



City of Abilene City Council Special Called Meeting

Shane Price, Council Member
Bruce Kreitler, Council
Member
Kyle McAlister, Council
Member
Robert Hanna, City Manager

Norm Archibald,
Mayor

Anthony Williams, Mayor Pro-
tem
Vacant Place 4
Steve Savage, Council Member
Stanley Smith, City Attorney
Danette Dunlap, City Secretary

Notice is hereby given of a meeting of the City Council of City of Abilene to be held on Tuesday, April 25, 2017 at 5:30 PM at 555 Walnut Street, 2nd Floor - Council Chambers, for the purpose of considering the following agenda items.

COUNCIL WORK SESSION

1. CALL TO ORDER

2. INVOCATION

1. Invocation Councilman Anthony Williams
2. Pledge to the United States Flag and the Texas Flag

3. AGENDA ITEMS

1. **Public Comment on Pending Ordinance:** Setting Forth Registration Requirements and Credit Extension Guidelines for Credit Access Businesses and Providing a Penalty; a public hearing and vote will be held on April 27th 2017 Regular City Council Meeting. **(Robert Hanna)**
2. **Discussion:** Illegal Dumping
3. **Discussion:** Automated Water Meter Reading System for the City of Abilene. **(Rodney Taylor)**
4. **Public Comment**
There will be no votes or any formal actions taken on subjects presented during public comment. The public comment period will only allow members of the public to present ideas and information to city officials and staff.

4. ADJOURNMENT

In compliance with the Americans with Disabilities Act, the City of Abilene will provide for reasonable accommodations for persons attending City Council meetings. To better serve you, requests should be received 24 hours prior to the meetings. Please contact Danette Dunlap, City Secretary, at 325-676-6202.

CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board at the City Hall of the City of Abilene, Texas, on the __21__ day of April, 2017, at
__4:31pm__.

Danette Dunlap, City Secretary



**City Council
Agenda Memo**

City Council Meeting Date: 4/25/2017

TO: Honorable Mayor and members of the City Council

FROM: Robert Hanna, City Manager

Public Comment on Pending Ordinance: Setting Forth Registration Requirements and Credit Extension Guidelines for Credit Access Businesses and Providing a Penalty; a
SUBJECT: public hearing and vote will be held on April 27th 2017 Regular City Council Meeting.
(Robert Hanna)

GENERAL INFORMATION

Members of Council have requested that city staff present a Payday Lending Ordinance to the City Council for its consideration.

This Credit Access Business Ordinance is the model ordinance provided by the Texas Municipal League (TML) to Cities who are interested in regulating Payday Loans, or Credit Access Businesses.

At least 40 Texas Cities have adopted the model ordinance, or a variation thereof, including San Angelo, Denton, Killeen, Midland, and Waco.

This ordinance does the following:

1. Requires registration of all Credit Access Businesses with the City limits.
2. Requires the businesses maintain complete records of all loans for three years and to make the records available to the City upon request.
3. Limits the loan to no more than 20% of a consumer's gross monthly income and title loans on vehicles to no more than 3% of the consumers gross annual income or 70% of the retail value of the vehicle.
4. Provides that repayment in installments may not be in more than 4 installments.
5. Prevents renewals or refinancing of installment-payment loans.
6. Requires that any agreement be written in the consumer's language of preference.
7. Referral to credit counseling is required.
8. State mandated quarterly reports and any other requested information must be submitted to the City.

SPECIAL CONSIDERATIONS

None.

FUNDING/FISCAL IMPACT

Unknown at this time.

STAFF RECOMMENDATION

The City Manager continues to believe this regulation is best done at the State level. The fiscal impact of enforcement is unknown at this time. It would heavily depend on Council's expectation on whether or not enforcement actions would be proactive or complaint based.

Presently at least one municipal judge in Texas has ruled that payday lending ordinances are pre-empted under existing State law and specifically Section 393.602 (b) of the Texas Finance Code. The judge's ruling has been appealed.

It is unclear as to the permanency of any payday lending regulation adopted by the City of Abilene.

