

ORDINANCE NO. 11182

AN ORDINANCE AMENDING CHAPTER 7, 'BUSINESSES AND OCCUPATIONS
GENERALLY' BY ADDING ARTICLE V, 'SHORT-TERM LENDING CODE' AND
AMENDING CHAPTER 30, 'UNIFIED DEVELOPMENT ORDINANCE',
SECTION 20-25.5, 'SPECIAL USE PERMITS',
OF THE CODE OF THE CITY OF LIBERTY, CLAY COUNTY, MISSOURI

WHEREAS, City Council concludes that the lending and marketing practices of Short-Term Loan Establishments, as defined herein, result in serious financial hardships to some of its citizens, particularly its elderly and low-income citizens, from which they cannot readily extract themselves; can perpetuate poverty; and can increase dependency upon public financial assistance, housing, health care, and social services; and

WHEREAS, City Council finds that the short-term loan industry targets low-income citizens, who are most likely to suffer financial hardship as a result of the lending practices and small loan products offered by Short-Term Loan Establishments; and

WHEREAS, City Council recognizes that the State of Missouri regulates Short-Term Loan Establishments in certain regards but further recognizes that those State regulations do not meet the level of protections for consumers common in adjacent states, nor do they adequately protect the City's citizens from certain lending and marketing practices of Short-Term Loan Establishments; and

WHEREAS, the City has the authority to further regulate Short-Term Loan Establishments in the manner described below; and

WHEREAS, City Council finds that regulation of Short-Term Loan Establishments is necessary for the promotion and protection of the public health, safety, and welfare of its citizens, and the public good of maintaining a viable tax base to fund essential services.

WHEREAS, a citizen initiative petition was received on April 18, 2019 to amend the City Code pertaining to Payday Loan and Title Loan Businesses in Liberty, and the Clay County Board of Election Commissioners verified that the petition contained 1,270 valid signatures and therefore met the requirement set out in RSMO 78.200. The Deputy City Clerk verified that it was a valid petition on July 12, 2019 and brought it forward for Council consideration; and

ORDINANCE NO. 11182 (CONT.)

WHEREAS, pursuant to Ordinance No. 11125 on July 22, 2019, and in accordance with the Revised Statutes of Missouri, as amended, the City Council called an election on a Question of adding a Short-Term Lending Code and \$5,000.00 Permit Fee to the City Code, of the City of Liberty, Clay County Missouri, and such ballot was submitted to the qualified voters of the City on November 5, 2019, at the general election held on such date; and

WHEREAS, a majority of the votes cast on the question by the qualified voters voting thereon were in favor of the question, and the election authority has provided the City with a certified copy of the election results, a copy of which is attached hereto as Exhibit A and is incorporated herein by reference; and

WHEREAS, the Council has determined that the qualified voters of the City have taken all actions necessary to authorize the Council to enact a Short-Term Lending Code and impose the permit fee, and the Council therefore now wishes to amend the Municipal Code of the City of Liberty accordingly;

BE IT ORDAINED by the City Council of the City of Liberty, Clay County, Missouri as follows:

SECTION I

Article V is hereby added to Chapter 7, 'Businesses and Occupations Generally', of the City Code of the City of Liberty as follows, and shall be known as the 'Short-Term Lending Code.'

ARTICLE V. – SHORT-TERM LENDING CODE

Sec. 7-30. - Definitions.

The following words, when used in the Short-Term Lending Code, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Director means the Director of the Department of Finance of the City or a person designated by the Director of the Department of Finance.

ORDINANCE NO. 11182 (CONT.)

Permittee means any individual, firm, association, corporation, partnership, association or organization holding a permit issued by the Director pursuant to the Short-Term Lending Code to operate a Short-Term Loan Establishment.

Premises means the bounds of the facility where a Short-Term Loan Establishment conducts business and includes parking lots and other adjacent private property occupied by or used in connection with the business.

