

Title 29 - WEIGHTS AND MEASURES CODE

Chapters:

Chapter 2901 - CITY SEALER^[1]

Sections:

2901.01 - Definitions.

When in this code the words "city sealer" are used, they shall mean the city sealer of weights and measures, or any of his deputies or assistants duly authorized to perform the duties of such officer.

1. "Weight(s) and(or) measure(s)" means all weights and measures of every kind, instruments and devices for weighing and measuring, and any appliance and accessories associated with any or all such instruments and devices.
2. "Weight" as used in connection with any commodity means net weight; except where the label declares that the produce is sold by drained weight, the term means net drained weight.
3. "Correct" as used in connection with weights and measures means conformance to all applicable requirements of this code.
4. "Primary standards" means the physical standards of the state that serve as the legal reference from which all other standards and weights and measures are derived.
5. "Secondary standards" means the physical standards that are traceable to the primary standards through comparisons, used in acceptable laboratory procedures, and used in the enforcement of weights and measures and regulations in the city of Columbus.
6. "Person" means both plural and the singular, as the case demands, and includes individuals, partnerships, corporations, companies, societies, and associations.
7. "Sale from bulk" means the sale of commodities when the quantity is determined at the time of the sale.
8. "Package" means any commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale.
9. "Short-weight packages" means any "standard pack" or "pre-pack" commodity whose net content(s) does not meet or exceed the labeled or advertised quantity at the retail outlet.
10. Vehicle On-Board Weighing System. A weighing system designed as an integral part of or attached to the frame, chassis, lifting mechanism, or bed of a vehicle, trailer, industrial tractor, or forklift truck.
11. Computing Scale. A device that indicates the money values of amounts of commodity weighed at predetermined unit prices throughout all or part of the weighing range of the scale.
12. Computing Scale LP. Same as a computing scale but with the capability of printing a label.
13. Counter Scale. A device that only gives a weight indication and has a maximum capacity of twenty (20) pounds or less.
14. Platform Scale. A device that only gives a weight indication and has a range of greater than twenty (20) pounds to a maximum of two thousand (2,000) pounds. Usually the scale can be easily transported by lifting, or it is mounted on wheels and can be rolled.
15. Dormant Scale. This device is the same as a platform, except the capacity is greater than two thousand (2,000) pounds. Usually this type is installed permanently, or is so large that it is not easily moved.

16. Hanging Spring Scale. A device that is suspended, has a spring mechanism, and is usually with a capacity of hundred (100) pounds.
17. Track Scale. A device incorporated into a transport system, where a commodity (usually meat) is weighed in transit. This system is a monorail type and the commodity is suspended by a hook that moves along the rail.
18. Butcher Beam. A device used to weigh a commodity (usually meat) by means of suspending the article from a beam. Similar to a track scale, except the commodity is not in transit.
19. Hopper Scale. A device designed for weighing bulk commodities whose load - receiving element is a tank, box, or hopper mounted on a weighing element.
20. Jeweler Scale. A device adapted to weighing gems and precious metals.
21. Vehicle Scale. A device adapted to weighing highway, farm, or other large industrial vehicles, (except railroad freight cars) loaded or unloaded.
22. Livestock Scale. A device equipped with stock racks and gates and adapted to weighing livestock standing on the scale platform.
23. Taximeter. A device that automatically calculates at a predetermined rate or rates and indicates the charge for hire of a vehicle.
24. Liquid Measuring Device. A mechanism or machine or combination designed to measure and deliver liquid by definite volume. Means may or may not be provided to indicate automatically for one (1) of a series of unit prices, the total money value of the liquid measured, or to make deliveries corresponding to specific money values at a definite unit price.
25. Car Wash Timer. A timer used in conjunction with a coin operated device to measure the time during which car wash water, cleaning solutions, or waxing solutions are dispensed.
26. Vacuum Timer. A timer used in conjunction with a coin operated device to measure the time the vacuum operates.
27. Dryer Timer. A timer used in conjunction with a coin operated device to measure the time during which clothes are dried.
28. Parking Clock Timer. A timer used to measure parking time for vehicles.
29. CNG Device. A mechanism or machine designed to measure and deliver compressed natural gas by definite volume. Means may or may not be provided to indicate automatically for one (1) of a series of unit prices, the total money value of the liquid measured, or to make deliveries corresponding to specific money values at a definite unit price.
30. LNG Device. A mechanism or machine designed to measure and deliver liquidified natural gas by definite volume. Means may or may not be provided to indicate automatically for one (1) of a series of unit prices, the total money value of the liquid measured, or to make deliveries corresponding to specific money values at a definite unit price.
31. Electrical Vehicle Charging Device. A mechanism or machine designed to measure and deliver electrical charge by definite volume. Means may or may not be provided to indicate automatically for one (1) of a series of unit prices, the total money value of the liquid measured, or to make deliveries corresponding to specific money values at a definite unit price.
32. LPG Meter. A mechanism or machine or combination designed to measure and deliver liquefied petroleum gas by definite volume. Means may or may not be provided to indicate automatically for one (1) of a series of unit prices, the total money value of the liquid measured, or to make deliveries corresponding to specific money values at a definite unit price.

