

# CITY of ALBUQUERQUE

## TWENTY-FIRST COUNCIL

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

ENACTMENT NO. 0-2015-002

SPONSORED BY: Isaac Benton

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### ORDINANCE

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**AMENDING THE ZONING CODE TO REGULATE SMALL LOAN BUSINESSES.**

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

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

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

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

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

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**WHEREAS, clustering of small loan establishments tend to not only serve 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 to businesses offering Payday Loans, Title Loans,  
32   Installment Loans, or Refund Tax Anticipation Loans."

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 violation of the Zoning Code and will**  
29       **subject such Small Loan Business to enforcement by the Zoning Enforcement**  
30       **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**

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

15 SECTION 5. EFFECTIVE DATE. This Ordinance shall take effect five days  
16 after publication by title and general summary.  
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1 PASSED AND ADOPTED THIS 21st DAY OF January, 2015  
2 BY A VOTE OF: 9 FOR 0 AGAINST.

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11 Rey Garduño, President  
12 City Council  
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15 APPROVED THIS 6<sup>th</sup> DAY OF February, 2015  
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19 Bill No. F/S O-14-22  
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23 Richard J. Berry, Mayor  
24 City of Albuquerque  
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27 ATTEST:

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30 Trina M. Gurule, Acting City Clerk  
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