

ORDINANCE NO. 2658

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TERRELL, KAUFMAN COUNTY, TEXAS, AMENDING ORDINANCE NO. 2612, ZONING ORDINANCE OF THE CITY OF TERRELL, TEXAS BY AMENDING ARTICLE IV, SECTION 32 USE REGULATIONS (CHARTS) CHART 7, PERSONAL AND SERVICE USES, NON-RESIDENTIAL ZONING DISTRICTS, COMMERCIAL (C) DISTRICT, TO ADD CHECK CASHING BUSINESSES, PAYDAY ADVANCE/LOAN BUSINESSES AND CAR TITLE LOAN BUSINESSES IN THE COMMERCIAL (C) ZONING DISTRICT BY SPECIFIC USE PERMIT SUBJECT TO THE PROVISIONS OF ARTICLE V, SECTION 42.8; AMENDING ARTICLE V, SECTION 42, SPECIAL REGULATIONS FOR CERTAIN TYPES OF USES BY ADDING SECTION 42.8 REQUIRING A MINIMUM SEPARATION OF 1,000 FEET BETWEEN A CHECK CASHING BUSINESS, A PAYDAY ADVANCE/LOAN BUSINESS, AND/OR A CAR TITLE LOAN BUSINESS FROM A RESIDENTIAL ZONING DISTRICT BOUNDARY AND/OR AN AREA DESIGNATED FOR AGRICULTURAL PURPOSES; AMENDING SECTION 44.1 DEFINITIONS, BY ADDING DEFINITIONS FOR THE CHECK CASHING BUSINESS, THE PAYDAY ADVANCE/LOAN BUSINESS AND THE CAR TITLE LOAN BUSINESS; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS on the 26th day of April, 2016, the Planning and Zoning Commission conducted a public hearing and approved the amendment of the Zoning Ordinance No. 2612; Article IV, Section 32 - Use Regulations (Charts), Chart 7, Personal and Service Uses, Non-Residential Zoning Districts, Commercial (C) District by adding Check Cashing Business, Payday Advance/Loan Business and Car Title Loan Business in the Commercial District by Specific Use Permit (SUP) subject to the provisions of Section 42.8; and

WHEREAS on the 26th day of April, 2016, the Planning and Zoning Commission conducted a public hearing and approved the amendment of the Zoning Ordinance No. 2612; Article V, Section 42 - Special Regulations for Certain Types of Uses by adding Section 42.8 requiring a minimum separation of 1,000 feet between a Check Cashing Business, a Payday Advance/Loan Business and/or a Car Title Loan Business use and a residential zoning district boundary or an agricultural district boundary. In addition, requiring a minimum separation of 1000 feet between a Check Cashing Business, a Payday Advance/Loan Business and/or a Car Title Loan Business and any other Check Cashing, Payday Advance/Loan and/or Car Title Loan Business; and

WHEREAS on the 26th day of April, 2016, the Planning and Zoning Commission conducted a public hearing and approved the amendment of the Zoning Ordinance No. 2612; Section 44.1 - Definitions, by adding a definition for a Check Cashing Business, a Payday Advance/Loan Business and a Car Title Loan Business.

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

TERRELL, KAUFMAN COUNTY, TEXAS;

ARTICLE I.

THAT Article IV, Section 32, Use Regulations (Charts), Chart 7, Personal and Service Uses, Non-Residential Zoning Districts, Commercial (C) District be and is hereby amended in accordance with Exhibit “A” attached hereto and by reference made a part hereof for all purposes.

THAT Article V, Section 42, Special Regulations for Certain Types of Uses be amended by the addition of Section 42.8 as follows:

Sec. 42.8 CHECK CASHING BUSINESSES, PAYDAY ADVANCE/LOAN BUSINESSES, and CAR TITLE LOAN BUSINESSES.