33. Parking Meter. A timer used to measure parking time for vehicles.
35. Price Verification Inspection. Verifying labeled shelf prices in an establishment by way of automated or manual inspection to ensure scanned price matches labeled price.
36. Package Inspection Lot. A collection of identically labeled (random packages, in some cases, are exempt from identity and labeled quantity when determining the inspection lot) packages available for inspection at one (1) time.

(Ord. 1584-86; Ord. No. 2454-2014, § 1, 12-15-2014)

2901.02 - Office of city sealer.

There shall be an office of weights and measures located for administrative purposes within the department of public safety, division of support services. The office is charged with, but not limited to, performing the following functions on behalf of the citizens of the city.

(Ord. 542-95.)

- (a) Assuring that weights and measures in commercial service within the city are suitable for their intended use, properly installed, and accurate, and are so maintained by their owner or user.
- (b) Preventing unfair or deceptive dealing by weight or measure in any commodity or service advertised, packaged, sold or purchased within this city.
- (c) Making available to all users of physical standards or weighing and measuring equipment the precision calibration and related meteorological certification capabilities of the weight and measures facilities of the office of weights and measures.
- (d) Promoting uniformity, to the extent practicable and desirable, between weights and measures requirements of the city of Columbus and the state of Ohio.
- (e) Encouraging desirable economic growth while protecting the consumer through the adoption by rule of weights and measures requirements as necessary to assure equity among buyers and sellers.

(Ord. 228-94; Ord. 2610-03 § 1, (part).)

2901.03 - Appointment and duties.

The sealer of weights and measures shall be appointed by the director of public safety; and the sealer of weights and measures, or his assistants shall enforce the provisions of this Weights and Measures Code.

(Ord. 542-95.)

To accomplish this, the sealer or his assistants may:

- (a) Conduct investigations to ensure compliance with this Code.
- (b) Delegate to appropriate personnel any of these necessary responsibilities for the proper administration of this office.
- (c) Test annually the standards of weight and measure used by any commercial business within the city and approve the same when found to be correct.
- (d) Inspect and test weights and measures kept, offered, or exposed for sale.
- (e) Inspect and test, to ascertain if they are correct, weights and measures commercially used:
 - (1) In determining the weight, measure, or count of commodities or things sold, or offered or exposed

- for sale, on the basis of weight, measure or count, or,
(2) In computing the basic charge or for services rendered on the basis of weight, measure, or count.

(Ord. 228-94.)

2901.04 - Right to examine; marking of commodities in violation of requirements.

The sealer of weights and measures may examine and in the process of examination may:

- (a) Approve for use, and may mark, such weights and measures as are found to be correct, and shall reject and mark as rejected such weights and measures as are found to be incorrect. Weights and measures that have been rejected may be seized if not corrected within the time specified or if used or disposed of in a manner not specifically authorized. The sealer shall condemn and may seize the weights and measures found to be incorrect that are not capable of being made correct.

(Ord. 1584-86.)

- (b) Inspect weight, measures, or inspect packaged commodities kept, offered, or exposed for sale, sold, or in the process of delivery, to determine whether they contain the amounts represented and whether they are kept, offered, or exposed for sale in accordance with this code or regulations promulgated pursuant thereto. In carrying out the provisions of this section, the sealer shall employ recognized sampling procedures, such as are designated in National Institute of Standards and Technology Handbook 67, "Checking Prepackaged Commodities," or in National Institute of Standards and Technology Handbook 133, "Checking the Net Contents of Packaged Goods."

(Ord. 346-89.)

- (c) Enforce the appropriate term or unit of weight or measure to be used, whenever he determines in the case of a specific commodity that an existing practice of declaring the quantity by weight, measure, numerical count, or combination thereof, does not facilitate value comparisons by consumers, or offers an opportunity for consumer confusion.

(Ord. 1584-86.)

2901.05 - Purchasing commodities for testing; reimbursement.

Editor's Note: This section was repealed by Ordinance 1584-86.

Chapter 2903 - FEES; SEALER'S REPORT^[2]

Sections:

2903.01 - Fees.

