

TOWN OF FLOWER MOUND, TEXAS

ORDINANCE NO. 16-13

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING CHAPTER 18, "BUSINESSES," OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY ADDING A NEW ARTICLE XI, "CREDIT ACCESS BUSINESSES," AND MAKING FINDINGS RELATED THERETO; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING A PENALTY CLAUSE; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, the Town of Flower Mound, Texas (hereinafter referred to as the "Town") possess the full power of local self-government pursuant to the Texas Home Rule Amendment to the Texas Constitution, contained in Article XI, Section 5 thereof, as well as Section 51.072 of the Texas Local Government Code, as amended; and

WHEREAS, it is the desire of the Town Council of the Town of Flower Mound to protect the welfare of the citizens of the Town by monitoring credit access businesses in an effort to reduce abusive and predatory lending practices, including any unreasonable adverse effect on low income or financially challenged individuals.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, THAT:

SECTION 1

The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2

From and after the effective date of this Ordinance, Chapter 18, "Businesses," of the Code of Ordinances of the Town of Flower Mound, Texas, is hereby amended by adding a new Article XI, "Credit Access Businesses," to read as follows:

ARTICLE XI. CREDIT ACCESS BUSINESSES

DIVISION 1. GENERAL PROVISIONS

Sec. 18-550. Purpose of Article.

The purpose of this article is to protect the welfare of the citizens of the Town of Flower Mound 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. 18-551. Definitions.

In this article:

(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) *Credit Access Business* has the meaning given that term in Section 393.601 of the Texas Finance Code, as amended.

(4) *Deferred Presentment Transaction* has the meaning given that term in Section 393.601 of the Texas Finance Code, as amended.

(5) *Director* means the director of the department or other designated unit by the Town Manager to enforce and administer this article and includes any representatives, agents, or department employees designated by the director.

(6) *Extension of Consumer Credit* has the meaning given that term in Section 393.001 of the Texas Finance Code, as amended.

(7) *Motor Vehicle Title Loan* has the meaning given that term in Section 393.601 of the Texas Finance Code, as amended.

(8) *Person* means any individual, corporation, organization, partnership, association, financial institution, or any other legal entity.

(9) *Registrant* means a person issued a certificate of registration for a credit access business under this article and includes all owners and operators of the credit access business identified in the registration application filed under this article.

(10) *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, as amended.

(11) *Town* means the Town of Flower Mound, Texas.

Sec. 18-552. Violations; Penalty.

(a) A person who violates a provision of this article, or who fails to perform an act required of the person by this article, commits an offense. A person commits a

separate offense each day or portion of a day during which a violation is committed, permitted, or continued.

(b) An offense under this article is punishable by a fine of not more than \$500.00.

(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 enforcement remedies that the Town may have under Town ordinances and state law.

Sec. 18-553. Defense.

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, as amended.

DIVISION 2. REGISTRATION OF CREDIT ACCESS BUSINESSES

Sec. 18-554. Registration required.

A person commits an offense if the person acts, operates, or conducts business 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. 18-555. 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 other persons with a financial interest in 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.

(5) A copy of a current, valid certificate of occupancy showing that the credit access business is in compliance with the Town's Code of Ordinances, including the Town's Land Development Regulations.

(6) A non-refundable application fee of \$50.

(b) An applicant or registrant shall notify the director within forty-five (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. 18-556. 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 18-554.

(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. 18-557. Expiration and Renewal of Certificate of Registration.

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

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

(2) the date of expiration, revocation, or other termination of the registrant's state license.

(b) A certificate of registration may be renewed by making application in accordance with Section 18-554. A registrant shall apply for renewal at least thirty (30) days before the expiration of the registration.

Sec. 18-558. Nontransferability.

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

DIVISION 3. LOCATION OF CREDIT ACCESS BUSINESSES

Sec. 18-559. Location of Credit Access Businesses.

Any lot containing a credit access business establishment shall be located at least one thousand feet (1,000') from any lot containing another credit access business

establishment, as measured in a straight line between the nearest points of one lot to the other lot.

DIVISION 4. MISCELLANEOUS REQUIREMENTS FOR CREDIT ACCESS BUSINESSES

Sec. 18-560. Maintenance of Records.

(a) A credit access business shall maintain a complete set of records of all extensions of consumer credit made 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 documentation used to establish a consumer's income under Section 18-559.

(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 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, as amended.

(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 Town upon request during the usual and customary business hours of the credit access business.

Sec. 18-561. Restrictions on Extensions 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 twenty percent (20%) 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 (3%) of the consumer's gross annual income; or

(2) seventy percent (70%) 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 (4) installments. Proceeds from each installment must be used to repay at least twenty-five percent (25%) 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 (3) times. Proceeds from each refinancing or renewal must be used to repay at least twenty-five percent (25%) 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 (7) days after a previous extension of consumer credit has been paid by the consumer will constitute a refinancing or renewal."

SECTION 3

It is hereby declared to be the intention of the Town Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the Town Council without the incorporation of this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 4

Any provision of any prior ordinance of the Town, whether codified or uncoded, which is in conflict with any provision of this Ordinance, is hereby repealed to the extent of the conflict, but all other provisions of the ordinances of the Town, whether codified or uncoded, which are not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

SECTION 5

Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by fine not to exceed the sum of five hundred dollars (\$500.00) for each

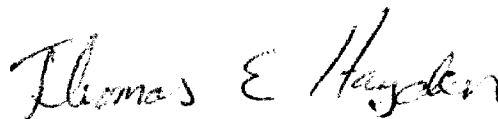
offense, and each and every day such violation shall continue shall constitute a separate offense.

SECTION 6

This Ordinance shall become effective immediately upon its passage and publication.

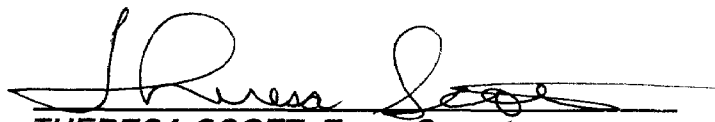
PASSED, APPROVED AND ADOPTED by the Town Council of the Town of Flower Mound, Texas, on this the 15 day of July, 2013.

APPROVED:



THOMAS E. HAYDEN, Mayor

ATTEST:



THERESA SCOTT, Town Secretary

APPROVED AS TO FORM:



TERRENCE S. WELCH, Town Attorney