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

Description	Type
<input type="checkbox"/> Ordinance Cover	Ordinance
<input type="checkbox"/> Ordinance Exhibit	Exhibit
<input type="checkbox"/> Model Ordinance	Ordinance
<input type="checkbox"/> Presentation	Presentation

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 17, MISCELLANEOUS PROVISIONS, OF THE CODE OF THE CITY OF ABILENE BY ADDING ARTICLE IV, CREDIT ACCESS BUSINESSES, AS SET OUT BELOW, PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.

WHEREAS, Chapter 17, Miscellaneous Provisions, includes regulations of certain businesses in the City of Abilene, and

WHEREAS, certain credit access businesses engage in abusive and predatory lending practices, offering easy money to those members of our community who are in a tight spot with onerous terms and fees; and

WHEREAS, a credit access business is defined in the Texas Finance Code §393.601 as a “credit services organization that obtains for a consumer or assists a consumer in obtaining an extension of credit in the form of a deferred presentment transaction or a motor vehicle title loan”; and

WHEREAS, the practices of certain credit access businesses cause members of our community to become trapped in a cycle of short term, high interest loans resulting in large debt and huge payments; and

WHEREAS, lenders hold onto the motor vehicle title and when borrowers cannot continue to pay the fees, they can lose their vehicles, which can drastically affect the borrower’s means of transportation for work and other essential household functions; and

WHEREAS, there are approximately ____ credit access businesses that have been identified in the City of Abilene; and

WHEREAS, in order to assist cities in addressing the concerns of credit access businesses the Texas Municipal League has drafted a model ordinance; and

WHEREAS, the City of Abilene City Council finds it in the public interest to protect the welfare of the citizens of the City of Abilene by monitoring credit access businesses in an effort to reduce abusive and predatory lending practices through the adoption of a Credit Access Business Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS

PART 1: That Chapter 17, Miscellaneous Provisions, of the Code of Ordinances, City of Abilene, Texas, is hereby amended to add Article IV, Credit

Access Businesses, as set out in Exhibit A, attached and made a part of this ordinance for all purposes.

PART 2: That if the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not effect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.

PART 3: That any person, firm, or corporation violating the provisions of this Ordinance shall be deemed to have committed a misdemeanor, and upon conviction thereof shall be fined in accordance with Chapter 1 (Section 1-9) of this Code.

PART 4: Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FIRST READING this 13th day of April, 2017.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the ____ day of _____, 2017, the same being more than 24 hours prior to a public hearing being held in the Council Chamber of City Hall in Abilene, Texas, at 8:30 a.m. on the 27th day of April, 2017, to permit the public to be heard. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its publication the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON SECOND AND FINAL READING this 27th day of April, 2017.

ATTEST:

CITY SECRETARY

MAYOR

CITY ATTORNEY

EXHIBIT "A"

ARTICLE IV. CREDIT ACCESS BUSINESSES

Sec. 17-86. Short Title and Purpose.

(a) This article may be known and cited as "Credit Access Businesses Regulation."

(b) The purpose of this article is to protect the welfare of the citizens of the City of Abilene by monitoring credit access businesses in an effort to reduce abusive and predatory lending practices. To this end, this article establishes a registration program for credit access businesses, imposes restrictions on extensions of consumer credit made by credit access businesses, and imposes recordkeeping requirements on credit access businesses.

Sec. 17-87. Definitions.

As used in this chapter:

- (1) CERTIFICATE OF REGISTRATION means a certificate of registration issued by the director under this article to the owner or operator of a credit access business.
- (2) CONSUMER means an individual who is solicited to purchase or who purchases the services of a credit access business.
- (3) CONSUMER'S LANGUAGE OF PREFERENCE is the language the consumer understands best.
- (4) CREDIT ACCESS BUSINESS has the meaning given that term in Section 393.601 of the Texas Finance Code.
- (5) DEFERRED PRESENTMENT TRANSACTION has the meaning given that term in Section 393.601 of the Texas Finance Code.
- (6) DIRECTOR means the director of the department designated by the City Council, City Manager, or City Councilor City Manager's Designee, to enforce and administer this chapter.
- (7) EXTENSION OF CONSUMER CREDIT has the meaning given that term in Section 393.001 of the Texas Finance Code.
- (8) MOTOR VEHICLE TITLE LOAN has the meaning given that term in Section 393.601 of the Texas Finance Code.
- (9) PERSON means any individual, corporation, organization, partnership, association, financial institution, or any other legal entity.