Short-Term Loan Establishment means an establishment which: (a) engages in the business of providing money to customers on a temporary basis, wherein such loans are secured by post-dated check, paycheck, or car title, (b) provides an extension of credit made at an Annual Percentage Rate (as defined in accordance with federal law) in excess of 45%, or (c) is registered as a lender under state or federal law. This classification does not include a state or federally chartered bank, savings and loan association, credit union, or mortgage broker or originator. This classification does not include nonprofit organizations exempt from taxes under Section 501(c)(3) of the Internal Revenue Code of 1986 as amended, nor does it include organizations certified as Community Development Financial Institutions by the U.S. Treasury. Further, this classification does not include the businesses of licensed pawnbrokers or establishments selling consumer goods, including consumables, where the loans or the cashing of checks or money orders are incidental to the main purpose of the business. This classification does include, but is not limited to, check cashing stores, payday loan stores, and car title loan businesses.

Sec. 7-31. – Applicability of other regulations; conflicting provisions.

- (a) In the event of a conflict between the provisions of the Short-Term Lending Code and other ordinances or other parts of the Liberty City Code, the provisions of the Short-Term Lending Code shall control.
- (a) The permit and fees required by the Short-Term Lending Code shall be in addition to any other licenses, permits, and fees required by the Liberty City Code.
- (b) The permit fees required by the Short-Term Lending Code are intended to defray the costs of investigating and processing the applications for the permits, of any enforcement efforts required by

ORDINANCE NO. 11182 (CONT.)

the Short-Term Lending Code, and costs to the public for the economic damage associated with short term loans.

- (c) Short-Term Loan Establishments are subject to zoning conditions and restrictions, including issuance of a Special Use Permit as outlined in Chapter 30, Unified Development Ordinance, Section 30-25.5 Special Use Permits, uses to be considered.

Sec. 7-32. – Short-Term Loan Establishment Permit required.

Within sixty (60) days of the effective date of this Ordinance, it shall be unlawful for any individual, firm, association, corporation, partnership, or organization:

- (a) To operate or maintain a Short-Term Loan Establishment in the City unless the owner, operator, or lessee thereof has applied for and obtained a Short-Term Loan Establishment permit from the City; or
- (b) To operate such business after such permit has expired or has been revoked by the City.

A permit shall be required for each location at which a Short-Term Loan Establishment operates in the City; even a location within another business operation. A permit shall be valid for a period of time of one calendar year (or the remaining portion of a calendar year) and must be renewed annually. This permit shall be in addition to any other permit or license required by other local, state, or federal government. No permit shall be issued for any business seeking to operate at a location prohibited by any applicable local, state, or federal law, statute, ordinance, rule or regulation; provided, however, that a business lawfully in existence on the date of adoption of the Short-Term Lending Code is eligible to apply for and receive a permit so long as such business is otherwise compliant with all laws.

Sec. 7-33. – Short-Term Loan Establishment Permit duration; renewal; fees.

- (a) Permits for the operation of a Short-Term Loan Establishment shall be annual permits which expire on December 31 of each year. Each permit shall include the name of the permit holder and

ORDINANCE NO. 11182 (CONT.)

address of the premises. Permits in good standing on the date of their expiration shall be eligible for renewal. The application for a permit shall be accompanied by payment in full of the fee stated in this section, by cash, certified or cashier's check, or money order. No application shall be considered complete until the fee is paid. The fee shall not be refunded under any circumstances.

- (b) The fee for each permit shall be as follows: Short-Term Loan Establishment permit fee all existing and new applicants shall be \$5,000 per year, or \$2,500 if less than six (6) months remain in the calendar year on the date a permit is issued.
- (c) No fees will be effective until approved by a simple majority of the City's electors.

Sec. 7-34. – Compliance with Code.

Any violation of the Building Code, Fire Prevention Code, or the Zoning Ordinance shall be a basis to deny, revoke, or not renew a Short-Term Loan Establishment permit.

Sec. 7-35. – Authority to prescribe additional regulations.

The Director shall have the power to promulgate regulations as may be necessary and feasible for carrying out of the intent of the Short-Term Lending Code and the duties of the Director under the Short-Term Lending Code which are not inconsistent with the provisions of such Code.

Sec. 7-36. – Penalty for violation of Short-Term Lending Code.