The sealer of weights and measures is authorized and directed within ten (10) days of making any test as authorized by Article I, to present the owner of any scale, measure, or other article so tested with a bill, payable upon receipt directly to the city treasurer, for testing fees as follows:

Computer Scales LP (Label Printer)	\$40.00
------------------------------------	---------

Butcher Beams	\$30.00
Counter Scales	\$25.00
Computing Scales	\$35.00
Dormant Scales	\$75.00
Platform Scales	\$45.00
Hanging Spring Scales	\$35.00
Vehicle Scales	\$200.00
Track Scales	\$45.00
Vehicle Tank Meters	\$100.00
Hopper Scales	\$150.00
Taxi Meters	\$35.00
Liquid Measuring Devices	\$30.00 (per fuel grade)
Linear Measuring Devices	\$30.00
Jewelers Scales	\$40.00
Livestock Scales	\$100.00
Car Wash	\$20.00
Vacuums	\$20.00
Laundry Dryers	\$26.00
Parking Garage Clocks	\$25.00
Vehicle on board weighing system	\$50.00
Pet Wash	\$20.00
Air Hoses	\$20.00

Reverse Vending Machine	\$40.00
CNG Device	\$100.00
LNG Device	\$100.00
Electrical Vehicle Charging Device	\$60.00
LPG Meter	\$125.00
Parking Meter	\$25.00
Price Verification Inspection	\$125.00
Package Inspection Lot	\$50.00

(Ord. 1551-89; Ord. 0810-03 § 1; Ord. No. 2454-2014, § 2, 12-15-2014)

2903.02 - Receipts and records.

The sealer of weights and measures shall retain in the city sealer's office a permanent record of all tests made.

(Ord. 1584-86.)

2903.03 - Weekly reports; deposits.

It shall be the duty of the sealer of weights and measures to file a weekly report of all tests with the city auditor. All monies collected shall be deposited with the city treasurer and shall be credited to the general fund.

(Ord. 1584-86.)

Chapter 2905 - STANDARDS FOR WEIGHTS AND MEASURES^[3]

Sections:

2905.01 - Systems of weights and measures.

The system of weights and measures in customary use in the United States and the metric system of weights and measures are jointly recognized, and either one or both of these systems shall be used for all commercial purposes in the State. The definitions of basic units of weight and measure, the tables of weight and measure, and weights and measures equivalents as published by the National Institute of Standards and Technology are recognized and adopted by the Office of Weights and Measures and shall govern weighing and measuring equipment and transactions in the city of Columbus.

(Ord. 346-89.)

2905.02 - Physical standards.

Weights and measures that are traceable to the U.S. prototype standards supplied by the Federal Government, or approved as being satisfactory by the National Institute of Standards and Technology, shall be the State primary standards of weights and measures, and shall be maintained in such calibration as prescribed by the Director and shall be verified upon their initial receipt, and as often thereafter as deemed necessary by the director.

(Ord. 346-89.)

2905.03 - Technical requirements for weighing and measuring devices.

The specifications, tolerances, and other technical requirements for commercial, law enforcement, data gathering, and other weighing and measuring devices as adopted by the National Conference on Weights and Measures and published in National Institute of Standards and Technology Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," and supplements thereto or revisions thereof, shall apply to weighing and measuring devices in The city of Columbus except insofar as modified or rejected by the Ohio Revised Code or the Ohio Administrative Code.

(Ord. 346-89.)

2905.04 - Information required on packages.

Except as otherwise provided in this code or by regulations promulgated pursuant hereto, any package kept for the purpose of sale or offered or exposed for sale shall bear on the outside of the package a definite, plain, and conspicuous declaration of:

- (a) The identity of the commodity in the package, unless the same can easily be identified through the wrapper or container.
- (b) The quantity of contents in terms of weight, measure, or count.
- (c) The name and place of business of the manufacturer, packer, or distributor, in the case of any package kept, offered, or exposed for sale, or sold in any place other than on the premises where packed.

(Ord. 1584-86.)

2905.05 - Declarations of unit price on random weight packages.

In addition to the declarations required in Chapter 2909 of this Code, any package being one of a lot containing random weights of the same commodity and bearing the total selling price of the package shall bear on the outside of the package a plain and conspicuous declaration of the price per single unit of weight.

(Ord. 1584-86.)

2905.06 - Advertising packages for sale.

Whenever a packaged commodity is advertised in any manner with the retail price stated, there shall be closely and conspicuously associated with the retail price a declaration of quantity as is required by law or regulation to appear on the package. Where a dual declaration is required, only the declaration that sets forth the quantity in terms of the smaller unit of weight or measure need appear in the advertisement.

