

WISCONSIN CONSUMER PROTECTION ROUNDTABLE

LOCAL GOVERNMENT ACTIONS

Jim Walrath, Volunteer Attorney for Legal Aid Society of Milwaukee, Inc.

September 21, 2005

I. WHAT ARE LOCAL GOVERNMENTS DOING ABOUT THE PROLIFERATION IN THEIR JURISDICTIONS AND THE CONCENTRATIONS OF PAYDAY LENDERS AND TITLE LENDERS IN PARTICULAR NEIGHBORHOODS?

II. MAY A MUNICIPALITY CONSTITUTIONALLY CLASSIFY THESE BUSINESSES AS "SPECIAL USES," THEREBY GIVING THE MUNICIPALITY GREATER CONTROL OVER THE LOCATION AND OPERATION OF SUCH BUSINESSES?

Payday Loan Store of Wisconsin, Inc. v. City of Madison

III. WHAT EVIDENCE IS RELEVANT IN DETERMINING WHETHER A SPECIAL USE PERMIT SHOULD BE GRANTED FOR SUCH BUSINESSES?

Is evidence limited to the land use impacts of such businesses? Aycox d/b/a Loan Max v. Milwaukee Board of Zoning Appeals

May the municipality consider not only evidence of traffic impacts but also criminal conduct associated with such businesses? Title Lenders Inc. d/b/a USA Payday Loans v. Board of Zoning Appeals

May the municipality consider the effects of such businesses on low income consumers?

IV. WHAT STRATEGIES SHOULD BE PURSUED TO PROVE ADVERSE "SECONDARY EFFECTS" OF SUCH BUSINESSES?

PAYDAY LENDING ZONING LAW/LEGISLATION

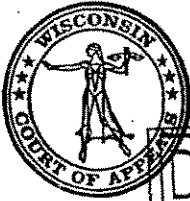
TYPE OF ZONING LAW	JURISDICTION	PRINCIPAL CONTACT
Special Use: Limits Hours and Locations	Madison, WI	
Special Use Restrictions	Pima County, AZ	Chuck Huckleberry, County Administrator
Special Use Restrictions	Colonial Heights, VA	Richard Anzolut, Jr. City Manager
Special Use Restrictions	National City, CA	Mayor Nick Inzunza
Conditional use process allows commission to subject payday loan/check cashing institutions to restrictions necessary to ensure that the public health, safety and welfare are served. Also, facilities may not be located any closer to one another or to residential zones than 600 feet. May not exceed one per every 5000 of the population of the city. Requires minimum security, restricts hours of operation and prevents all establishments from certain districts of the city.	South Salt Lake City, UT	
Business cannot be located less than 1,000 feet from the nearest payday business within the city of Oakland. Restricts vicinity to 500 feet from certain businesses. Requirements on lighting. Cannot open earlier than 7:00 AM and cannot remain open later than 7:00 PM Monday through Saturday. No loitering. Security requirements.	Oakland, CA	
Auto Title Loan restriction: requirements on disclosure of information to borrower. Requires title loan agreement to contains certain statements. Maximum interest rate cannot exceed standards set in Truth in Lending Act and Regulation Z of the Board of Governors of the Federal Reserve System. Special license requirements.	Jacksonville, FL	
Conditional use permit for "small loan business." Limits business to commercial areas C-2 and C-3	Arnold, MO	Arnold City Council Mary Holden
Creates a separate license category for payday lending - \$400 for business license v. \$750 regular bank.	St. John, MO	City Council
Create a classification for payday institutions different from "financial institutions."	Berkeley, MO	City Council Gwen Verges First Ward
Per capita limit if one store per 15,000 residents (proposed ordinance)	St. Joseph, MO	
Conditional use process that allows a site-specific review by the board of supervisors.	Chesterfield, VA	Thomas Jacobson Director of Planning
Special use permit requirement. Payday/Auto title loan may not be located closer than 200 feet from any residential zone/use. Hours of operation for payday/auto title loan cannot extend beyond the hours of 8 AM to 11 PM. Requirements on	Las Vegas, NV	City Council Michael McDonald Councilman

interior space for payday loan institution. No payday loan institution may be located closer than 1,000 feet from any other payday loan institution.		
Conditional use permit for each location. Require public hearing for each request.	St. Louis County, MO	County Council & Planning Commission
City Zoning Code does not prohibit or permit check cashing services – decision on a case-by-case basis.	Ft. Lauderdale, FL Pembroke Pines	Board of Adjustment Saul Shechter, board member & Mayor Alex Fekete
Zoning does not include check cashing.	Burlington, VT	Planning Department
Special use permit	Glendale Heights, IL	Village Planning Commission
Change zone classification from a service district to special use which would require public hearing	Chicago, IL	City Council Alderman Toni Preckwinkle
Special use permit required. Minimum separation of 200 feet from any residential use. Minimum separation of 1,000 feet required from any other check cashing service. Annual license fee of \$300 to the county.	Clark County, NV	
Conditional use permit. Limits hours of operation from 7AM to 10PM. Minimum security requirements include burglar alarm, operable public address system, and full time security guard who must be approved by the police chief.	South Gate, CA	
Conditional use permit. Limited to service business district and limited/general industrial districts. Restricts amount of signage allowed in the windows.	City of North Kansas City, MO	
In an area zoned for commercial mixed use development, check cashing establishments are not allowed. Regulation is designed to improve image of the commercial corridor that is experiencing “economic and aesthetic blight.”	Sacramento, CA	
Conditional use permit	Santa Monica, CA	

