours of the repair or service facility, a form in duplicate with instruction directing the consumer to retain a copy which indicates the identity of the supplier. The form shall contain disclosures in substantially the following language:

ESTIMATE

YOU HAVE THE RIGHT TO AN ESTIMATE OF THE COST OF REPAIRS OR SERVICES WHICH YOU ARE REQUESTING. YOUR BILL WILL NOT BE HIGHER THAN THE ESTIMATE BY MORE THAN TEN PERCENT (10%) UNLESS YOU APPROVE A LARGER AMOUNT BEFORE REPAIRS ARE FINISHED. YOU CAN CHOOSE THE KIND OF ESTIMATE YOU WANT TO RECEIVE BY SIGNING YOUR NAME UNDER ONE OF THE FOLLOWING CHOICES AND INDICATING A TELEPHONE NUMBER WHERE YOU CAN BE REACHED IF NECESSARY:

(a) Written Estimate  
(Customer Signature)

(b) Oral Estimate  
(Customer Signature)

(c) No Estimate  
(Customer Signature)

Customer Name  
Customer Telephone Number  
Date

- (2) Fail in all other instances, upon the first contact with the consumer, to inform the consumer of the right to receive a written or oral estimate of the anticipated cost of the repair or service;
- (3) Fail, where the consumer requests an oral estimate, to give the oral estimate to the consumer before commencing the repair or service;
- (4) Fail, where the consumer requests a written estimate, to prepare the written estimate, inform the consumer that the estimate is available and upon the consumer's request, give the estimate to the consumer before commencing the repair or service.

For purposes of this division, a supplier has not authorized delivery of a motor vehicle during non-business hours of the repair or service facility where there has not been communication of that fact to the general public by the supplier or his representative.

- (5) The forms required by divisions (a)(1) and (b)(1) of this Section may be separate or may be incorporated into another form used by the supplier so long as the required disclosures are easily legible and clearly and conspicuously appear on the form. Nothing in this division shall preclude a supplier from incorporating additional disclosures into the same form.
- (6) The sign or form required by paragraph (a)(2) of this Section shall be printed in such a size and manner so that the notice is easily legible. Additional disclosures required by this Section may be incorporated into the sign or form so long as the language required by paragraph (a)(2) of this Section prominently appears as the first listed disclosure. Where a supplier gives written estimates to consumers prior to the commencement of any repair or service regardless of the anticipated cost of repairs or services, the language in the form required by paragraph (a)(1) and the sign or form required by (a)(2) of this Section may be modified to disclose that fact.

- (c) In any consumer transaction involving the performance of any repair or service upon a motor vehicle, no supplier shall:
- (1) Fail to disclose prior to acceptance of any motor vehicle for inspection, repair, or service, that, in the event the consumer authorizes commencement but does not authorize completion of a repair or service, charges will be imposed for disassembly, reassembly, and partially completed work. Any charge so imposed shall be directly related to the actual amount of labor or parts included in the inspection, repair, or service;
  - (2) Charge for any repair or service which has not been authorized by the consumer;
  - (3) Fail to disclose upon the first contact with the consumer that any charge not directly related to the actual performance of the repair or service will be imposed by the supplier whether or not repairs or services are performed;
  - (4) If the motor vehicle will be towed, fail to disclose upon first contact with a consumer the basis upon which charge will be imposed for such towing;
  - (5) Charge a consumer an amount which exceeds the quoted estimate by more than ten percent (10%) without the consumer's approval prior to the completion of the repair;
  - (6) Materially understate or misstate the estimated cost of the repair;
  - (7) Fail to provide the consumer with an itemized list of repairs performed or services rendered, including a list of parts and materials, a statement of whether they are used, re-manufactured or rebuilt, the amount charged for labor, and the identity of the individual performing the repair or service;
  - (8) Fail to tender to the consumer any replaced parts, unless the parts to be rebuilt or sold by the supplier or returned to the manufacturer in connection with warranted repair or services, and such intended reuse or return is made known to the consumer prior to commencing any repair or service;