(Ord. 1584-86.)

2905.07 - Requirements for merchandisers.

- (A) It should be unlawful for any person to use any weighing or measuring device which has been marked "condemned" or "rejected for use" until the same is repaired and "condemned" or "rejected for use" tag is removed upon explicit authorization by the Sealer.
- (B) It shall be unlawful for any person to operate any weighing or measuring device which is to be used commercially in the city of Columbus without the explicit authorization of the Sealer and the current seal of approval has been attached thereto.
- (C) It shall be unlawful for any person to offer for sale by weight, measure or count in the city of Columbus any consumer commodity which is short-weight, short-measure or short-by-count, contrary to the labelled and/or advertised weight, measure or count of said commodity(s).
- (D) It shall be unlawful for any person to misrepresent the price of any commodity or service sold, offered, exposed, or advertised for sale by weight, measure, or count, nor represent the price in any manner calculated or tending to mislead or in any way deceive a person.

(Ord. 2442-86; Ord. No. 2454-2014, § 3, 12-15-2014)

Chapter 2907 - TESTING AND SEALING MEASURING DEVICES^[4]

Sections:

2907.01 - Duty of testing and sealing.

- (a) When necessary for the enforcement of the weights and measures codes, the Sealer shall and is hereby:
 - (1) Authorized to enter any commercial premises during normal business hours, except that in the event such premises are not open to the public, he shall first present his credentials and obtain consent before making entry thereto, unless a search warrant has previously been obtained.
 - (2) Empowered to issue stop-use, hold, and removal orders with respect to any weights and measures commercially used, and stop-sale, hold, and removal orders with respect to any packaged commodities or bulk commodities kept, offered, or exposed for sale.
 - (3) Empowered to seize, for use as evidence, without formal warrant, any incorrect or unapproved weight, measure, package, or commodity found to be used, retained, offered, or exposed for sale or sold in violation of the provisions of this code or regulations promulgated pursuant thereto.
 - (4) Empowered to stop any commercial vehicle and, after presentment of his credentials, inspect the contents, require that the person in charge of that vehicle produce any documents in his possession concerning the contents, and require him to proceed with the vehicle to some specified place for inspection.
 - (5) With respect to the enforcement of the Weights and Measures Codes of the city of Columbus, the sealer is hereby vested with the authority and is commanded to file charges against any commercial vendors within the city of Columbus found to possess weighing and/or measuring devices which are in violation of the Weights and Measures Code.
- (b) It shall be the duty of the sealer of weights and measures and he is authorized and required to test all weighing and measuring devices in the fee schedule used commercially in the city of Columbus at least once

each calendar year, or as often as deemed desirable by him. However, in no case will the owner, operator, or user of said devices be charged for the required inspection fee more than once in any calendar year, unless the device(s) are found to be faulty, or by request of the vendor, or if the initial inspection fails, in which case the owner, operator, or user will be charged the appropriate fee regardless of the number of inspections in a calendar year. If he shall have found the same to be correct, according to the standards established by the Department of Agriculture of the state of Ohio, he shall seal and mark the same with a stamp or seal, or by pasting a card thereon, or with a tag showing that such weighing or measuring device has been tested, or in any other manner that he may deem proper, and the character or letters and figures to be stamped thereon shall be "C.S.," meaning thereby "Columbus Standard" and the date or year in which it was stamped or sealed.

(Ord. 1584-86; Ord. No. 2454-2014, § 4, 12-15-2014)

2907.02 - (Reserved for future legislation.)

2907.03 - Record of tests.

It shall be the duty of the sealer of weights and measures to keep a daily record of all weighing and measuring devices used commercially which have been inspected and tested by him and/or his deputies, as provided for in this code, along with the location, name of the business and the user/merchandiser of said devices, which shall be filed in his office or headquarters. All records in his charge shall at all times be subject to the inspection of the public.

(Ord. 1584-86.)

2907.04 - (Reserved for future legislation.)

2907.05 - Report to mayor.

It shall be the duty of the sealer of weights and measures to file a report with the mayor with a detailed summary or statement of all of his official transactions for the preceding month.

(Ord. 1584-86.)

Chapter 2909 - EQUIPMENT

Sections:

2909.01 - Suitability of equipment.

Commercial equipment shall be suitable for the service in which it is used with respect to elements of its design, including but not limited to its weighing capacity (for weighing devices), its computing capability (for computing devices), its rate of flow (for liquid-measuring devices), the character, number size, and location of its indicating or recording elements, and the value of its smallest unit and unit prices.

(Ord. 1584-86.)