(10)REGISTRANT means a person issued a certificate of registration for a credit access business under this chapter and includes all owners and operators of the credit access business identified in the registration application filed under this chapter.

(11) STATE LICENSE means a license to operate a credit access business issued by the Texas Consumer Credit Commissioner under Chapter 393, Subchapter G of the Texas Finance Code.

Sec. 17-88. Violations; Penalty.

(a) A person who violates a provision of this chapter, or who fails to perform an act required of the person by this chapter, commits an offense. A person commits a separate offense for each and every violation relating to an extension of consumer credit, and for each day during which a violation is committed, permitted, or continued.

(b) An offense under this chapter is punishable by a fine of not more than \$500.

(c) A culpable mental state is not required for the commission of an offense under this article and need not be proved.

(d) The penalties provided for in Subsection (b) are in addition to any other remedies that the city may have under city ordinances and state law.

Sec. 17-89. Defenses.

It is a defense to prosecution under this article that at the time of the alleged offense the person was not required to be licensed by the state as a credit access business under Chapter 393, Subchapter G, of the Texas Finance Code.

Sec. 17-90. Registration Required.

A person commits an offense if the person acts, operates, or conducts businesses as a credit access business without a valid certificate of registration. A certificate of registration is required for each physically separate credit access business.

Sec. 17-91. Registration Application.

(a) To obtain a certificate of registration for a credit access business, a person must submit an application on a form provided for that purpose to the director. The application must contain the following:

(1) The name, street address, mailing address, facsimile number, and telephone number of the applicant.

(2) The business or trade name, street address, mailing address, facsimile number, and telephone number of the credit access business.

(3) The names, street addresses, mailing addresses, and telephone numbers of all owners of the credit access business, and the nature and extent of each person's interest in the credit access business.

(4) A copy of a current, valid state license held by the credit access business pursuant to Chapter 393, Subchapter G of the Texas Finance Code.

(5) A copy of a current, valid certificate of occupancy showing that the credit access business is in compliance with the City of Abilene Code.

(6) A non-refundable application fee for the amount established.

(b) An applicant or registrant shall notify the director within 45 days after any material change in the information contained in the application for a certificate of registration, including, but not limited to, any change of address and any change in the status of the state license held by the applicant or registrant.

Sec. 17-92. Issuance and Display of Certificate of Registration; Presentment upon Request.

(a) The director shall issue to the applicant a certificate of registration upon receiving a completed application under Section 17-91.

(b) A certificate of registration issued under this section must be conspicuously displayed to the public in the credit access business. The certificate of registration must be presented upon request to the director or any peace officer for examination.

Sec. 17-93. Expiration and Renewal of Certificate of Registration.

(a) A certificate of registration expires on the earliest of:

(1) One year after the date of issuance; or

(2) The date of revocation, suspension, surrender, expiration without renewal, or other termination of the registrant's state license.

(b) A certificate of registration may be renewed by making application in accordance with Section 17-91. A registrant shall apply for renewal at least 30 days before the expiration of the registration.

Sec. 17-94. Non-transferability.

A certificate of registration for a credit access business is not transferable.

Sec. 17-95. Maintenance of Records.

(a) A credit access business shall maintain a complete set of records of all extensions of consumer credit arranged or obtained by the credit access business, which must include the following information:

(1) The name and address of the consumer.

(2) The principal amount of cash actually advanced.

(3) The length of the extension of consumer credit, including the number of installments and renewals.

(4) The fees charged by the credit access business to arrange or obtain an extension of consumer credit; and

(5) The documentation used to establish a consumer's income under Section 17-96 of this ordinance.

