

Case No. ZAC2012-00015

ORDINANCE NO. 13-178

BE IT ORDAINED by the Council of the City of Birmingham that,

SECTION 1:

Title Two: Zone Districts, Article II- Commercial Classifications, Section 1. B-1: Neighborhood Business District, Subsection 2. Use Regulations of the Zoning Ordinance of the City of Birmingham (Ordinance No. 90-130 as amended) is hereby amended to add the following:

“21. Pay Day (Deferred Presentment) and Title loan operations.”

SECTION 2:

Title Two: Zone Districts, Article II- Commercial Classifications, Section 3. B-3: Community Business District, Subsection 2. Use Regulations of the Zoning Ordinance of the City of Birmingham (Ordinance No. 90-130 as amended) is hereby amended to add the following:

“38. Pay Day (Deferred Presentment) and Title loan operations.”

SECTION 3:

Title Two: Zone Districts, Article III- Industrial Classifications, Section 2. M-1A: General Industrial District, Subsection 2. Use Regulations of the Zoning Ordinance of the City of Birmingham (Ordinance No. 90-130 as amended) is hereby amended to add the following:

“21. Pay Day (Deferred Presentment) and Title loan operations.”

SECTION 4:

Title Three: “Miscellaneous Regulations”, Article VI: Supplemental Regulations and Modifications, of the Zoning Ordinance of the City of Birmingham (Ordinance No. 90-130 as amended), is hereby amended to add the following:

Section 21. Payday (Deferred Presentment) and Title Loans

1. General Applicability.

The regulations set forth in this Section supplement or modify the district regulations appearing elsewhere in this Ordinance. The regulations shall apply to any business that has been designated by the Council of the City of Birmingham and by the required license schedule as a payday loan (deferred presentment) and title loan operation.

2. **Purpose.**

The purpose of this Section is to amend the Zoning Ordinance of the City of Birmingham, Alabama in order to:

- a. Reduce traffic congestion that is reported to be associated with these types of businesses;
- b. Reduce the concentration of these types of businesses in certain areas in an effort to encourage and enhance economic development within that area by promoting business diversity in the offering of other goods and/or services in the area;
- c. Provide for zoning protection of existing residential and commercial real estate values from possible economic impairment by these types of businesses; and,
- d. In general to provide for the protection of the health, safety, comfort and general welfare of the citizens of the City of Birmingham.

3. **Finding of fact.**

Based upon the evidence and information submitted to the Council, the governing body of the city of Birmingham, Alabama, including statements of citizens submitted to the Council, expert opinions submitted to and considered by this Council, and the knowledge and experience gained by Council members both prior to and while serving as members of this Council, this Council hereby makes the following findings of fact:

- a. There are a disproportionate number of these types of businesses within the corporate limits of the City of Birmingham based upon the number per resident compared to the other cities within Jefferson County and within unincorporated Jefferson County.
- b. According to public statements made by real estate developers, real estate agents, community leaders, clergy, and members of the general public, a "negative community reputation" has been created by these businesses because of the extraordinarily high interest rates for these loans. Consumers of the services offered by these businesses have also made statements that terms and conditions associated with these types of loans are confusing and very difficult to understand.
- c. Real estate developers and agents have stated that this "negative community reputation" has a detrimental effect on the location of other commercial developments within the area and that these businesses tend to diminish nearby real estate values.

4. **Definitions:**

As used in this Subsection, the following words and phrases will have the following meanings:

- a. Payday Loan (Deferred Presentment) Business. A business that, in accordance to the requirements and restrictions listed in Chapter 18A of Title 5 of the Code of Alabama (Alabama Deferred Presentment Services Act), involves a transaction pursuant to a written agreement involving the following combination of activities in exchange for a fee: (1) accepting a check or authorization to debit a checking account and, in connection with that acceptance, advancing funds to the checking account holder; and (2) holding the check or authorization to debit the checking account for a specified period of time.
- b. Title Loan Business – Any business that offers a short term loan that is collateralized by the title of a vehicle in accordance with the requirements and restrictions described and detailed in Chapter 19A of Title 5 of the Code of Alabama (Alabama Pawn Shop Act).

5. **Locational Requirements.**

In order to provide for more economic opportunities within certain areas of the City of Birmingham, the following spacing requirements are required:

- a. No payday loans (deferred presentment) and/or title loan business (as described and detailed within this Section) established after the enactment of this ordinance shall be located within 2000 linear feet of another such business. The method of measurement that shall be used is a straight line measured from the closest portion of a lot or property that is occupied by these businesses.
- b. Any properly licensed payday loan (deferred presentment) and/or title loan business (as described and detailed within this Section) existing at the time of the enactment of this section that is within 2000 feet of another such business (as measured as described above) shall be considered to be a legal nonconforming use.

SECTION 5.

If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by declaration of any court of competent jurisdiction, such declaration shall not affect the validity of the remaining portions of this ordinance.

SECTION 6.

This ordinance shall become effective when published as required by law.