2909.02 - Accessibility for testing purposes.

A device shall be so located, or such facilities for normal access thereto shall be provided, that the testing equipment of the weights and measures official, in the amount and size deemed necessary by such official for the proper conduct of the test, may readily be brought to the device by customary means. Otherwise, it shall be the responsibility of the device owner or operator to supply such special facilities, including necessary labor as may be needed to transport the testing equipment to and from the device, as required by the weights and measures official.

(Ord. 1584-86.)

2909.03 - Method of operation.

Equipment shall be operated only in the manner that is obviously indicated by its construction or that is indicated by instructions on the equipment.

(Ord. 1584-86.)

2909.04 - Installation.

A device shall be installed in accordance with the manufacturer's instructions, including any instructions marked on the device. A device installed in a fixed location shall be so installed that neither its operation nor its performance will be adversely affected by any characteristic of the foundation, supports, or any other detail of the installation.

(Ord. 1584-86.)

2909.05 - Position of equipment.

A device equipped with a primary indicating element and used in direct sales, except a prescription scale, shall be so positioned that its indications may be accurately read and the weighing or measuring operations may be observed from some reasonable "customer" position. The permissible distance between the equipment and a reasonable customer position shall be determined in each case upon the basis of the individual circumstances, particularly the size and character of the indicating element.

(Ord. 1584-86.)

2909.06 - Maintenance of equipment.

All equipment in service and all mechanisms and devices attached thereto or used in connection therewith shall continuously be maintained in proper operating condition throughout the period of such service. Equipment in service at a single place of business found to be in error predominantly in a direction favorable to the device user and near the tolerance limits shall not be considered "maintained in a proper operating condition."

(Ord. 1584-86.)

2909.07 - Requirements for the method of sale of commodities.

The Uniform Regulations for the Method of Sale of Commodities as adopted by the National Conference on Weights and Measures and published in National Institute of Standards and Technology Handbook 130 "Uniform Laws and Regulations," and supplements thereto or revisions thereof, shall apply to the method of sale of commodities in the City, except insofar as modified or rejected by applicable provisions of the Ohio Revised Code or Ohio Administrative Code.

(Ord. 346-89.)

2909.08 - Requirements for packaging and labeling.

The Uniform Packaging and Labeling Regulation as adopted by the National Conference on Weight and Measures and published in the National Institute of Standards and Technology Handbook 130 "Uniform Laws and Regulations," and supplements thereto or revisions thereof, shall apply to the method of sale of commodities in the City, except insofar as modified or rejected by regulation.

(Ord. 346-89.)

2909.09 - Requirements for unit pricing.

The Uniform Unit Pricing Regulation as adopted by the National Conference on Weights and Measures and published in National Institute of Standards and Technology Handbook 130 "Uniform Laws and Regulations," and supplements thereto or revisions thereof, shall apply to the method of sale of commodities in the city, except insofar as modified or rejected by the regulation.

(Ord. 346-89.)

2909.10 - Itinerant vendor.

All itinerant vendors using a weighing or measuring device in the city shall have that device inspected and tested by the sealer at the point of sale.

(Ord. 1584-86.)

2909.11 - Obstructing city sealer.

No person shall obstruct or hinder the city sealer of weights and measures in the performance of any of the duties imposed upon him by the provisions of this code.

(Ord. 1584-86.)

Chapter 2911 - ENFORCEMENT AND PENALTY

Sections:

2911.01 - Sealer to prosecute code violations.

It shall be the duty of the city sealer to enter a formal complaint or file an affidavit against any and all persons who shall violate or cause to be violated any of the provisions of this code.

(Ord. 1584-86.)

2911.02 - (Reserved for future legislation.)

2911.03 - Injunction.

The sealer is authorized to file in the Franklin County Court for a temporary or permanent injunction restraining any person from violating any provisions of this Code.

(Ord. 1584-86.)

2911.04 - (Reserved for future legislation.)

2911.05 - Presumptive evidence.

Whenever there shall exist a weight or measure or weighing or measuring device in or about any place in which or from which buying or selling is commonly carried on, there shall be a rebuttable presumption that such weight or measure or weighing or measuring device is regularly used for the business purposes of that place.

(Ord. 1584-86.)

2911.99 - Penalty for Code violations.