(b) A credit access business shall maintain a copy of each written agreement between the credit access business and a consumer evidencing an extension of a consumer credit (including, but not limited to, any refinancing or renewal granted to the consumer).

(c) A credit access business shall maintain copies of all quarterly reports filed with the Texas Consumer Credit Commissioner under Section 393.627 of the Texas Finance Code.

(d) The records required to be maintained by a credit access business under this section must be retained for at least three years and made available for inspection by the city upon request during the usual and customary business hours of the credit access business.

Sec. 17-96. Restriction on Extension of Consumer Credit.

(a) The cash advanced under an extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining in the form of a deferred presentment transaction may not exceed 20 percent of the consumer's gross monthly income.

(b) The cash advanced under an extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining in the form of a motor vehicle title loan may not exceed the lesser of:

(1) Three percent of the consumer's gross annual income; or

(2) 70 percent of the retail value of the motor vehicle.

(c) A credit access business shall use a paycheck or other documentation establishing income to determine a consumer's income.

(d) An extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining and that provides for repayment in installments may not be payable in more than four installments. Proceeds from each installment must be used to repay at least 25 percent of the principal amount of the extension of consumer credit. An extension of consumer credit that provides for repayment in installments may not be refinanced or renewed.

(e) An extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining and that provides for a single lump sum repayment may not be refinanced or renewed more than three times. Proceeds from each refinancing or renewal must be used to repay at least 25 percent of the principal amount of the original extension of consumer credit.

(f) For purposes of this section, an extension of consumer credit that is made to a consumer within seven days after a previous extension of consumer credit has been paid by the consumer will constitute a refinancing or renewal.

Sec. 17-97. Requirement of Consumer Understanding of Agreement.

(a) Every agreement between the credit access business and a consumer evidencing an extension of consumer credit (including, but not limited to, any refinancing or renewal granted to the consumer), must be written in the consumer's language of preference. Every credit access business location must maintain on its premises, to be available for use by consumers, agreements in the English and Spanish languages.

(b) For every consumer who cannot read, every agreement between the credit access business and a consumer evidencing an extension of consumer credit (including, but not limited to, any refinancing or renewal granted to the consumer) must be read to the consumer in its entirety in the consumer's language of preference, prior to the consumer's signature.

(c) For every consumer who cannot read, every disclosure and notice required by law must be read to the consumers in its entirety in the consumer's language of preference, prior to the consumer's signature.

Sec. 17-98. Referral to Consumer Credit Counseling.

A credit access business shall provide a form, to be prescribed by the Director, to each consumer seeking assistance in obtaining an extension of consumer credit which references non-profit agencies that provide financial education and training programs and agencies with cash assistance programs. The form will also contain information regarding extensions of consumer credit, and must include the information required by Sec. 17-95(a)(1)-(5) of this ordinance specific to the loan agreement with the consumer. If the Director has prescribed a form in the consumer's language of preference, the form must be provided in the consumer's language of preference.

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF _____ SETTING FORTH
REGISTRATION REQUIRMENTS AND CREDIT EXTENSION GUIDELINES
FOR CREDIT ACCESS BUSINESSES AND PROVIDING A PENALTY.**

WHEREAS, certain credit access businesses engage in abusive and predatory lending practices, offering easy money to those members of our community who are in a tight spot with onerous terms and fees; and

WHEREAS, the practices of certain access businesses cause members of our community to become trapped in a cycle of short term, high interest loans resulting in large debt and huge payments; and

WHEREAS, the Pew Charitable Trusts, in their publication entitled *Payday Lending in America: Who Borrows, Where they Borrow, and Why*, (July 2012), wrote that “payday loans are sold as two-week credit products that provide fast cash, but borrowers are actually indebted for an average of five months per year.” The report further noted that “on average, a borrower takes out eight loans of \$375 each per year and spends \$520 on interest;” and