A. No check cashing business, payday advance/loan business or car title loan business may be located within 1,000 feet of any residential zoning district boundary line, including, but not limited to, the EE-32 Executive Estate district, all SF-Single-Family districts, the TH-12 Townhouse district, the MF Multi-Family district, the MH Manufactured Home district, and any property zoned CBD Central Business District, any area designated for agricultural purposes, or any PD Planned Development district that allows residential uses;

B. No check cashing business, payday advance/loan business or car title loan business may be located within 1,000 feet of another check cashing business, payday advance/loan business or car title loan business;

C. For purposes of this section, the required separation shall be measured in a straight line without regard to intervening structures or objects:

1. If confirming the separation between the proposed check cashing business, payday advance/loan business or car title loan business and residential uses, the distance shall be measured from the nearest portion of the boundary line of any of the residential districts in 42.8 A above, any CBD district, any area zoned for agricultural purposes, or any PD Planned Development District that allows residential uses.

2. If confirming the separation between check cashing business, payday advance/loan business or car title loan business locations, the distance shall be measured from the nearest portion of the property line of the Commercial District where the existing check cashing business, payday advance/loan business or car title loan business is located to the nearest portion of the property line of the Commercial District where the new business is proposed.

Exception: This section does not apply to check cashing activities at a lawful business engaged in the sale of food, beverages, tobacco products and/or sundries (i.e. a convenience or grocery store) and/or check cashing activities at a business duly licensed or permitted to

sell alcoholic beverages by the Texas Alcoholic Beverage Commission.

THAT Section 44.1, Definitions, shall be amended by adding a definition for a check cashing business, a payday advance/loan business and a car title loan business as follows:

288. CHECK CASHING BUSINESS - Any establishment, entity, business, corporation, or person required to be registered with the Texas Secretary of State as a Credit Services Organization (CSO) under Chapter 393 of the Texas Finance Code that provides check cashing services for an amount of money equal to the face of the check or the amount specified in the written authorization for an electronic transfer of money, less any fee charges for the transaction; or an agreement not to cash a check, or execute an electronic transfer of money for a specified period of time in exchange for a cash advance for a fee; or the cashing of checks, warrants, drafts, money orders, or other commercial paper for compensation by any person or entity for a fee.

289. PAYDAY ADVANCE/LOAN BUSINESS - Any establishment, entity, business, corporation, or person required to be registered with the Texas Secretary of State as a Credit Services Organization (CSO) under Chapter 393 of the Texas Finance Code that makes payday cash advances, payroll cash advances, short term cash loans, instant loans, or other short term money loan services and/or similar services for a specified fee, usually secured by a postdated check or authorization to make an electronic debit against an existing financial account, where the check or debt is held for an agreed-upon term, or until a customer's next payday, and then cashed unless the customer repays the loan to reclaim such person's check. Such establishments may charge a flat fee or other service charge and/or a fee or interest rate based on the size of the loan amount.

290. CAR TITLE LOAN BUSINESS - Any establishment, entity, business, corporation, or person required to be registered with the Texas Secretary of State as a Credit Services Organization (CSO) under Chapter 393 of the Texas Finance Code that makes small or short term consumer loans that leverage the equity value of a motor vehicle, boat, or other recreational vehicle as collateral where the title to such vehicle is owned free and clear by the loan applicant and any existing liens on the car or vehicle cancel the application.

ARTICLE II.

All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

ARTICLE III.

It is hereby declared to be the intention of the City Council of the City of Terrell, Texas, that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgement or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections.

ARTICLE IV.

All other provisions of Ordinance No. 2612 not expressly modified by this Ordinance shall remain in full force and effect.

ARTICLE V.

This Ordinance will take effect immediately after its passage and the publication of the caption, as the law in such cases provides.

PASSED AND APPROVED this the 17th day of May, 2016.

PASSED AND ADOPTED this the 7th day of June, 2016.

DJ Ory, Mayor

Attest:

John Rounsavall, City Secretary

Approved as to form:

Mary Gayle Ramsey, City Attorney