

# CITY of ALBUQUERQUE

## TWENTY-FIRST COUNCIL

COUNCIL BILL NO. F/S O-14-22

ENACTMENT NO. \_\_\_\_\_

SPONSORED BY: Isaac Benton

1

### ORDINANCE

2 AMENDING THE ZONING CODE TO REGULATE SMALL LOAN BUSINESSES

3 WHEREAS, the prevalence of small loan businesses, including but not  
4 limited to payday lenders and title loans, some of which routinely charge up to  
5 1,000% interest, has risen within the Albuquerque Metro Area over the past  
6 several years – there are approximately 116 locations in the City, with 58 new  
7 locations having been established since just 2009; and

8 WHEREAS, according to the New Mexico Regulation and Licensing  
9 Department, in 2012, consumers in New Mexico were charged \$99 million in  
10 interest and fees on small loans with an annual percentage rate of 175% and  
11 higher – the majority of which was collected by out of state companies; and

12 WHEREAS, the City Council passed resolution R-14-102 on October 6,  
13 2014, urging the New Mexico Legislature and the Governor to enact an interest  
14 and fee cap of 36% or less across all loan products offered by Small Loan  
15 Business; and

16 WHEREAS, spatial analysis of small loan businesses shows that they tend  
17 to cluster in low to moderate income communities, and near military  
18 installations; and

19 WHEREAS, a study by the Southwest Center for Economic Integrity out of  
20 Tucson, Arizona, found that approximately \$20 million dollars in fees were  
21 being extracted annually by payday lending businesses from residents in  
22 Pima County, Arizona – largely in the same redevelopment neighborhoods  
23 where local governments had invested approximately \$8 million in  
24 redevelopment funds; and

25 WHEREAS, clustering of small loan establishments tend to not only serve  
26 as an indicator of economic distress within a community, but also as an

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1 exacerbating factor in that distress by circulating and cycling greater debt  
2 amongst proximate small loan businesses and exporting the interest and fees  
3 on that debt out of the community; and

4 WHEREAS, the prevalence of small lending businesses in low to moderate  
5 income areas, and specifically within the center city and Central Avenue  
6 Corridor, corresponds with much of the City's redevelopment investment  
7 areas and is contradictory to the intent of those investments; and

8 WHEREAS, the continued expansion and clustering of small loan business  
9 in the City's low to moderate income areas will continue to perpetuate the  
10 export of local dollars from these communities which correlates to diminished  
11 economic development, and diminished land development/redevelopment  
12 opportunities within those communities; and

13 WHEREAS, the City Council finds that imposing land use restrictions on  
14 small lending businesses to help prevent clustering will help reduce their  
15 prevalence and expansion in low to moderate income communities and will  
16 help promote the health, safety, and welfare of those communities and the  
17 City's development/redevelopment objectives for those areas; and

18 WHEREAS, the City Council finds that the most notable clusters of small  
19 loan businesses in the City are located within low and moderate income areas  
20 with a geographic footprint of at least a one-mile radius; and

21 WHEREAS, the City Council finds that a separation requirement of one-mile  
22 between small loan businesses is necessary to help minimize continued  
23 expansion in the City's low income areas where clusters presently exist.

24 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF  
25 ALBUQUERQUE:

26 SECTION 1. Section 14-16-1-5(B), the Definitions section of the Zoning  
27 Code, is amended to add the following definition in alphabetical order with all  
28 existing definitions:

29 "SMALL LOAN BUSINESS. Any business requiring licensure under the  
30 New Mexico Small Loan Business Act, NMSA 1978 § 58-15-1 through 58-15-39,  
31 including but not limited businesses offering Payday Loans, Title Loans,  
32 Installment Loans, or Refund Tax Anticipation Loans.]"

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1        **SECTION 2. Section 14-16-3-24 is hereby added to the Zoning Code as**  
2        **follows:**

3        **"[§ 14-16-3-24 SMALL LOAN BUSINESSES.**

4        **(A) Initial Review by the Zoning Enforcement Officer. No Small Loan**  
5        **Business shall commence operation until such time as it demonstrates to the**  
6        **Zoning Enforcement Officer's satisfaction that:**

7        **1) It has obtained a valid license under the New Mexico Small**  
8        **Loan Business Act from the New Mexico Regulations and Licensing**  
9        **Department;**

10        **2) It is not located on the same parcel as another Small Loan**  
11        **Business, nor closer than one mile (5,280 ft.), as measured in a straight line**  
12        **from property line to property line, to any other parcel on which another Small**  
13        **Loan Business is located; and**

14        **3) It is in compliance will all relevant requirements of the Zoning**  
15        **Code.**

16        **(B) Annual Review by the Zoning Enforcement Officer. Each Small Loan**  
17        **Business shall annually submit to the Zoning Enforcement Officer proof that it**  
18        **has renewed its license with the New Mexico Regulations and Licensing**  
19        **Department and that it remains in compliance with all relevant requirements of**  
20        **the Zoning Code.**

21        **(C) Zoning Enforcement Officer Review Fee. The Planning Director shall**  
22        **establish a reasonable review fee for the Zoning Enforcement Officer's**  
23        **reviews as required by this Section. Payment of the review fee for an initial**  
24        **review shall reserve the location of the proposed Small Loan Business as to**  
25        **the distance separation requirements prescribed by this Section for ninety (90)**  
26        **days.**

27        **(D) Penalty. Any failure by a Small Loan Business to satisfy the**  
28        **requirements of this Section constitutes a violation of the Zoning Code and**  
29        **will subject such Small Loan Business to enforcement by the Zoning**  
30        **Enforcement Officer as provided by law.**

31        **(E) Non-Conformance of Existing Small Loan Businesses. Any Small**  
32        **Loan Business in operation prior to the effective date of this Section will be**  
33        **considered a nonconforming use pursuant to § 14-16-3-4 ROA 1994 for**

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1    purposes of the distance separation requirements prescribed herein.  
2    However, all Small Loan Business, regardless of their initial date of operation,  
3    are subject to the annual reporting requirements prescribed by subsection 'B'  
4    above.]”

5        **SECTION 2. SEVERABILITY CLAUSE.** If any section, paragraph, sentence,  
6    clause, word or phrase of this Ordinance is for any reason held to be invalid or  
7    unenforceable by any court of competent jurisdiction, such decision shall not  
8    affect the validity of the remaining provisions of this Ordinance. The Council  
9    hereby declares that it would have passed this Ordinance and each section,  
10   paragraph, sentence, clause, word or phrase thereof irrespective of any  
11   provision being declared unconstitutional or otherwise invalid.

12       **SECTION 3. COMPILATION.** This Ordinance shall amend, be incorporated  
13   in and made part of the Revised Ordinances of Albuquerque, New Mexico,  
14   1994.

15       **SECTION 4. EFFECTIVE DATE.** This Ordinance shall take effect five days  
16   after publication by title and general summary.

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