- (9) Fail, at the time of the signing or initialing of any document by a consumer, to provide the consumer with a copy of the document;
  - (10) Fail to disclose to the consumer prior to the commencement of any repair or service that any part of the repair or service will be performed by a person other than the supplier or his employees; the nature of the repair which any such person will perform and the identity of that person; and the existence of any warranties or the lack thereof on work performed by any such person;
  - (11) Fail to give the consumer written notification that delivery to the supplier of the parts required for the repair will be delayed for a period of ten (10) days or more;
  - (12) In the case of lengthy repairs, fail to obtain written consent from the consumer to possess said consumer's motor vehicle for a period in excess of thirty (30) calendar days;
  - (13) Fail, where an estimate has been requested by a consumer, to obtain oral or written authorization from the consumer for the anticipated cost of any additional, unforeseen, but necessary repairs or services, when the cost of those repairs or services amounts to ten percent (10%) or more (excluding tax) of the original estimate;
  - (14) Fail, where the anticipated cost of a repair or service is less than twenty-five dollars (\$25.00), to obtain oral or written authorization from the consumer for the anticipated cost of any additional, unforeseen, but necessary repairs or services, which, if performed, will exceed twenty-five dollars (\$25.00);
  - (15) Fail to provide to the consumer upon his request a written, itemized receipt for any motor vehicle or part thereof that is left with, or turned over to, the supplier for repair or service. Such receipt shall include:
    - A. The identity of the supplier which will perform the repair or service;
    - B. The name and signature of the supplier or a representative who actually accepts the motor vehicle or any part thereof;
    - C. A description including make and model number or such other features as will reasonably identify the motor vehicle or any part thereof to be repaired or serviced;
    - D. The date on which the motor vehicle or any part thereof was left with or turned over to the supplier.
- (d) In any consumer transaction involving the performance of any repair upon a motor vehicle, no supplier shall:
- (1) Condition the performance of any repair or service upon a consumer's waiver of any rights provided for in this Chapter or require the consumer to give any additional security beyond the mechanic's lien authorized by common law;
  - (2) Represent that repairs or services are necessary when such is not the fact;
  - (3) Represent that repairs have been made or services have been performed when such is not the fact;
  - (4) Represent that a motor vehicle or any part thereof which is being inspected or diagnosed for a repair or service is in a dangerous condition or that the consumer's continued use of it may be harmful, when such is not the fact.
- (e) In lieu of complying with the requirements of paragraphs (a)(1) and (b)(1) to (b)(4) of this Section, a supplier may provide a consumer, prior to the commencement of the repair or service, with a written quotation of the price at which the repair or service will be performed, which shall indicate that the quotation shall be binding upon the supplier for a period of five days, provided that the subject of the consumer transaction is made available to the supplier for the repair or service within that period. (Ord. 2004-455. Adopted 8-30-04.)

#### **769.99 PENALTIES.**

- (a) Whoever violates any provision of this Chapter shall be subject to the penalties provided in Section 761.99.
- (b) In addition to the penalties above, any person aggrieved by any violation of this Chapter may pursue remedies authorized by Section 761.04 of this Code. (Ord. 2004-455. Adopted 8-30-04.)

### **CHAPTER 775 SOLICITORS, PEDDLERS AND CANVASSERS.**

- 775.01 Definitions.
- 775.02 License required.
- 775.03 License application and requirements.
- 775.04 Fees.
- 775.05 License transfer or assignment prohibited.
- 775.06 Exceptions.
- 776.07 Regulations for peddlers; excess noise; hours.
- 775.08 Carrying or exhibiting license.
- 775.09 Employee peddlers to be licensed.
- 775.10 Revocation of license.
- 775.11 Notice prohibiting peddling or soliciting.
- 775.12 Soliciting in violation of posted notice.
- 775.13 Walking on lawns prohibited.
- 775.14 Severability.
- 775.15 Cause of action.
- 775.16 Relation to other law.
- 775.99 Penalty.

#### **CROSS REFERENCES**

- Charitable solicitations – see Ohio R.C. Ch. 1716**
- Sale of goods and services in right of way – see Ohio R.C. 5515.07**
- Trespass – see GEN. OFF 541.05**

#### **775.01 DEFINITIONS.**

As used in this Chapter, certain terms are deemed as follows:

- (a) "Itinerant vendor" or "hawker" means any person, natural or artificial, who engages in or conducts a temporary or transient business of selling goods, wares and merchandise within the County, but does not intend to continue in such business in any one location for 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.

(b) "Peddler" means any person who sells, offers for sale, barter or exchanges any goods, wares, produce, merchandise or other articles of value at any place in, upon, along or through the streets, alleys or other public ways or places of the County or from house to house.

(c) "Solicitor" means any person who, without prior request, or without being invited to do so by the owner or occupant of a private residence, attempts to sell or solicit orders for the sale of goods, wares, merchandise or other articles of value, including magazines, periodicals or books to be delivered at a later time.

(d) "Canvassing" or "canvasser" means any adult person who calls at residences without the invitation or previous consent of the owner or occupant of such premise, seeking to obtain from an occupant of any residence an indication of such occupant's belief in regard to any social, political or religious matter.

