

Chapter 5.49 Regulation of Payday Lending

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(New Chapter added by Ordinance No. xxxxxx, effective DATE.)

5.49.010 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 cancel 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 Utah.

5.49.020 Definitions

As used in this Chapter unless the context requires otherwise:

- A. "Borrower" means a natural person who receives a payday loan.
- B. "Cancel" means 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.
- C. "Director" means the Director of the Building Services and Licensing.
- D. "Payday Lender" means a "lender" in the business of making payday loans.
- E. "Payday Loan" means a loan, other than a purchase money loan:
 - (A) Made primarily for personal, family or household purposes;
 - (B) Made for a period of 60 days or less or for which the lender may demand repayment within 60 days; and
 - (C) Usually evidenced by a check or electronic repayment agreement provided by or on behalf of the borrower.

(b) "Payday loan" does not include a loan for a period of more than 60 days, the repayment of which the lender may accelerate upon a default by the borrower.

(4) "Title loan" means a loan, other than a purchase money loan:

(a)(A) Secured by the title to a motor vehicle, recreational vehicle, boat or mobile home;

(B) Made for a period of 60 days or less;

(C) With a single payment payback; and

(D) Made by a lender in the business of making title loans; or

(b) That is secured, substantially equivalent to a title loan as defined in paragraph (a) of this subsection.

F. "Principal" means the original loan proceeds advanced for the benefit of the borrower in a payday loan excluding any fee or interest charge.

5.49.030 Permits

Within 60 days of the effective date of the ordinance enacting this Chapter, any Payday Lender operating in Salt Lake City shall apply for and obtain a permit to operate as a Payday Lender. Permits shall be required for each location a lender operates in Salt Lake City and shall be renewed annually. The application shall be in a form to be determined by the Director. The Director shall require the Payday Lender to report its fee schedule in the Payday Lenders 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 Salt Lake City. The annual cost for the permit shall be \$1,500.00, payable to Salt Lake City; this permit is in addition to the Salt Lake City business license required by section 5.02.010 of the Salt Lake City Code.

5.49.040 Administrative Authority

A. The Director is authorized and directed to enforce all provisions of this Chapter. The Director shall have the power to investigate any and all complaints regarding alleged violations of this Chapter. The Director may delegate any or all authority granted under this Section to any License Supervisor, employee or agent.

B. The Director is authorized to adopt and enforce administrative rules interpreting and applying this Chapter. The Director or designee shall make written findings of fact and conclusions of law to support all decisions.

C. Prior to adoption of a new administrative rule, the Director shall give notice to all interested parties of the terms of the proposed rule, and shall conduct a public hearing to consider public comment. Public notice shall be given when administrative rules have been adopted.

1. At the public hearing, the Director or designee shall hear oral and written testimony concerning the proposed rule. The Director shall have the power to establish and limit the matters to be considered at the hearing, to prescribe procedures for the conduct of the hearings, to hear evidence, and to preserve order.

2. The Director shall adopt, modify or reject the proposed rule after considering testimony received during the public hearing.

3. Unless otherwise stated, all rules shall be effective upon adoption by the Director. All rules adopted by the Director shall be filed with Building Services and Licensing Division and the

Office of the City Recorder in compliance with section 2.64.030 of the Salt Lake City Code. Copies of all current rules shall be available to the public upon request.

4. Notwithstanding subsections 1 and 2 of this Section, the Director may adopt an interim rule without prior public notice upon a finding that failure to act promptly may result in serious prejudice to the public interest or the interest of the affected parties. Such interim rules shall detail the specific reasons for such prejudice. Any interim rule adopted pursuant to this paragraph shall be effective for a period not to exceed 180 days.

D. Inspection of Records. Salt Lake City 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 Director or its designee.

5.49.050 Location and Zoning Restrictions:

It is unlawful for any Payday Loan business to do business at any location within the city not zoned for such business. Payday Loan businesses shall only be allowed in areas zoned for their use pursuant to subsection 21A.36.200(*zoning location and controls section to be written*) of this code and at locations also complying with the other requirements of section 21A.36.200 of this code

5.49.060 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.

5.49.070 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 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.

5.49.080 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 the maximum amount of renewals allowed by state law. 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 to the maximum amount allowed by state law, and prior to 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 early payment on 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 Chapter. 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 Chapter.

5.49.090 Remedies

A. Failure to comply with any part of this Chapter or the administrative rules may be punishable by civil penalties. The Director may impose a civil penalty of up to \$100.00 per day for a substantial violation of this Chapter or the administrative rules. A substantial violation is a violation having an impact on the public that informal compliance methods fail to resolve. Each substantial violation may be assessed a separate civil penalty.

B. Civil penalties shall be payable to Salt Lake City.

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.

5.49.100 Appeals

Any person upon whom a civil penalty has been imposed, or who has been directed by the Director to resolve a complaint, may appeal to the Code Hearings Officer pursuant to the provisions of Chapter 21A.20.090 of this Code.

5.49.110 Complaints

The Director shall have the authority to investigate any and all complaints alleging violation of this Chapter or administrative rules.

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

B. 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 Director by telephone or in writing within two (2) business days from initial contact by the Director.

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

D. If the proposed resolution is not satisfactory to the Director, the Director 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 by Section 5.02.250. In the event of imposition of remedies, the Payday Lender may appeal as provided by Section 5.02.260.

5.49.120 Severability

If any provision of this Chapter, or its application to any person or circumstance is declared invalid or unenforceable the remainder of the Chapter 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 Chapter shall be severed.