

**WASHINGTON TERRACE CITY  
ORDINANCE NO. 08-08**

**CASH ADVANCE ESTABLISHMENTS**

**AN ORDINANCE OF WASHINGTON TERRACE CITY, UTAH, ENACTING  
LAND USE REGULATIONS RELATING TO CASH ADVANCE  
ESTABLISHMENTS IN THE CITY; SEVERABILITY; AND PROVIDING AN  
EFFECTIVE DATE.**

**WHEREAS**, Washington Terrace City (hereafter referred to as the “City”) is an incorporated municipality duly existing under the laws of the state of Utah;

**WHEREAS**, *Utah Code Annotated* §10-8-84, 1953, as amended, grants municipalities broad authority to provide for safety and preserve health, and promote prosperity, improve morals, peace and good order, comfort, convenience, and for the protection of property;

**WHEREAS**, Title 10, Chapter 9a, of the *Utah Code Annotated*, 1953, as amended, enables the City to regulate land use and development;

**WHEREAS**, the City has within its municipal boundaries numerous businesses and residential units where the city has an interest in protecting public health, safety, and general welfare;

**WHEREAS**, based upon the Memorandum from the Weber County Attorney’s Office dated May 2, 2008, and further based upon studies relating to negative effects of cash advance establishments upon communities, City Council has evaluated and is concerned about the potential negative effects of cash advance establishments upon the City and its residents;

**WHEREAS**, the City Council desires to limit the number of such businesses in the City;

**WHEREAS**, the City finds it necessary to update its land use ordinances in order to meet the challenges presented by development and to protect public health, safety, and welfare; and,

**WHEREAS**, after publication of the required notice the planning commission held its public hearing on June 12, 2008, to take public comment on the proposed ordinance, and subsequently gave its recommendation to approve this ordinance;

**WHEREAS**, the city council received the recommendation from the planning commission and held its public meeting on July 15, 2008, and desires to act on this Ordinance;

**NOW, THEREFORE**, be it ordained by the City Council of Washington Terrace City, Utah, as follows:

**Section 1: Repealer.** Any word, sentence, paragraph, or phrase in the municipal code that inconsistent with this Ordinance is hereby repealed and any reference thereto is hereby vacated.

**Section 2. Enactment.** Section 17.44.210 of the *Washington Terrace Municipal Code* entitled the “Cash Advance Establishments” is hereby reenacted to read as follows:

**Section 17.44.210**  
**Cash Advance Establishments**

**17.44.210. Cash Advance Establishments.**

1. Scope and definition. This section applies to any “cash advance establishment” (which include “check cashing” business, or “deferred deposit transaction business” or “advanced payday lender” or similar operation) where the business cashes payroll, government, personal, and other types of checks, among other related services, while taking a commission off the face-value of the check. It also includes any business that provides payday lender services provides small cash loans based on a borrowers personal check held for future deposit or on electronic access to a borrower’s bank account in exchange for the borrower including a fee for the loan in the face value of the personal check or providing other consideration of any kind. The businesses defined below are within the scope of this section:
  - a. “Check cashing center” means an establishment that, for compensation, engages in the business of cashing checks, warrants, drafts, money orders or other commercial paper serving a similar purpose. This classification does not include a state or federally chartered bank, savings association, credit union or similar financial institution. This classification does not include establishments selling consumer goods, including consumables, where the cashing of checks or money orders is incidental to the main purpose of the business.
  - b. “Check cashing facility” means an establishment primarily engaged in cashing payroll or personal checks for a fee or advancing funds on future checks, not including state or federally chartered banks, credit unions, savings and loans, or similar financial institution.
  - c. “Payday lender business” means an establishment that offers, originates, or makes a deferred deposit transaction. A “deferred deposit transaction” is a transaction whereby a person defers depositing a customer’s personal check until a specific date, pursuant to a written agreement. A payday lender business does not include a state or federally chartered bank, savings association, credit union, or similar financial institution, or retail stores that incidentally charge a fee not exceeding \$2.00 to cash checks or money orders as a service to customers.
2. Findings. The City Council of Washington Terrace finds and declares the following:
  - a. According to the Consumer Federation of America, because of the high fees paid for these short term loans and check cashing services, some borrowers may pay the equivalent of more than 900% annual percentage rate interest on their loan.
  - b. According to certain studies, check cashing and payday lender businesses have grown over 1300% nation-wide between 1996 and 2007 and are estimated to be growing at a rate of 15% a year. The growth of check cashing and payday lender businesses appear to be predominantly focused in moderate and lower income neighborhoods.
  - c. That a large portion of the City includes moderate and lower income neighborhoods.
  - d. A recent study by “The Progressive Policy Institute” reveals that a traditional bank account is the first step toward giving low-income Americans access to the mainstream tools for wealth creation now taken for granted by the middle-class. The unchecked proliferation of check cashing and payday lender businesses had lead to the displacement of full service banking institutions, making access to traditional banking services even more difficult in lower income neighborhoods.

- e. Continued proliferation of check cashing and payday lender businesses can result in a reduction or displacement of needed financial services and other commercial benefits in these neighborhoods.
  - f. That appropriate land use and regulatory controls on these types of businesses can still provide for this service while off-setting the negative effect upon the City.
3. Limitation on businesses defined in this section:
- a. No business shall be located within one (1) mile of any other or similar business within or outside the city limits.
  - b. Distance requirements defined in this section shall be measured in a straight line, without regard to intervening structures or zoning districts, from the entry door of each business.
  - c. Only one business shall be allowed in the City for every 15,000 residents living in the City.

**Section 3:** Severability. If any section, paragraph, sentence, clause or phrase of this Ordinance is declared invalid by a court of competent jurisdiction, the remainder shall not be affected thereby and shall remain in full force and effect.

**Section 4:** Effective Date. This Ordinance shall be effective immediately after posting or publication.

PASSED AND ADOPTED by the City Council on this \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
 Mayor, Mark C. Allen  
 Washington Terrace City

ATTEST:

\_\_\_\_\_  
 City Recorder

**CERTIFICATE OF PASSAGE AND PUBLICATION OR POSTING**

According to the provision of U.C.A. §10-3-713, 1953 as amended, I, the municipal recorder of Washington terrace City, Utah, hereby certify that foregoing ordinance was duly passed and published, or posted at 1)\_\_\_\_\_ 2)\_\_\_\_\_ and 3)\_\_\_\_\_ on the above referenced dates.

\_\_\_\_\_  
 City Recorder      DATE: \_\_\_\_\_