(e) "Person" means any adult individual, firm, partnership, corporation, company, association, joint stock company, church, religious sect, religious denomination, society, organization or league, or any combination thereof, and includes any trustee, member, receiver, assignee, agent or other representative thereof.

(f) "Religious organization" means any church, body of communicants or group that is not organized or operated for profit that gathers in common membership for regular worship and religious observances.

(g) "Residence" means every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure. (Ord. 2005-559. Adopted 11-21-05.)

#### **775.02 LICENSE REQUIRED.**

No itinerant vendor, hawker, peddler, solicitor, or canvasser shall sell or offer for sale any goods, merchandise, produce or anything of value in the County, or solicit or hawk any goods, merchandise or anything of value, without first obtaining a license therefore from the Director of the Office of Consumer Affairs, or his designee. (Ord. 2005-559. Adopted 11-21-05.)

#### **775.03 LICENSE APPLICATION AND REQUIREMENTS.**

(a) Application for licenses for itinerant vendor, hawker, peddler, solicitor, or canvasser shall be filed with the Director of the Office of Consumer Affairs or designee on a form, to be furnished by the Office of Consumer Affairs, which shall require, at least, the following information:

- (1) Name of applicant, physical description, date of birth, and telephone number;
- (2) Home address of applicant, Social Security number of applicant;
- (3) Name, address, telephone number and Tax ID Number of the company by whom employed or for whom they are soliciting along with the name of supervisor;
- (4) Length of service with such employer or person for whom they are soliciting.
- (5) All places of residence and all employment during the preceding year;
- (6) The nature and character of the goods to be sold or services to be sold or services to be furnished by the applicant or the purpose for which funds are being solicited.
- (7) Name of the other townships/villages/cities/counties in which the applicant has recently conducted activities for which license is herein required;
- (8) Whether the applicant has ever been convicted of a felony.
- (9) Make, model, year, license plate number, and proof of insurance for any vehicle used to solicit.

(b) Applicant shall furnish a valid government ID with a photograph. Such application shall be made at least ten (10) days before the license is issued.

(c) No individual shall be allowed to solicit under the provisions of this Chapter who has not yet reached the age of eighteen (18).

(d) No license shall be issued to individuals under the age of eighteen (18). (Ord. 2005-559. Adopted 11-21-05.)

#### **775.04 FEES.**

For the license to be issued under the provision of this Chapter, each applicant shall pay the Office of Consumer Affairs the sum of thirty-five dollars (\$35.00). All licenses issued hereunder shall be for a period of one (1) year or less which shall end on December 31 of that calendar year in which they are acquired, the date such license is issued. (Ord. 2005-559. Adopted 11-21-05.)

#### **775.05 LICENSE TRANSFER OR ASSIGNMENT PROHIBITED.**

Any license issued pursuant to the provisions of this Chapter shall not be transferred or assigned by the licensee to any other person. (Ord. 2005-559. Adopted 11-21-05.)

#### **775.06 EXCEPTIONS.**

The provision of this Chapter shall not apply to the following:

(a) Persons who solicit only the purchase of or subscription for newspaper having their principal sale or distribution in the County of Summit;

(b) The manufacturer of any article manufactured by him within the County who, by himself or his agent, peddles or vends any such article or product;

(c) Any person who, by State or Federal law or constitutional provision, has been exempted from obtaining a license;

(d) Any sale under the order of a court or at a bona fide auction;

(e) Any sale at wholesale to a retail dealer.

(f) Four or more itinerant vendors associated together in an enterprise such as a "flea market," "farmers market," "craft show," "stamp or coin collectors", "bourse," trade show, or the like.

(g) Any fraternal, civic, service or school organization conducting an occasional sale, market or other fund-raising enterprise for charitable or civic purposes such as the Girls Scouts or Kiwanis Club; or

(h) Any person representing a political candidate, party or ballot issue; or

(i) Any local religious group or representative thereof offering or soliciting orders for periodicals, tracts or publications of such religious group. (Ord. 2005-559. Adopted 11-21-05.)

#### **775.07 REGULATIONS FOR PEDDLERS; EXCESS NOISE; HOURS.**

(a) No itinerant vendor, hawker, peddler, solicitor, or canvasser shall use any whistle, bell, horn or other electronic or mechanical device which may be heard at a greater distance than five hundred (500) feet for the purpose of advertising his goods, wares and merchandise or services in a loud voice or operate any noise-producing device, loudspeaker, chime or bell on any vehicle, whether motor or manually operated, while such vehicle is in motion or standing, to advertise or call attention to such person's presence or product.

