

Chapter 5.72
PAYDAY AND TITLE LOAN BUSINESSES

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5.72.010 Legislative findings.

These businesses should be regulated by the City of Overland Park because certain payday and title loan lending practices have proven detrimental to the financial security of individuals and families residing in the City. Payday and title loan lending practices often have an unreasonably adverse effect upon the elderly, the economically disadvantaged and other residents of the City. Frequently, taking a payday or title loan puts borrowers in much worse financial shape than before they took the loan. Therefore, the purpose of this ordinance is to require licensing for the purpose of regulating certain payday and title loan lending practices to minimize the detrimental effects of such practices on the citizens of the City by regulating payday and title loan lending practices occurring in the City, consistent with the laws of the State of Kansas. Furthermore, the City finds there is a need to regulate the placement and location of Payday and Title Loan businesses throughout the City. A clustering of these businesses can have a detrimental effect on the neighborhood and create the appearance of a commercial district in decline. These businesses do not create much foot traffic for adjacent businesses and a proliferation of them at particular locations can overwhelm a neighborhood and can be a disincentive for the location of other neighborhood businesses in close proximity to them. Finally, the fact that many surrounding communities in the metropolitan area are adopting or considering adopting restrictions on the location of such businesses could result in the City of Overland Park having an undue concentration of these businesses in the City unless location regulations are enacted. (History: Ord. PDL-2655 §1, 2007)

5.72.020 Definitions.

The term "Payday Loan Business" shall refer to any business regulated by K.S.A. §16a-2-404, as the same may be amended from time to time. The term "Title Loan Business" shall refer, except as provided below, to a consumer loan transaction, including a loan made pursuant to K.S.A. 16-706 et seq., and amendments thereto, secured by a vehicle. It shall not include a purchase money consumer loan or a loan made pursuant to subsection (2) of K.S.A. 16a-2-401 and amendments thereto. The term "Vehicle," for the purposes of this section, means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway and the ownership of which is evidenced by a certificate of title. (History: Ord. PDL-2655 §1, 2007)

5.72.030 Permit required.

Within 60 days of the effective date of this ordinance, it shall be unlawful for any person or business:

1. to operate or maintain a Payday or Title Loan Business in the City unless the owner, operator or lessee thereof has applied for and obtained a Payday Loan and Title Loan Business Permit from the City, or
2. to operate such business after such permit has expired or has been revoked or suspended by the City.

Permits shall be required for each location a lender operates in the City, shall be valid for a one year period of time and may be renewed annually. The application shall be in a form to be determined by the Overland Park City Clerk. The annual cost for the permit shall be \$1,000.00, payable to the City. This permit shall be in addition to any other permit or license required by other local, state or federal government agencies. No permit shall be issued for any business seeking to operate at a location prohibited by any applicable local, state or federal law, statute, ordinance, rule or regulation; provided, however, that a business lawfully in existence on the date of adoption of such prohibition may be issued a permit if allowed by such provisions.

(History: Ord. PDL-2655 §1, 2007)

5.72.040 Separation requirements.

No permit shall be issued for any Payday or Title Loan Business that is located within 5,280 feet of any other Payday or Title Loan Business or within 200 feet of any property used primarily for a single-family residence, a two-family residence, a town home, or an apartment building. The separation distances shall be measured from or to the outer wall of the Payday or Title Loan Business, and from or to the property line of the property containing the residential use.

However, this separation provision shall not apply to any Payday or Title Loan Business that can demonstrate to the City that they were in operation at the location requested in the Permit application prior to the effective date of this ordinance, and that they have operated continuously under the same business name since that time.

(History: Ord. PDL-2655 §1, 2007)

5.72.050 Posting required.

Any business that applies for and receives a Payday or Title Loan Business Permit from the City shall keep such permit posted on a wall within their business in a prominent location clearly visible to potential customers. Failure keep the permit posted in the manner required shall be prima facie evidence that the business has not obtained such a permit. It shall also be prima facie evidence that any person who performs any business or service as part of the Payday or Title Loan Business had knowledge that such business was not permitted. In addition, any business that applies for and receives a Payday or Title Loan Business Permit from the City shall post a sign in the business at a location clearly visible to potential customers that informs customers of their rights under federal, state or local laws, in a form approved by the Overland Park City Attorney.

(History: Ord. PDL-2655 §1, 2007)

5.72.060 Unlawful to work without permit.

It shall be unlawful for any person to knowingly perform any work or service directly related to the operation of a Payday or Title Loan Business that does not have a valid Payday or Title Loan Business Permit.

(History: Ord. PDL-2655 §1, 2007)

5.72.070 Periodic inspection.

Any business that applies for and receives a Payday or Title Loan Business Permit from the City shall be deemed to have consented to periodic entry into and inspection of the business premises by appropriate City officials, including the inspection of only those business records necessary for the limited purpose of determining whether such business enterprise is in compliance with this Ordinance or any other applicable state or federal law or regulation. This entry and inspection shall take place during hours when such business is open to the public, unless otherwise requested by the business, and shall not unreasonably interfere with the conduct of such business.

(History: Ord. PDL-2655 §1, 2007)

5.72.080 Revocation.

Any permit issued pursuant to this Ordinance shall be subject to revocation for the violation of any provision of this Ordinance or any applicable local, state or federal law, statute, ordinance, rule or regulation, subject to the procedure set forth in Section 18.370.050 (B) of the Overland Park Municipal Code for the revocation of Special Use Permits.

(History: Ord. PDL-2655 §1, 2007)

5.72.090 Penalty.

Any violation of any provision of this Ordinance by a person or business shall be a public offense and shall be subject to the penalties, fines and civil remedies as set forth in Section 18.100.110 of the Overland Park Municipal Code.

(History: Ord. PDL-2655 §1, 2007)

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