

AN ORDINANCE AMENDING PROVISIONS OF  
CHAPTER SEVEN OF THE BEAVERTON CITY CODE  
ESTABLISHING REGULATIONS ON PAYDAY LENDING

**WHEREAS**, Chapter Seven of the Beaverton Code provides for licensing and regulation of businesses operating in the City of Beaverton as Payday lenders previously have not been subject to regulatory licensing by the City of Beaverton; and,

**WHEREAS**, the Council finds that these businesses should be regulated by the City because certain payday lending practices have proven detrimental to the financial security of individuals and families residing in the City. Payday lending practices often have an unreasonably adverse effect upon the elderly, the economically disadvantaged and other residents of the City. Frequently, taking a payday loan puts borrowers in much worse financial shape than before they took the loan; and,

**WHEREAS**, payday loans are short-term loans, typically for an initial term of 14 days or less, coinciding with the borrower's next paycheck. Borrowers are charged a flat fee to obtain a payday loan. These fees amount to annual interest rates which exceed five hundred percent. Usually, borrowers are required to repay the full loan in a single payment at the end of the 14-day term. When borrowers are unable to repay the full loan in a single payment, borrowers can either renew or default on the loan. To renew a loan, borrowers incur another fee, which again may exceed five hundred percent interest per annum; and,

**WHEREAS**, the purpose of this ordinance is to require licensing for the purpose of regulating certain payday lending practices to minimize the detrimental effects of such practices on the citizens of the City by regulating payday lending practices occurring in the City, consistent with the laws of the State of Oregon; and,

**WHEREAS**, the need for local regulation is critical to protect the short and long-term financial security of working citizens struggling to lift their families out of poverty; now, therefore,

**THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:**

**Section 1.** Chapter 7, Licenses, Permits and Business Regulations of the Beaverton Code is amended to establish "REGULATIONS ON PAYDAY LENDING," to be added at Sections BC 7.12.005 – 7.12.060, and shall read as follows:

**"7.12.005 Purpose.**

The City finds that, in order to minimize the detrimental effects that certain payday lending practices have on individuals and families, payday lenders should require payment of a portion of the original loan amount prior to the renewal of a payday loan, borrowers should be able to

rescind a payday loan, and borrowers should be able to convert a payday loan into a payment plan. This chapter shall be construed in conformity with the laws and regulations of the State of Oregon.

**7.12.010 Definitions.** For the purpose of this Ordinance, unless the context requires otherwise, the following mean:

**Borrower** - A natural person who receives a payday loan.

**Cancel** - To annul the payday loan agreement and, with respect to the payday loan agreement returning the borrower and the payday lender to their financial condition prior to the origination date of the payday loan.

**Mayor** - The City Mayor or designee.

**Payday Lender** - A lender in the business of making payday loans as defined by state law.

**Payday Loan** - A payday loan as defined by state law.

**Principal** - The original loan proceeds advanced for the benefit of the borrower in a payday loan excluding any fee or interest charge.

**7.12.015 Permits.**

Within 60 days of the effective date of this Ordinance, any Payday Lender operating in the City of Beaverton shall apply for and obtain a permit to operate as a Payday Lender. Permits shall be required for each location a lender operates in the City of Beaverton and shall be renewed annually. The application shall be in a form to be determined by the Mayor. The Mayor shall require the Payday Lender to report its fee schedule in the Payday Lender's permit application. No person shall operate a Payday lending business or loan any funds as a Payday Loan without a current permit to do business issued by the City of Beaverton. The amount of the fee shall be set by Council resolution.

**7.12.020 Administrative Authority.**

A. The Mayor is authorized and directed to enforce all provisions of this Ordinance. The Mayor shall have the power to investigate any and all complaints regarding alleged violations of this Ordinance. The Mayor may delegate any or all authority granted under this Section to a designee.

B. The Mayor is authorized to adopt and enforce rules interpreting and applying this Ordinance. The Mayor shall make written findings of fact and conclusions of law to support all decisions.

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

**7.12.025 Cancellation of Payday Loan.**

A. A Payday Lender shall cancel a Payday Loan without any charge to the Borrower if prior to the close of the business day following the day on which the Payday Loan originated, the Borrower:

1. Informs the Payday Lender in writing that the Borrower wishes to cancel the Payday Loan and any future payment obligations; and
2. Returns to the Payday Lender the uncashed check or proceeds given to the Borrower by the Payday Lender or cash in an amount equal to the principal amount of the Payday Loan.