It shall be unlawful for any person to violate any of the provisions of the Short-Term Lending Code. Upon conviction thereof, such person shall be fined not less than \$100 and not more than \$500. Each day's violation of, or failure, refusal, or neglect to comply with any provision of the Short-Term Lending Code shall constitute a separate and distinct offense. The penalties provided in this section are in addition to, and are separate from, any administrative actions by the Director to revoke or deny renewal of a permit issued under the Short-Term Lending Code.

ORDINANCE NO. 11182 (CONT.)

Sec. 7-37. - Administrative actions to revoke or deny renewal of a permit.

Any permittee licensed pursuant to the Short-Term Lending Code who fails, refuses or neglects to comply with the provisions of this section, or any laws relating to consumer loans or commits any criminal act may have its permit suspended or revoked by the Director after a hearing before the Director on an order of the Director to show cause why such order of suspension or revocation should not be entered specifying the grounds therefor which shall be served on the licensee at least ten days prior to the hearing.

Whenever it shall appear to the Director that any permittee is failing, refusing or neglecting to make a good faith effort to comply with the provisions of this Short-Term Lending Code, or any laws relating to consumer loans, the Director may issue an order to cease and desist which order may be enforceable by sec. 7-36, penalty for violation of short-term lending code, for each day that the neglect, failure or refusal shall continue.

Sec. 7-38. – Judicial review of orders of Director; stay of enforcement of orders.

Following the entry of an order by the Director revoking a permit or denying a new or renewal application for a permit, such permittee or applicant may seek judicial review in a manner provided by law. The Director shall stay enforcement of such order for a period of time not to exceed 30 days from the Director's decision or, if a petition for judicial review is filed, final disposition of the judicial review.

Sec. 7-39. – Contents of application.

Any person desiring to operate a Short-Term Loan Establishment shall make written application for a Short-Term Loan Establishment permit or the renewal thereof to the Director or the Director's designee. The application shall be signed by the applicant or an authorized signator of the applicant and notarized. All applications shall be submitted on a form supplied by the Director and shall set forth at least the following:

- (a) The name, residence address, electronic mail address, home and cellular telephone number, and date and place of birth of the applicant or authorized signator;

ORDINANCE NO. 11182 (CONT.)

- (b) The business name, street address of the business premises, electronic mail address of the business, and telephone number of the business;
- (c) The names, residence addresses, residence and cellular telephone numbers, and dates and places of birth of the following:
 - (1) All partners, if the applicant is a partnership;
 - (2) All members, if the applicant is a limited liability company;
 - (3) All corporate officers and Directors and all shareholders with greater than a 10 percent (10%) interest in the corporation, if the applicant is a corporation; and
- (d) Whether or not the applicant and/or authorized signator has been convicted of violating any provision of the Short-Term Lending Code; has been convicted of a felony, misdemeanor, infraction or ordinance violation involving moral turpitude, a breach of a fiduciary obligation, or crimes of physical violence or against property; or has ever had a permit issued under the Short-Term Lending Code revoked and, if so, the reason therefore;
- (e) If the applicant is a Missouri corporation, a certificate of good standing issued by the Missouri secretary of state not more than 30 days prior to the submittal of the application or, if a foreign corporation, a certificate of authority to do business issued by the Missouri secretary of state not more than 30 days prior to the submittal of the application; and
- (f) Such further information as the Director may reasonably require.

Sec. 7-40. – Criteria for issuance of permit.

ORDINANCE NO. 11182 (CONT.)

The Director shall investigate the application for a Short-Term Loan Establishment permit and shall issue the permit authorized by the Short-Term Lending Code if the Director finds that each of the following conditions is met without exception:

- (a) Applicant is current in the payment of all taxes, fees, and other amounts due to the City on any account, for any purpose;
- (b) The application appears to be truthful, complete, and accurate;
- (c) The application is accompanied by the required fee;
- (d) The location of the premises meets all applicable spacing, distance and location requirements of the Short-Term Lending Code and applicable zoning ordinances, or the Establishment was lawfully in existence on the date of adoption of the Short-Term Lending Code and was authorized to be in non-conformance;
- (e) The premises meet all other applicable health, safety, zoning, property maintenance, building and fire codes, and comply with all ordinances of the City;
- (f) Applicant has provided the Director with a designated agent for service who can regularly be contacted in the City during normal business hours;

The Director or a designee is authorized to make inspections of the Short-Term Loan Establishment's premises at reasonable times and hours of any day for purposes of determining whether such Short-Term Loan Establishment fully complies with the provisions of the Short-Term Lending Code.