(b) No itinerant vendor, hawker, peddler, solicitor, or canvasser shall park, stand or stop, for the purpose of making any sale, within 200 feet of any school between the hours of 9:00 a.m. and 4:00 p.m. during the school term.

(c) All peddling or soliciting done under license issued by virtue of this Chapter shall be conducted between the hours of 9:00 a.m. and 8:00 p.m.

(d) No itinerant vendor, hawker, peddler, solicitor, or canvasser shall make any sale or any delivery to any person from any motor vehicle or other conveyance while such person is standing on, or is within, any public street, alley or right of way normally used by motor vehicles.

(e) Each peddler's vehicle shall be equipped with a receptacle for the disposal of wrappings, papers, envelopes or other containers for his goods or merchandise and no peddler shall fail to pick up and dispose of such wrappers, papers, envelopes or containers after any sale or delivery of his product before moving to another location or place.

(f) Each itinerant vendor, hawker, peddler, solicitor, or canvasser shall recognize a three (3) day right to cancel orders or purchases.

(g) If a sales agreement is made in writing the itinerant vendor, hawker, peddler, solicitor, or canvasser must provide consumer with a copy of said agreement.

(h) Each itinerant vendor, hawker, peddler, solicitor, or canvasser is hereby required to disclose to consumers the following:

- (1) Nature and quality of goods and services
  - (2) Materials terms and conditions;
  - (3) Name, mailing address and telephone number of seller, and
  - (4) Refund, cancellation and exchange policy.
- (Ord. 2005-559. Adopted 11-21-05.)

#### **775.08 CARRYING OR 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 resident or municipal official upon request. (Ord. 2005-559. Adopted 11-21-05.)

#### **775.09 EMPLOYEE PEDDLERS TO BE LICENSED.**

It shall be unlawful for any person to be hired by another to sell goods, wares, food, merchandise or services in the County as a peddler unless such so hired has been duly licensed as hereinbefore provided. (Ord. 2005-559. Adopted 11-21-05.)

#### **775.10 REVOCATION OF LICENSE.**

Any license issued under the provisions of this Chapter may be revoked at any time, by the Director of the Office of Consumer Affairs or his designee, should the person to whom it is issued be guilty of any fraud, misrepresentation or unfair, deceptive or unconscionable sales practice in connection with his business, or otherwise; is found to be a person not fit to be engaged in such business; or violates any of the provisions of this Chapter. (Ord. 2005-559. Adopted 11-21-05.)

#### **775.11 NOTICE PROHIBITING PEDDLING OR SOLICITING.**

Any owner or occupant of a residence or place of business who does not wish to receive an uninvited peddler or solicitor shall give notice of his intention by displaying a sign, decal, or card not more than one (1) square foot in total surface area, upon or near the main entrance door to the residence or place of business. The sign, decal, or card shall state "No Soliciting" in letters at least 1/3 of an inch in height. (Ord. 2005-559. Adopted 11-21-05.)

#### **775.12 SOLICITING IN VIOLATION OF POSTED NOTICE.**

No person shall peddle or solicit at any location displaying the sign, decal, or card described in Section 775.11 of the County of Summit Codified Ordinances. (Ord. 2005-559. Adopted 11-21-05.)

#### **775.13 WALKING ON LAWNS PROHIBITED.**

All persons, while engaging in canvassing or soliciting, shall utilize existing sidewalks, driveways, streets and walkways to gain access to the premises to be canvassed or solicited and no person, while engaging in such activity, shall walk upon or cut across the lawn portion of any premises. (Ord. 2005-559. Adopted 11-21-05.)

#### **775.14 SEVERABILITY.**

The determination that any part of this Chapter is invalid shall not invalidate or impair the force or effect of any other part hereof, except to the extent that such other part is wholly dependent for its operation upon the part declared invalid. (Ord. 2005-559. Adopted 11-21-05.)

#### **775.15 CAUSE OF ACTION.**

Nothing in this Chapter shall be interpreted as restricting any private cause of action. (Ord. 2005-559. Adopted 11-21-05.)

#### **775.16 RELATION TO OTHER LAW.**

This Chapter shall apply in all townships, villages, and municipal corporation within the County of Summit.

(a) In townships where a resolution regulating transient vendors exists, the resolution shall prevail over this Chapter.

(b) In villages or municipalities where an ordinance regulating peddlers and solicitors exists, the ordinance shall prevail over this Chapter.

(c) In villages, municipalities or townships which do not have their own regulations regarding peddlers, solicitors or transient vendors, applications for licenses shall be submitted to the Summit County Office of Consumer Affairs in accordance with this Chapter. (Ord. 2005-559. Adopted 11-21-05.)

