

# ORDINANCE NO. 774

## AN ORDINANCE ADOPTING A NEW CHAPTER 5.06 OF THE TROUTDALE MUNICIPAL CODE REGULATING PAYDAY LENDING.

### THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:

1. Payday lending practices that do not encourage and facilitate loan repayments and debt limits have detrimental effects on the financial security of individuals and families residing in the City.
2. It is necessary to regulate payday lenders in the City to protect working families in the City from the detrimental effects of payday lending, consistent with the laws of the State of Oregon.
3. The detrimental effects of payday lender practices that are regulated in this ordinance need to be addressed immediately so Troutdale citizens can make progress in lifting their families out of poverty. This ordinance needs to take effect immediately upon its adoption to protect the short and long term financial security of Troutdale citizens.
4. Copies of this ordinance have been distributed to the Council and made available for public inspection at least twenty-four (24) hours before its adoption.


### NOW, THEREFORE, IT IS ORDAINED BY THE COUNCIL OF THE CITY OF TROUTDALE:

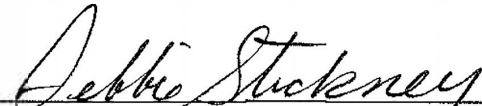
Section 1. A new chapter 5.06 of the Troutdale Municipal Code regulating payday lending, set forth in Attachment A, is hereby adopted and incorporated herein by reference.

**YEAS: 5**

**NAYS: 2** Councilor Canfield and Councilor Kyle

**ABSTAINED: 0**

  
\_\_\_\_\_  
Paul Thalhofer, Mayor  
March 29, 2006  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Debbie Stickney, City Recorder  
Adopted: March 28, 2006

CHAPTER 5.06

REGULATION OF PAYDAY LENDING

Sections:

- 5.06.010 Purpose
- 5.06.015 Interpretation
- 5.06.020 Definitions
- 5.06.030 Permits
- 5.06.040 Administrative Authority
- 5.06.050 Payment of Principal Prior to Payday Loan Renewal
- 5.06.060 Cancellation of Payday Loan
- 5.06.070 Payment Plan for a Payday Loan
- 5.06.080 Remedies
- 5.06.090 Appeals
- 5.06.100 Complaints
- 5.06.110 Severability

5.06.010 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.

5.06.015 Interpretation

This Chapter shall be interpreted in conformity with the laws and regulations of the State of Oregon.

5.06.020 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. "Administrator" means the Troutdale City Administrator or the Administrator's designee.

- D. "Payday Lender" means a "lender" in the business of making payday loans as defined in ORS 725.600.
- E. "Payday Loan" means a payday loan as defined by state law.
- F. "Principal" means the original loan proceeds advanced for the benefit of the borrower in a payday loan excluding any fee or interest charge.

#### **5.06.030 Permits**

Within 60 days of the effective date of the ordinance enacting this Chapter, any Payday Lender operating in the City of Troutdale 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 Troutdale and shall be renewed annually. The application shall be in a form to be determined by the Administrator. The Administrator 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 the City of Troutdale. The annual cost for the permit shall be as set forth in council resolution.

#### **5.06.040 Administrative Authority**

- A. The Administrator is authorized and directed to enforce all provisions of this Chapter. The Administrator shall have the power to investigate any and all complaints regarding alleged violations of this Chapter. The Administrator may delegate any or all authority granted under this Section to any City officer, employee or agent.
- B. The Administrator is authorized to adopt and enforce administrative rules interpreting and applying this Chapter. The Administrator 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 Administrator 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 Administrator or designee shall hear oral and written testimony concerning the proposed rule. The Administrator 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 Administrator 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 Administrator. All rules adopted by the Administrator shall be filed with the City Recorder. Copies of all current rules shall be available to the public upon request.
4. Notwithstanding subsections 1 and 2 of this Section, the Administrator 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. The City of Troutdale 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 Administrator or its designee.

#### **5.06.050 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.

#### **7.06.060 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.

#### **5.06.070 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.

**5.06.080 Remedies**

- A. Failure to comply with any part of this Chapter or the administrative rules may be punishable by civil penalties. The Administrator may impose a civil penalty of up to \$1500.00 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 the City of Troutdale.
- 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.

### **5.06.90 Appeals**

Any person upon whom a civil penalty has been imposed, or who has been directed by the Administrator to resolve a complaint, may appeal the Administrator's decision for review by the Troutdale Municipal Court Judge.

### **5.06.100 Complaints**

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

- A. The Administrator may receive complaints from Borrowers by telephone or in writing. Within a reasonable time, the Administrator 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 Administrator by telephone or in writing within two (2) business days from initial contact by the Administrator.
- C. If the proposed resolution is satisfactory to the Administrator, the Payday Lender shall proceed to resolve the complaint directly with the Borrower according to the resolution proposed to the Administrator.
- D. If the proposed resolution is not satisfactory to the Administrator, the Administrator 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 5.06.080. In the event of imposition of remedies, the Payday Lender may appeal as provided in Section 5.06.090.

### **5.06.110 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.