- (a) If an inspection fee prescribed by Section 2903.01 is not received by the auditor's office within forty-five (45) days from the date it is due, a penalty of fifty (50) percent of any such fee shall be imposed in addition to the original fee.
- (b) If an inspection fee prescribed by Section 2903.01(a) is not received by the auditor's office within ninety (90) days from the date it is due, all approval seals may be pulled from the devices (at location) and be tagged non-sealed, thus placing them out of order until all outstanding fees have been paid.
- (c) No person shall:
 - (1) Use or have in possession for use in commerce any incorrect weight or measure.
 - (2) Remove any tag, seal, or mark from any weight or measure without specific written authorization from the proper authority.
 - (3) Hinder or obstruct any weights and measures official in the performance of his duties.
- (d) Any person who violates the provisions or any provision of this section or any provision of this code regulations promulgated pursuant thereto, for which specific penalty has not been prescribed, shall, on first conviction, be guilty of a minor misdemeanor and shall be charged in accordance with Ohio Revised Code Section 2929.28 a fine not to exceed one hundred fifty dollars (\$150.00). Upon each subsequent conviction, the individual shall be guilty of a misdemeanor of the fourth degree and shall be charged in accordance with Ohio Revised Codes Sections 2929.24 and 2929.28 a fine not to exceed two hundred fifty dollars (\$250.00), or by imprisonment for up to thirty (30) days, or both.

(Ord. 563-87; Ord. No. 2454-2014, § 5, 12-15-2014)

Chapter 2925 - CONSUMER COMPLAINTS

Sections:

2925.01 - Commission on consumer protection established; composition, term and vacancy.

There is hereby established a commission of consumer protection, consisting of eleven (11) members, whose function it shall be to protect against unlawful and illegal activities practiced upon consumers. Council recommends that the appointments to the commission of consumer protection be made from professions and individuals, such as, but not limited to, the Director of Human Services, the Director of Public Safety, two (2) homemakers, residents of the city of Columbus; two (2) representatives of organized business, residents of the city of Columbus; a representative of organized labor, a resident of the city of Columbus; a representative from a local consumer organization, a resident of the city of Columbus; three (3) other members, residents of the city of Columbus; all members to be appointed by the mayor with council approval. Initially three (3) members shall be appointed for an initial term of one (1) year; four (4) members shall be appointed for an initial term of two years; and four (4) members shall be appointed for an initial term of three (3) years. All members of the commission are to serve without compensation for subsequent terms of three years and shall have such duties and powers as are set forth in this chapter and as may from time to time be prescribed by ordinance. Vacancies caused by death, resignation or otherwise shall be filled for the unexpired term in the same manner as the original appointments are made. The commission shall hold not less than four (4) meetings annually and such additional meetings as it may deem necessary. The commission shall also adopt procedures for the election of a chairperson, vice-chairperson and organization of its meetings.

(Ord. 519-84.)

2925.02 - Investigation of complaints by sealer of weights and measures.

The city sealer of weights and measures is hereby authorized and directed to receive complaints of frauds, unlawful practices, unfair practices and dealings against consumers, and any violations of federal, state, and municipal rules, regulations and laws affecting consumers. The city sealer shall investigate said complaints and refer his findings to the Director of Public Safety for whatever legal action the Director shall deem warranted. The sealer shall bring all such complaints together with the findings of his investigation and action taken thereon to the attention of the commission of consumer protection at its next regular meeting.

(Ord. 228-94.)

2925.03 - Commission to encourage fair business practices, recommend legislation and undertake consumer education programs.

The commission of consumer protection shall hear and consider the results of the investigations made by the city sealer of weights and measures which are brought to its attention in accordance with the provisions of this chapter. The commission of consumer protection shall undertake activities to encourage local business and industry to maintain high standards of honesty, fair business practices, and public responsibility in the production, promotion and sale of consumer goods and services and shall also recommend to the Director of the Department of Public Safety areas in which legislation is needed for the protection of consumers against frauds and unfair dealings. The commission shall also undertake consumer education programs, the provisions of and directions of said programs to be determined by the commission.

(Ord. 228-94.)

Chapter 2935 - SALES OF PETROLEUM PRODUCTS^[5]

Sections:

2935.01 - Definition.

For the purposes of this chapter, "petroleum products" includes all liquid products having a predominant content of derivatives of petroleum and customarily used in motor vehicles.

(Ord. 261-67.)

2935.02 - Display of unit price and product identity.

In any device of the computing type designed and utilized for sale and delivery of petroleum products, means shall be provided for displaying on each face of the device the unit price at which the device is set to compute or deliver, as the case may be, and there shall be conspicuously displayed on each side of the device the identity of the product that is being dispensed. If a device is so designed as to dispense more than one grade, brand, blend or mixture of products, means also shall be provided for displaying on each face of the device, the identity of the grade, brand or mixture being dispensed.

(Ord. 261-67.)

2935.03 - Prohibited advertising practices.