#### **775.99 PENALTY.**

(a) Whoever violates any provision of this Chapter shall be subject to the penalties provided in Section 761.99.

(b) In addition to the penalties above, any person aggrieved by any violation of this Chapter may pursue remedies authorized in Section 761.04 of this Code. (Ord. 2005-559. Adopted 11-21-05.)

## CHAPTER 777 CONSUMER TRANSACTIONS WITH SECONDHAND DEALERS

777.01 Definition of terms.

777.02 Recalled and hazardous products.

777.03 Severability.

777.04 Cause of action.

777.05 Relation to other law.

777.99 Penalty

### **CROSS REFERENCES**

**Consumer protection – see Ohio R.C. Ch. 1349**

**Consumer sales practices – see Ohio R.C. Ch. 1345**

**Secondhand dealers – see Ohio R.C. Ch. 4737**

### **777.01 DEFINITION OF TERMS.**

As used in this Chapter, certain terms are defined as follows:

(a) "Children's product" means any item of furniture manufactured for use by children under eight years of age, including, but not limited to, any crib, playpen, stroller or child carrier.

(b) "Clothing" means any garment in general.

(c) "Decorative item" means an item used to accent a room and shall include but is not limited to vases, artwork, and candle holders.

(d) "Household product" means any item used in the day-to-day operation of a home, including, but not limited to, kitchenware and cleaning products.

(e) "Kitchenware" means any appliance or container used to prepare or store food.

(f) "Secondhand" means that which has been used or which has been previously traded or sold by a retailer.

(g) "Secondhand dealer" means any person who engages in the business of purchasing, selling, receiving, trading, consignment selling or otherwise transferring for value any secondhand property. (Ord. 2005-560. Adopted 11-21-05.)

### **777.02 RECALLED AND HAZARDOUS PRODUCTS.**

(a) Every business engaged in the purchasing, selling, receiving, trading, consignment selling or otherwise transferring of any secondhand products, including, but not limited to, children's products, household products, appliances and kitchenware, shall obtain and maintain on file in paper form on the business premises all recall notifications issued by the United States Consumer Product Safety Commission and retain said notifications for no less than a period of three (3) years.

(b) In addition, anyone engaged in the business of purchasing, selling, receiving, trading, consignment selling or otherwise transferring any children's product shall maintain a bulletin board displaying recall notifications from the preceding thirty (30) days issued by the United States Consumer Product Safety Commission.

(c) Businesses shall only be required to maintain and display notifications by the United States Consumer Product Safety Commission issued after this Chapter is enacted.

(d) No secondhand dealer shall purchase, sell, trade, place on consignment or otherwise transfer any consumer product that has been recalled or deemed hazardous by the United States Consumer Product Safety Commission.

(e) No secondhand dealer shall purchase, sell, trade, or place on consignment any crib exhibiting the following:

(1) Slats wider apart than 2 3/8 inches;

(2) Corner posts or cutouts.

(f) No secondhand dealer shall purchase, sell, trade, or place on consignment any product that does not contain the manufacturer's original label, tag or other identification; provided that this requirement shall not apply if the secondhand dealer has documentation or photographic evidence which establishes the identity of the product manufacturer and excludes clothing or other textiles, handbags or suitcases, glassware, dishes or household decorative items, homemade or household furnishing not specifically recalled or identified as hazardous. The Board of Consumer Affairs may promulgate rules and regulations identifying the types of documentation or photographic evidence that may be used to establish a manufacturer's identity under this subsection. (Ord. 2005-560. Adopted 11-21-05.)

### **777.03 SEVERABILITY.**

The determination that any part of this Chapter is invalid shall not invalidate or impair the force or effect of any other part hereof, except to the extent that such other part is wholly dependent for its operation upon the part declared invalid. (Ord. 2005-560. Adopted 11-21-05.)

### **777.04 CAUSE OF ACTION.**

Nothing in this Chapter shall be interpreted as restricting any private cause of action.

### **777.05 RELATION TO OTHER LAW.**

This Chapter shall apply in townships, villages and municipal corporations within the County of Summit. (Ord. 2005-560. Adopted 11-21-05.)

### **777.99 PENALTY.**

(a) Whoever violated any provision of this Chapter shall be subject to the penalties provided in Section 761.99.

(b) In addition to the penalties above, any person aggrieved by any violation of this Chapter may pursue remedies authorized in Section 761.04 of this Code. (Ord. 2005-560. Adopted 11-21-05.)