Sec. 7-41. – Approval or disapproval of application and hearing.

- (a) The application for a Short-Term Loan Establishment permit, or the renewal thereof, authorized under the Short-Term Lending Code shall be approved or disapproved within 30 days from the date of

ORDINANCE NO. 11182 (CONT.)

the Director's determination that the application is complete, unless the applicant agrees in writing to an extension of that time period. If a permit application is disapproved, the Director shall notify the applicant by registered or certified mail to the business address stated in the applicant's application and shall state the basis for such disapproval.

- (b) If within ten (10) days after the Director mails notice to an applicant that the application has been disapproved, the applicant files with the Director a written request for a hearing before the Director on whether the applicant has satisfied the criteria set forth in this Section of the Short-Term Lending Code; then, the Director shall within five days of receipt of a timely request, mail a notice of hearing to the applicant, which shall include the date, time and place for the hearing before the Director. The date for the hearing shall not be less than 10 days, nor more than 40 days, following receipt by the Director of the request for a hearing by applicant under this section, unless the aggrieved party requesting the hearing agrees to extend the time for the hearing or except for good cause shown.

Sec. 7-42. – Display of permit.

Every individual, firm, corporation, partnership, organization, or association holding a permit under the Short-Term Lending Code as a Short-Term Loan Establishment shall post its permit in a conspicuous place and manner on the premises.

Sec. 7-43. – Compliance with the Short-Term Lending Code and other regulations.

It shall be the duty of a permittee to comply with all the provisions of the Short-Term Lending Code and with all regulations issued by the Director pertaining to Short-Term Loan Establishments. Failure to comply with the Short-Term Lending Code or regulations after written notification of noncompliance has been delivered to the permittee by the City is a permissible basis for revocation or nonrenewal of the permit.

Sec. 7-44. – Notice on premises required.

- (a) Permittees shall conspicuously post in the lobby of the office, in at least fourteen-point bold type, the maximum annual percentage rates such licensee is currently charging and the statement:

ORDINANCE NO. 11182 (CONT.)

NOTICE:

This lender offers short-term loans. Please read and understand the terms of the loan agreement before signing.

- (b) It shall be the affirmative duty of each permittee to post a notice printed in not less than 24-point bold type within 3 feet of each location within the premises at which a customer, borrower, or other member of the general public is invited or directed to stand or sit to either apply for a loan, to answer or ask questions, to review or sign transaction documents, or receive loan proceeds, to make payments or to inquire about, or apply for, the renewal or the rolling over of a loan, which sets out the following information:

- (1) The word "NOTICE" in bold capital letters;
- (2) That this establishment is a short-term loan establishment and is not a federally chartered bank, savings and loan association, or credit union;
- (3) The interest rates and fees charged;
- (4) The annual percentage rate equivalent of the aggregate of those interest rates and fees charged per \$100.00 borrowed;
- (6) A warning that default may result in loss of property used as security for the loan and garnishment of wages and checking and savings accounts; and
- (7) Notice and clear explanation of any state or federal rights to rescind the loan agreement.

- (c) The permittee shall provide each borrower with a notice in substantially the following form set forth in at least ten-point bold type, and receipt thereof shall be acknowledged by signature of the borrower:

- (1) This lender offers short-term loans. Please read and understand the terms of the loan agreement before signing.

ORDINANCE NO. 11182 (CONT.)

- (2) You may cancel this loan without costs by returning the full principal balance to the lender by the close of the lender's next full business day.

- (d) Failure to comply with the requirement of this section and all other requirements of the Short-Term Lending Code is unlawful.