No person shall advertise in and about the premises where petroleum products are sold, whether by display, sign or otherwise, the sale of petroleum products to be sold or delivered by means of a device of the computing type at a price less than that for which said computing device has been set.

(Ord. 261-67.)

2935.04 - Identity of products to be displayed with price.

In any and all advertising of the sale of petroleum products in and about the premises where said products are sold, whether by display, sign or otherwise, the identity of the product to be sold at a certain price shall be displayed immediately adjacent to the display of price and as conspicuously as said display of the price.

(Ord. 261-67.)

2935.05 - Dimensions of display of fractional amounts of sales price regulated.

In any and all advertising in and about the premises where petroleum products are sold, whether by display, sign or otherwise, the total size of the figures indicating a fractional or decimal number which is part of the price shall be at least forty percent of the size of the largest figure in the whole number accompanying said fractional or decimal number.

(Ord. 261-67.)

Chapter 2937 - HOME SOLICITATION SALES

Sections:

2937.01 - Definitions.

- (a) Home Solicitation Sales. For the purposes of this chapter 'home solicitation sales' means a sale, lease or rental of goods or services by cash or credit in which the seller, his representative or a person acting for him solicits and/or consummates a sale of said goods or services at the home or residence of the buyer. Home solicitation

sales shall include those solicitations and sales made as a result of unsolicited contacts at the home as a result of appointments solicited by the seller by telephone or by the buyer by telephone in response to an advertisement made by the seller. Home solicitation sales shall not include sales made pursuant to prior negotiations between the parties at a business establishment at a fixed location where goods or services of a similar nature are offered or exhibited for sale by the seller.

- (b) Goods. For the purposes of this chapter 'goods' shall include all personal property and shall also include chattels, fixtures and goods which at the time of sale or subsequently are so affixed to realty as to become part thereof, whether or not separable therefrom.
- (c) Services. For the purposes of this chapter 'services' shall mean work, labor and services of any kind performed in conjunction with a sale, but not including services for which the prices charged are required by law to be established and regulated by the Government of the United States, State of Ohio or city of Columbus.
- (d) Seller includes a lessor or anyone offering goods for rent.
- (e) Buyer includes a lessee or anyone who gives a consideration for the privilege of using goods.
- (f) Sale includes a lease or rental.
- (g) Business day includes Monday through Friday.
- (h) Exclusion. Goods and services shall not include those goods and services sold by salesmen specifically and especially licensed for sales of such goods and services by governmental agencies.

(Ord. 1545-73.)

2937.02 - Application of provisions.

Every home solicitation sale made in the city of Columbus and for which the total contracted price is \$25.00 or over for all sales made to the residents of a household during a calendar day of twenty-four hours, shall be subject to the provisions of this chapter.

(Ord. 1198-69.)

2937.03 - Cancellation provisions.

- (a) In addition to any right otherwise to revoke an offer or cancel a contract the buyer or seller in a home solicitation sale may revoke an offer, or promise to purchase, cancel a contract or rescind a consummated sale and purchase until midnight of the third business day after the day on which the buyer signs an agreement or offer to purchase, signs a contract to purchase, or consummates a sale and purchase.
- (b) Cancellation occurs when the buyer gives written notice of cancellation to the seller at the address stated in the agreement, contract or offer to purchase. Notice of cancellation given by the buyer need not take any particular form and is sufficient if it indicates by any form of written expression the intention of the buyer not to be bound by the home solicitation sale.
- (c) Notification by mail shall be considered given at the time mailed; notification by telegram shall be considered given at the time filed for transmission; and notification by other writing shall be considered given at the time delivered to the seller's designated place of business.
- (d) The buyer may not cancel a home solicitation sale if the seller in good faith makes a substantial beginning of performance of services before the buyer gives notice of cancellation, and in the case of goods, that the goods cannot be returned to the seller in substantially as good condition as when received by the buyer.
- (e) If goods are to be returned to seller, buyer shall tender delivery thereof at the location where seller made delivery to buyer. If seller or creditor does not take possession of the property within 10 days after tender by

the buyer, ownership of the property vests in the buyer without obligation on his part to pay for it, provided buyer has afforded to seller reasonable time and access to take possession.

- (f) The right to cancel, granted herein may not be waived by the parties either by express or implied agreement. Except as provided in paragraph (d) above, receipt of goods or services shall not be construed as affecting the right to cancel in any way.

(Ord. 1545-73.)

2937.04 - Home solicitation sale, contract or agreement to include.

