



## Legislation Details (With Text)

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<b>On agenda:</b>	5/30/2023	<b>Final action:</b>		5/30/2023	
<b>Title:</b>	Repealing Toledo Municipal Code Chapter 721 "Convenience Stores Licensing Requirements"; enacting a new Toledo Municipal Code Chapter 721 "Convenience Stores Licensing Requirements"; and declaring an emergency.				
<b>Sponsors:</b>	Vanice Williams, John Hobbs III, Theresa Gadus				
<b>Indexes:</b>					
<b>Code sections:</b>					
<b>Attachments:</b>	1. Exhibit A, 2. Video: City Council 5/30/2023				

Date	Ver.	Action By	Action	Result
5/30/2023	1	City Council	Suspension	Pass
5/30/2023	1	City Council	Emergency	Pass
5/30/2023	1	City Council	Passage	Pass

Council Members Williams, Hobbs and Gadus

### **Repealing Toledo Municipal Code Chapter 721 "Convenience Stores Licensing Requirements"; enacting a new Toledo Municipal Code Chapter 721 "Convenience Stores Licensing Requirements"; and declaring an emergency.**

#### **SUMMARY & BACKGROUND:**

This Ordinance repeals and replaces the existing Convenience Stores Licensing Requirements chapter of the Toledo Municipal Code, in order to clarify the licensing requirements and application process. Additionally, the annual license fee is increased from \$250 to \$500 and the penalty for operating without a license is increased from \$100 per violation to \$500 per day for each day a store operates without a license.

NOW THEREFORE, Be it ordained by the Council of the City of Toledo:

SECTION 1. That Toledo Municipal Code Chapter 721 as attached hereto as Exhibit A is repealed.

SECTION 2. That a new Toledo Municipal Code Chapter 721 "Convenience Stores Licensing Requirements" is enacted to read as follows:

#### **721.01. Definitions and Scope**

The provisions of this Chapter shall apply to all convenience stores, which now exist and which may be established in the future. A convenience store is defined as an establishment which operates with both a Toledo Lucas County Health Department Retail Food Establishment license and a State of Ohio C class liquor permit or a State of Ohio Tobacco license, and is under 5,000 square feet.

## **721.02 License Required**

No person or legal entity shall operate a convenience store within the limits of the City of Toledo until the convenience store has been duly licensed for such purpose. Failure on the part of any person(s) or entity to obtain such license shall subject the licensee to the penalties hereinafter provided. A license shall be required for every location.

## **721.03 Content of Application**

Each person or legal entity applying for a convenience store license shall file with the Department of Finance an electronic application including the following:

- (a) Name, physical residence address and contact information of any person with ownership interest in the premises
- (b) Name, physical residence address and contact information of person holding the State of Ohio liquor permits
- (c) Name, physical residence address and contact information of any person with ownership interest in the business
- (d) The location by street name and address where the convenience store is to be operated
- (e) A copy of the convenience store's Toledo Lucas County Health Department Retail Food Establishment license, State of Ohio liquor permits, State of Ohio Vendor license, City of Toledo tax ID number, and State of Ohio Tobacco license, if applicable.

## **721.04 Requirements for Issuance of License**

No convenience store license shall be issued unless the following criteria are satisfied:

- (a) Tax compliance. No license shall be issued or renewed if taxes of the City of Toledo or Lucas County are delinquent or unpaid.
- (b) Zoning compliance. Applicant must be compliant with all applicable Toledo Municipal Code Planning and Zoning Code regulations.
- (c) Dumpsters and trash receptacle screening compliance. Applicant must be compliant with Toledo Municipal Code Section 1108.0304 (B).
- (d) Code compliance. Applicant must be compliant with all applicable Toledo Municipal Code Nuisance Code regulations. No license shall be issued or renewed if open code violations exist.
- (e) Building and fire code compliance. Applicant must be compliant with all applicable Toledo Municipal Code Building Code and Fire Prevention Code regulations.
- (f) Toledo Lucas County Health Department license in good standing
- (g) State of Ohio liquor permit(s) and management agreement, if applicable
- (h) State of Ohio Vendor license
- (i) State of Ohio Tobacco license, if applicable
- (j) Convenience store operates a camera to provide photographic coverage of the front of the counter where purchases are made and at all entries and exits on the premises. Cameras shall operate with the following requirements:

- a. Conspicuous sign which states that the premises are under camera surveillance.
  - b. Camera operates during the premise's hours of operation.
  - c. Each licensee shall maintain media form or retrievable images for a period of no less than fourteen (14) days.
- (k) License fee of \$500

#### **721.05 Issuance of License**

- (a) Upon receipt of a completed application meeting the requirements of Section 721.03 and Section 721.04 the Director of Finance will review application and issue a license.
- (b) Any application for a license that does not contain all required information shall be deemed incomplete. The Director of Finance shall notify the applicant of any deficiencies in its application.
- (c) License applications shall be due by October 1 for all existing convenience stores.
- (d) New convenience stores shall acquire a license prior to starting operations.

#### **721.06 Renewal of License**

- (a) After being granted a license under this Chapter, the licensee shall make an annual electronic application for renewal of the license accompanied by the required license fee.
- (b) A notice to renew will be sent via electronic mail 60 days prior to the expiration of the current license. Each license holder is responsible for updating electronic mail information with the Department of Finance.
- (c) License renewals shall be due by October 1 each year.

#### **721.07 Denial or Revocation of License**

- (a) License application may be denied or license revoked if the entity violates any provisions of this Chapter.
- (b) License application may be denied or license revoked if the premises are the site of multiple violations of any provisions of Title XXIX and Title XLIII of the Ohio Revised Code.
- (c) Any person with ownership interest in the business that has a license revoked may not reapply for a license within one year of revocation.
- (d) When a license is revoked, no license may be issued for that premises within one year of revocation.

#### **721.08 Right to Appeal; Procedure and Board**

- (a) If an application is denied or license revoked, the applicant shall be notified in writing of the reasons for denial and shall have the right to appeal to an Appeal Board composed of the Director of Public Safety, Director of Building and Code Compliance and the Director of Law, or their designees. The applicant shall immediately cease operations.
- (b) In case of a denial or revocation, within fifteen (15) business days after receiving notice of denial or revocation the applicant shall submit a written request for an appeal to the Director of Finance. The Appeal Board shall attempt to set a time and place for a hearing not later than thirty (30) business days after the date of filing the notice of appeal. The Appeal Board may extend such time at the request of applicant. The applicant

may be represented by counsel at the hearing and present witnesses or other evidence showing that the application should be granted. The Appeal Board may sustain, modify or reverse the decision of the Director of Finance.

**721.09 License not to be transferred**

(a) Licenses shall not be transferred. Immediately upon change in ownership interest in the convenience store or change in the holder of the liquor permit, a new application must be submitted.

**721.10 License to be posted in conspicuous place**

(a) The license issued under this Chapter shall be posted in a conspicuous place on the premises of the business. For the purposes of this section, "conspicuous place" shall mean display of the license on a wall of the business, clearly visible to customers of the business.

**721.99 Penalty**

(a) Operation of a convenience store without the license required by this Chapter shall be guilty of a misdemeanor of the fourth degree with applicable Toledo Municipal Code criminal penalties.

(b) A penalty of \$500 per day shall be assessed for operating without the license as required by this Chapter.

(c) The Law Director is authorized to bring an action to compel compliance with this Chapter including the collection of outstanding fines and to bring an action to cease and desist operations in violation of this Chapter.

SECTION 3. That this Ordinance is declared to be an emergency measure and shall be in force and effect from and after its passage. The reason for the emergency lies in the fact that this Ordinance is necessary for the immediate preservation of the public peace, health, safety and property and for the further reason that this Ordinance must be immediately effective in order to implement the convenience stores licensing requirements.

Vote on emergency clause: yeas 11, nays 0.

Passed: May 30, 2023, as an emergency measure: yeas 11, nays 0.

Attest:

Gerald E. Dendinger  
Clerk of Council

Matt Cherry  
President of Council

Approved:

May 30, 2023  
Wade Kapszukiewicz  
Mayor