- i. Oakland, California
 - 1. Check cashing/payday lending must not be located closer than 1,000 feet from another check casher/payday lender.
 - 2. Check casher/ payday lender must be at least 500 feet away from:
 - a. Community education civic activities (schools)
 - b. State or federally chartered banks, savings associations, credit union or industrial loan company.
 - c. Community assembly civic activities (churches) or
 - d. Liquor stores (excluding full service restaurants or liquor stores with 25 or more full time employees.)
 - 3. The surrounding area must have a lighting plan to identify people from 50 feet away.
 - 4. Store fronts must have glass or transparent glazing: signs cover only 30% of store front.
 - 5. Ordinance limits hours of operation from 7am to 7pm.
 - 6. Graffiti must be removed within 72 hours.
 - 7. No exterior payphones.
 - 8. Litter must be removed twice daily from in front of and around the premises.
 - 9. Each location must have at least one uniformed security guard at all times.
- ii. Sacramento, California
 - 1. In an area zoned for commercial mixed use development, check cashing establishments are not allowed.
 - 2. Regulation is designed to improve image of the commercial corridor that is experiencing "economic and aesthetic blight."
- iii. City of North Kansas City, Missouri
 - 1. Restricts payday lenders and check cashers from doing business in certain zones.
 - 2. Restricts amount of signage allowed in the windows.
- iv. South Gate, California
 - 1. Limits hours of operation from 7am to 10pm.
 - 2. Minimum security requirements:
 - a. Burglar alarm,
 - b. Operable public address system, and
 - c. Full time security guard who must be approved by police chief.
- v. Clark County, Nevada
 - 1. Annual license fee of \$300 to the county.
- vi. South Salt Lake City, Utah
 - 1. Restricts parking facilities
 - 2. Requires minimum security
 - 3. Restricts hours of operation
 - 4. Reserves right to enforce other regulations for the public health, safety and welfare

5. Restricts vicinity to 600 feet from the nearest residential zone (some exceptions)
 6. Restricts the number of facilities to 1 for every 5,000 people.
 7. Prevents all check cashing establishments from certain districts of city.
- vii. Las Vegas, Nevada
1. Regulates payday lenders and check cashers:
 - a. Building design and color scheme
 - b. No temporary signs
 - c. Signs cannot cover more than 20% of the window
 - i. No flashing lights or neon signs
 - ii. Cannot indicate store hours or whether store is open or closed
 - iii. Store hours may be from 8am to 11pm.
 - d. 1500 square foot minimum with ample space for customer waiting area.
 - e. May not be within 200 feet from residences
 - f. Must be 1000 feet away from each other.
- viii. National City, California (proposed ordinance)
1. No forum selection allowed outside of San Diego County (treated as unconscionable).
 2. Recognizes payday lenders as having a predatory effect on military personnel, the elderly, the economically disadvantaged
 3. Indicates that payday lenders have an adverse impact on economic growth and lower tax revenues.
 4. Ordinance regulates aesthetics of building (no bars on windows etc.) and signage (no neon lights, black letters on white background)
 - a. Violation is a misdemeanor
 5. Must file a copy of the report required by Cal. Fin. Code § 23026 (above) with City Manager or Finance Director.
 6. Only one loan per family as opposed to state law, which limits payday loans to one person.
 - a. This prohibits a spouse from taking out a payday loan when the other spouse already has. Also, a family cannot go to another payday lender to escape this rule. Moreover, a 30-day cooling off period is needed before a family member may take out another payday loan.
 7. No new fees are allowed for extending time of repayment.
 8. Customer may voluntarily repay the payday loan at any time prior to the agreed upon due date.
 9. Requires payday lenders to obtain a business license with the city.
 10. Violation of numbers 1, 5, 6, 7, and 8 above is a ground for the denial, revocation, or suspension of payday lender's business license.
 11. Payday lenders must inquire if customer works for the military.

12. Payday lenders must inquire if customer has loans with any other payday lender.
 - a. Violation of 10 or 11 above is a misdemeanor
13. Other special provisions applicable to military personnel.
14. Prohibits payday lenders from changing owners or location (with threat of losing business license.)
15. Severability Clause (if a court strikes down one section, all other sections are still valid.)
16. There is a transition provision of 6 months for current payday lenders to comply with ordinances.
17. Misdemeanors are punished with a penalty of either a fine of \$1,000 or imprisonment of up to 6 months.



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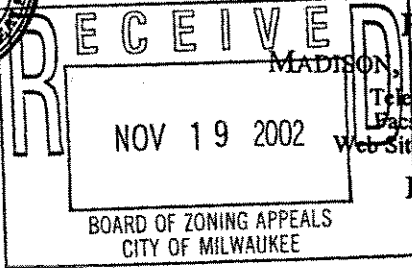
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DISTRICT I

July 1, 2002

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You are hereby notified that the Court has entered the following opinion and order:

01-2780

Roderick Aycox, d/b/a Loan Max v. City of Milwaukee Board of Zoning Appeals (L.C. #00 CV 10735)

Before Wedemeyer, P.J., Fine and Schudson, JJ.

Roderick Aycox, d/b/a Loan Max, appeals from a circuit court order affirming a decision of the City of Milwaukee Board of Zoning Appeals that denied Loan Max's special use application to operate a title loan business in a local business zoning district. Loan Max argues that the Board "proceeded on an incorrect theory of law and exceeded its authority when it denied [the] special use." Upon review of the briefs and record, this court concludes at conference that this case is appropriate for summary disposition. See WIS. STAT. RULE 809.21(1) (1999-2000).¹ Because we conclude that the Board should afford the parties the

¹ All references to the Wisconsin Statutes are to the 1999-2000 version unless otherwise noted.