WHEREAS, the Pew Charitable Trusts, in their publication entitled *Payday Lending in America: Who Borrows, Where they Borrow, and Why*, (July 2012), also noted: “How much borrowers spend on loans depends heavily on the fees permitted by their state. The same \$500 storefront loan would generally cost about \$55 in Florida, \$75 in Nebraska, \$87.50 in Alabama, and \$100 in Texas, even if it were provided by the same national company in all those states. Previous research has found that lenders tend to charge the maximum permitted in a state;” and

WHEREAS, the Pew Charitable Trusts, in their publication entitled *Payday Lending in America: Who Borrows, Where they Borrow, and Why*, (July 2012), also stated that “the vast majority of borrowers use the loans on a long-term basis, not temporary one. Thus it seems that the payday loan industry is selling a product few people use as designed and that imposes debt that is consistently more costly and longer lasting than advertised;” and

WHEREAS, the Community Financial Services Association of America (CFSA), the national trade association for companies that offer small dollar, short-term loans or payday advances includes the following in the “Member Best Practices” as listed on its internet site (<http://cfsaa.com/cfsa-member-best-practices.aspx>): “Members shall not allow customers to rollover a payday advance (the extension of an outstanding advance by payment of only a fee) unless expressly authorized by state law, but in such cases where authorized will limit rollovers to four or the state limit, whichever is less.” The need for consumer understanding was also outlined on this website: “A contract between a member and the customer must fully outline the terms of the payday advance

transaction. Members agree to disclose the cost of the service fee both as a dollar amount and as an annual percentage rate (“APR”);” and

WHEREAS, the Center for Responsible Lending, a non-profit, non-partisan organization, states on its internet site (<http://www.responsiblelending.org/other-consumer-loans/tools-resources/fast-facts.html>) that: “car title loans are based on the value of a borrower’s car - the ability to repay the loans is not factor in the lending decision...”; “loan rates for a car title are typically 20-30 times that of rates charged by credit card issuers...”; “the average car title customer renews their loan 8 times...”; and, “on a \$500 title loan, this average customer will pay back \$650 in interest over eight months; the principal borrowed will be in addition;” and

WHEREAS, lenders hold onto the motor vehicle title and when borrowers cannot continue to pay the fees, they can lose their vehicles, which can drastically affect the borrower’s means of transportation for work and other essential household functions.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF _____:

Section 1. Chapter ____ - CREDIT ACCESS BUSINESSES

____.010- Short Title and Purpose.

- (a) This article may be known and cited as “Credit Access Businesses Regulation.”
- (b) The purpose of this article is to protect the welfare of the citizens of the City of _____ by monitoring credit access businesses in an effort to reduce abusive and predatory lending practices. To this end, this article establishes a registration program for credit access businesses, imposes restrictions on extensions of consumer credit made by credit access businesses, and imposes recordkeeping requirements on credit access businesses.

____.020- Definitions.

As used in this chapter:

- (1) CERTIFICATE OF REGISTRATION means a certificate of registration issued by the director under this article to the owner or operator of a credit access business.
- (2) CONSUMER means an individual who is solicited to purchase or who purchases the services of a credit access business.
- (3) CONSUMER’S LANGUAGE OF PREFERENCE is the language the consumer understands best.
- (4) CREDIT ACCESS BUSINESS has the meaning given that term in Section 393.601 of the Texas Finance Code.

- (5) DEFERRED PRESENTMENT TRANSACTION has the meaning given that term in Section 393.601 of the Texas Finance Code.
- (6) DIRECTOR means the director of the department designated by the City Council, City Manager, or City Councilor City Manager's Designee, to enforce and administer this chapter.
- (7) EXTENSION OF CONSUMER CREDIT has the meaning given that term in Section 393.001 of the Texas Finance Code.
- (8) MOTOR VEHICLE TITLE LOAN has the meaning given that term in Section 393.601 of the Texas Finance Code.
- (9) PERSON means any individual, corporation, organization, partnership, association, financial institution, or any other legal entity.
- (10) REGISTRANT means a person issued a certificate of registration for a credit access business under this chapter and includes all owners and operators of the credit access business identified in the registration application filed under this chapter.
- (11) STATE LICENSE means a license to operate a credit access business issued by the Texas Consumer Credit Commissioner under Chapter 393, Subchapter G of the Texas Finance Code.