In a home solicitation sale unless the goods or services are provided as set forth in Section 2937.03(d) the seller must present to the buyer and obtain his signature to a written agreement or offer to purchase which designates as the date of the transaction, the date on which the buyer actually signs and contains a statement of the buyer's rights which complies with the provisions of this chapter. This statement must appear in the said agreement or offer to purchase under the conspicuous caption "Buyer's Right to Cancel" which shall be printed in solid capital letters of not less than twelve point, bold face type. The text of the required notice, shall be at least two points larger than the type used in the agreement.

"Buyers' right to cancel." The statement shall read substantially as follows:

"If this agreement or contract was solicited at your residence and you do not want the goods or services, you may cancel this agreement by mailing or delivering a written notice to the seller. This notice must say that you do not want the goods or services and must be mailed, telegraphed, or delivered before midnight on the third business day after you sign this agreement. This notice must be mailed, telegraphed, or delivered to: (insert name and mailing address of seller.) "If you cancel, this transaction is automatically void and you are entitled to receive a refund of any partial or total payment, trade-in, or other consideration. You must tender to seller, the goods, at the place where you received them, or any part thereof, delivered to you in this transaction."

(Ord. 1545-73; Ord. 1132-2008 Attach. (part).)

2937.05 - Seller must return contract or agreement and deposit, payment, trade-in, or other consideration.

Except as provided in this section, within 10 days after a buyer has cancelled a home solicitation sale provided herein, the seller must tender at the location where contract was signed, the contract or agreement, deposit, partial or total payment, trade-in, or any consideration whatsoever made in addition to the payment and any note or other evidence of indebtedness.

(Ord. 1198-69.)

2937.06 - Effect of cancellation.

When a buyer exercises his right to cancel as provided in this chapter, he is not liable for any finance or other charges, and any security interest becomes void upon such a cancellation.

(Ord. 1198-69.)

2937.99 - Penalty.

Whoever violates any provision of this Chapter 2937 of the Code shall be deemed guilty of a misdemeanor and fined not more than \$300.00 or imprisoned not more than 90 days or both.

(Ord. 1198-69.)

Chapter 2939 - RETAIL ADVERTISING AND MARKETING PRACTICES

Sections:

2939.01 - Definitions.

Editor's Note: This section was repealed by Ordinance 1584-86. See Section 2901.01.

2939.02 - Available stock.

No person shall advertise for sale, food, grocery products or other merchandise as being sold at a certain price unless the advertised food, grocery products, or other merchandise are in stock and readily available marked for sale at the advertised price in all of such person's stores located within the area in which food, grocery products, or other merchandise is advertised.

"In stock and readily available" means either displayed in plain sight within the person's store or capable of being obtained upon request at such store. If the merchandise is not in plain sight, adequate notice must be given in the store that the merchandise is available upon request at the advertised price.

However, it shall constitute a defense to a charge under this section if the retailer maintains records sufficient to show that the advertised products were not "loss leaders." "Loss leaders" means foods, grocery products, or other merchandise sold at a price lower than its cost.

Provided, further, that it shall constitute a defense to a charge under this section if the retailer maintains records sufficient to show that the advertised products were ordered in adequate time for delivery and delivered to the store in quantities sufficient to meet reasonably anticipated demand.

Provided, further, that there shall be no violation of this section or Section 2939.03 if such person clearly and conspicuously and specifically discloses in all such advertisements all exceptions and/or limitations or restrictions with respect to stores, products or prices otherwise included within the advertisements. However, general disclaimers, including but not limited to, "not available in all stores," do not comply with the requirements of this paragraph.

(Ord. 1545-71; Ord. 1132-2008 Attach. (part).)

2939.03 - Advertised prices.

No person shall fail to make items advertised for sale below cost conspicuously and readily available for sale at or below the advertised price.

(Ord. 1545-71.)

2939.04 - Bait advertising.

No person shall in any manner, or by any means of advertisement, or other means of communication, offer for sale any food products, merchandise, commodity or service, as part of a plan or scheme with the intent, design or purpose not to sell such food products, merchandise, commodity or service so advertised.

(Ord. 1545-71.)

2939.05 - False or misleading advertising.

No person shall, with intent directly or indirectly to dispose of real or personal property or to perform services, professional or otherwise, or anything of any nature whatsoever or to induce the public to enter into any obligation relating thereto, make or disseminate or cause to be made or disseminated before the public in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, any statement, concerning such real or personal property, or services, professional or otherwise or concerning any circumstances or matter of fact connected with the proposed disposition thereof, which is untrue, deceptive or misleading.

No person shall make or disseminate or cause to be made or disseminated any false or misleading statement as part of a plan or scheme with intent not to sell such personal property or services, professional or otherwise, so advertised at the price stated therein, or as so advertised.

(Ord. 1545-71.)