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

**7.12.030 Renewals of Payday Loans**

A Payday Lender shall not renew an existing payday loan more than two times.

**7.12.035 Payment of Principal Prior to Payday Loan Renewal.**

A Payday Lender may not renew a Payday Loan unless the Borrower has paid an amount equal to at least twenty-five percent (25%) of the principal of the original Payday Loan, plus interest on the remaining balance of the Payday Loan. The Payday Lender shall disclose this requirement to the Borrower in a minimum of bold 12 point type.

**7.12.040 Payment Plan for a Payday Loan.**

A. A Payday Lender and a Borrower may agree to a payment plan for a Payday Loan at any time.

B. A Payday Lender shall disclose to each Borrower that a payment plan described in this section is available to the Borrower after two renewals of the loan. The Payday Lender shall disclose this requirement to the Borrower in a minimum of bold 12 point type.

C. After a Payday Loan has been renewed twice, and prior to Payday Lender declaring a default on the Payday Loan, a Payday Lender shall allow a Borrower to convert the Borrower's Payday Loan into a payment plan. Each payment plan shall be in writing and acknowledged by both the Payday Lender and the Borrower.

D. The Payday Lender shall not assess any fee, interest charge or other charge to the Borrower as a result of converting the Payday Loan into a payment plan.

E. The payment plan shall provide for the payment of the total of payments due on the Payday Loan over a period of no fewer than 60 days in three or more payments. The Borrower may pay the total of payments due on the payment plan at any time. The Payday Lender may not assess any penalty, fee or other charge to the Borrower for prepayment of the payment plan.

F. A Payday Lender's violation of the terms of a payment plan entered into with a Borrower under this section constitutes a violation of this Ordinance. If a Payday Lender enters into a payment plan with a Borrower through a third party that is representing the Borrower, the Payday Lender's failure to comply with the terms of that payment plan constitutes a violation of this Ordinance.

**7.12.045 Remedies.**

A. Failure to comply with any part of this Chapter or the administrative rules may be punishable by civil penalties. The Mayor may impose a civil penalty of up to \$1,500.00 for a substantial violation of this Ordinance or the administrative rules. A substantial violation is a violation having an impact on the public, as determined by the Mayor, that informal compliance methods fail to resolve. Each substantial violation may be assessed a separate civil penalty.

B. Civil penalties shall be payable to the City of Beaverton.

C. Civil remedies. Nothing in this Section is intended to prevent any person from pursuing any available legal remedies.

D. No civil penalties shall be assessed within 60 days of the effective date of this Ordinance

**7.12.050 Appeals.**

Any person upon whom a civil penalty has been imposed, or who has been directed by the Mayor to resolve a complaint, may appeal by filing a notice of appeal with the Mayor. The City Council shall consider the appeal.

**7.12.055 Complaints.**

A. The Mayor shall have the authority to investigate any and all complaints alleging violation of this Ordinance or administrative rules.

B. The Mayor may receive complaints from Borrowers by telephone or in writing. Within a reasonable time, the Mayor shall forward the complaint by telephone or in writing to the Payday Lender it concerns for investigation.

C. The Payday Lender shall investigate the allegations of the complaint and report the results of the investigation and the proposed resolution of the complaint to the Mayor by telephone or in writing within two (2) business days from initial contact by the Mayor.

D. If the proposed resolution is satisfactory to the Mayor, the Payday Lender shall proceed to resolve the complaint directly with the Borrower according to the resolution proposed to the Mayor.

E. If the proposed resolution is not satisfactory to the Mayor, the Mayor shall conduct an independent investigation of the alleged complaint and propose an alternative resolution of the complaint. If the Payday Lender accepts the proposed alternative resolution and offers it to the Borrower, the complaint shall be final. If the Payday Lender refuses to accept and implement the proposed alternative resolution it shall be subject to remedies as provided in BC 7.12.030. In the event of imposition of remedies, the Payday Lender may appeal as provided in BC 7.12.035.

**7.12.060 Severability.**


If any provision of this Ordinance, or its application to any person or circumstance is declared invalid or unenforceable the remainder of the Ordinance and its application to other persons and circumstances, other than that which has been held invalid or unenforceable, shall not be affected, and the affected provision of the Ordinance shall be severed.”

First reading this 19<sup>th</sup> day of June, 2006.

Passed by the Council this 10<sup>th</sup> day of July, 2006.

Approved by the Mayor this 11<sup>th</sup> day of JULY, 2006.

ATTEST:

  
SUE NELSON, City Recorder

APPROVED:

  
ROB DRAKE, Mayor