____.030- Violations; Penalty

- (a) A person who violates a provision of this chapter, or who fails to perform an act required of the person by this chapter, commits an offense. A person commits a separate offense for each and every violation relating to an extension of consumer credit, and for each day during which a violation is committed, permitted, or continued.
- (b) An offense under this chapter is punishable by a fine of not more than \$500.
- (c) A culpable mental state is not required for the commission of an offense under this article and need not be proved.
- (d) The penalties provided for in Subsection (b) are in addition to any other remedies that the city may have under city ordinances and state law.

____.040- Defenses

It is a defense to prosecution under this article that at the time of the alleged offense the person was not required to be licensed by the state as a credit access business under Chapter 393, Subchapter G, of the Texas Finance Code.

____.050- Registration Required

A person commits an offense if the person acts, operates, or conducts businesses as a credit access business without a valid certificate of registration. A certificate of registration is required for each physically separate credit access business.

____.060- Registration Application

(a) To obtain a certificate of registration for a credit access business, a person must submit an application on a form provided for that purpose to the director. The application must contain the following:

- (1) The name, street address, mailing address, facsimile number, and telephone number of the applicant.
- (2) The business or trade name, street address, mailing address, facsimile number, and telephone number of the credit access business.
- (3) The names, street addresses, mailing addresses, and telephone numbers of all owners of the credit access business, and the nature and extent of each person's interest in the credit access business.
- (4) A copy of a current, valid state license held by the credit access business pursuant to Chapter 393, Subchapter G of the Texas Finance Code.
- (5) A copy of a current, valid certificate of occupancy showing that the credit access business is in compliance with the City of _____ Code.
- (6) A non-refundable application fee for the amount established.

(b) An applicant or registrant shall notify the director within 45 days after any material change in the information contained in the application for a certificate of registration, including, but not limited to, any change of address and any change in the status of the state license held by the applicant or registrant.

____.070- Issuance and Display of Certificate of Registration; Presentment upon Request.

(a) The director shall issue to the applicant a certificate of registration upon receiving a completed application under Section _____.060

(b) A certificate of registration issued under this section must be conspicuously displayed to the public in the credit access business. The certificate of registration must be presented upon request to the director or any peace officer for examination.

____.080- Expiration and Renewal of Certificate of Registration.

(a) A certificate of registration expires on the earliest of:

(1) One year after the date of issuance; or

(2) The date of revocation, suspension, surrender, expiration without renewal, or other termination of the registrant's state license.

(b) A certificate of registration may be renewed by making application in accordance with Section _____.060. A registrant shall apply for renewal at least 30 days before the expiration of the registration.

____.090- Non-transferability.

A certificate of registration for a credit access business is not transferable.

____.100- Maintenance of Records.

(a) A credit access business shall maintain a complete set of records of all extensions of consumer credit arranged or obtained by the credit access business, which must include the following information:

(1) The name and address of the consumer.

(2) The principal amount of cash actually advanced.

(3) The length of the extension of consumer credit, including the number of installments and renewals.

(4) The fees charged by the credit access business to arrange or obtain an extension of consumer credit; and

(5) The documentation used to establish a consumer's income under Section _____.110 of this ordinance.

(b) A credit access business shall maintain a copy of each written agreement between the credit access business and a consumer evidencing an extension of a consumer credit (including, but not limited to, any refinancing or renewal granted to the consumer).

(c) A credit access business shall maintain copies of all quarterly reports filed with the Texas Consumer Credit Commissioner under Section 393.627 of the Texas Finance Code.

(d) The records required to be maintained by a credit access business under this section must be retained for at least three years and made available for inspection by the city upon request during the usual and customary business hours of the credit access business.

____.110- Restriction on Extension of Consumer Credit.

(a) The cash advanced under an extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining in the form of a deferred presentment transaction may not exceed 20 percent of the consumer's gross monthly income.

(b) The cash advanced under an extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining in the form of a motor vehicle title loan may not exceed the lesser of:

(1) Three percent of the consumer's gross annual income; or

(2) 70 percent of the retail value of the motor vehicle.

(c) A credit access business shall use a paycheck or other documentation establishing income to determine a consumer's income.

(d) An extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining and that provides for repayment in installments may not be payable in more than four installments. Proceeds from each installment must be used to repay at least 25 percent of the principal amount of the extension of consumer credit. An extension of consumer credit that provides for repayment in installments may not be refinanced or renewed.

(e) An extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining and that provides for a single lump sum repayment may not be refinanced or renewed more than three times. Proceeds from each refinancing or renewal must be used to repay at least 25 percent of the principal amount of the original extension of consumer credit.

(f) For purposes of this section, an extension of consumer credit that is made to a consumer within seven days after a previous extension of consumer credit has been paid by the consumer will constitute a refinancing or renewal.

____.120- Requirement of Consumer Understanding of Agreement.

(a) Every agreement between the credit access business and a consumer evidencing an extension of consumer credit (including, but not limited to, any refinancing or renewal granted to the consumer), must be written in the consumer's language of preference. Every credit access business location must maintain on its premises, to be available for use by consumers, agreements in the English and Spanish languages.

(b) For every consumer who cannot read, every agreement between the credit access business and a consumer evidencing an extension of consumer credit (including, but not

limited to, any refinancing or renewal granted to the consumer) must be read to the consumer in its entirety in the consumer's language of preference, prior to the consumer's signature.

(c) For every consumer who cannot read, every disclosure and notice required by law must be read to the consumers in its entirety in the consumer's language of preference, prior to the consumer's signature.

____.130- Referral to Consumer Credit Counseling.

A credit access business shall provide a form, to be prescribed by the Director, to each consumer seeking assistance in obtaining an extension of consumer credit which references non-profit agencies that provide financial education and training programs and agencies with cash assistance programs. The form will also contain information regarding extensions of consumer credit, and must include the information required by _____.100(a)(1)-(5) of this ordinance specific to the loan agreement with the consumer. If the Director has prescribed a form in the consumer's language of preference, the form must be provided in the consumer's language of preference.

Section 2. Should any article, section, part, paragraph, sentence, phrase, clause, or word of this ordinance, for any reason be held illegal, inoperative, or invalid, or if any exception to or limitation upon any general provision herein contained be held to be unconstitutional or invalid or ineffective, the remainder shall, nevertheless, stand effective and valid as if it had been enacted and ordained without the portion held to be illegal, inoperative, unconstitutional, invalid, or ineffective.

Section 3. This ordinance shall take effect _____, 2013

ADOPTED THIS _____ day of _____ 2013.

CITY OF _____

ATTEST:

Mayor

City Clerk

APPROVED AS TO FORM:

City Attorney

PAYDAY LENDING ORDINANCE

- This Credit Access Business Ordinance is the model ordinance provided by the Texas Municipal League (TML) to Cities who are interested in regulating this industry.
- At least 40 Texas Cities have adopted the model ordinance, including San Angelo, Midland, Waco, Killeen, and Denton.
- There is currently no State or Federal regulation of the Payday Lending industry.



- This model ordinance does the following:
 1. Requires registration of all Credit Access Businesses within the City limits.
 2. Requires the businesses maintain complete records of all loans for three years and to make the records available to the City upon request.
 3. Limits the loan to no more than 20% of a consumer's gross monthly income and title loans on vehicles to no more than 3% of the consumers gross annual income or 70% of the retail value of the vehicle.
 4. Provides that repayment in installments may not be in more than 4 installments.



5. Prevents renewals or refinancing of installment-payment loans.
6. Requires that any agreement be written in the consumer's language of preference, including English and Spanish.
7. Referral to credit counseling is required.
8. State mandated quarterly reports and any other requested information must be submitted to the City.

QUESTIONS?