Sec. 7-45. – Referral to Alternative Financial Assistance.

It shall be the affirmative duty of each permittee to provide to all interested customers and patrons a guide regarding alternatives to short-term loans in a form satisfactory to the Director.

Sec. 7-46. – Revocation or denial.

- (a) Any permit issued under the provisions of the Short-Term Lending Code may be revoked or any permit may be denied by the Director, after due notice and affording an opportunity for a hearing, for any violation of the provisions of the Short-Term Lending Code and as otherwise provided in the Liberty City Code.
- (b) Procedures. The procedure for and conduct of hearings under this section shall be as set forth in Sec. 7-41.

Sec. 7-47. – Renewal of permit.

- (a) All Short-Term Loan Establishment permits shall expire on December 31 of each calendar year. Renewal applications for such permits shall be submitted between October 1 and November 30 of each calendar year, accompanied by payment in full of the fee stated in the Short-Term Lending Code, by cash, certified or cashier's check, or money order, and no application shall be considered complete until the fee is paid. The fee shall not be refunded under any circumstances. A Short-Term Loan Establishment permit issued under the Short-Term Lending Code may be renewed if an application in the form provided by the Director has been filed with the application fee with the Director and if the applicant is in compliance with the requirements of the Short-

ORDINANCE NO. 11182 (CONT.)

Term Lending Code for an original permit including but not limited to Section 7-40 of the Short-Term Lending Code.

- (b) Upon timely application therefore, and subject to meeting the requirements in the Short-Term Lending Code for a new permit, a Short-Term Loan Establishment permit may be renewed by issuance of a new permit in the manner provided in the Short-Term Lending Code unless the Director disapproves the renewal application in the manner provided by Section 7-37 of the Short-Term Lending Code.
- (c) If the application for renewal of a permit is not made during the time provided in subsection (a) of this section, the permit shall expire and the permittee shall cease all activities regulated by the Short-Term Lending Code and the permittee shall file a new application and meet all requirements of the Short-Term Lending Code before engaging in the business or occupations regulated under the Short-Term Lending Code. In addition, an application for renewal filed after the expiration date shall be treated as a new application.

SECTION II

Chapter 30, Unified Development Ordinance, Section 30-25.5 Special Use Permits, uses to be considered, of the Code of the City of Liberty, Clay County, Missouri is hereby amended as follows:

- (43) Short-Term Loan Establishments and pawn shops in accordance with the following provisions:
 - a. The business is not located within 5,280 feet of any other Short-Term Loan Establishments or pawn shop; and
 - b. The business is not located within 200 feet of a residential, church, park or school property.

Is hereby repealed and replaced with the following regulations:

- (43) Short-term loan establishments and pawn shops in accordance with the following provisions:

ORDINANCE NO. 11182 (CONT.)

- (a) No such establishment shall be located within 5,280 feet of another short-term loan establishment or pawn shop. When measuring separation distances between establishments on the same lot, the distance shall be measured from the front door of each of the establishments.
- (b) No such establishment shall be located adjacent to and within 200 feet of a residential, church, park, or school property.
- (c) Such establishment may be operated only as a principal use of a property and may not be accessory to any other use. A short-term loan establishment may not operate any accessory uses.
- (d) No permit shall be issued for a short-term loan establishment where it is determined that the total number of such facilities will exceed a population density factor of one such establishment per 15,000 residents based on the last decennial census.

SECTION - III

Nothing in this Ordinance shall be construed to affect any suit or proceeding now pending in any court or any rights acquired, or liability incurred nor any cause of causes of action occurred or existing, under any act or ordinance repealed hereby.

SECTION IV

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. City Council hereby declares that it would have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION V

This Ordinance shall be in full force and effect from and after passage except that the fee provision shall not be in full force and effect until January 4, 2020, which is 60 days after the voters of the City of Liberty passed a ballot measure that authorizes the fee for the Short-Term Loan Establishment permit described in this Ordinance.

SECTION VI

ORDINANCE NO. 11182 (CONT.)

That this Ordinance shall be in full force and effect from and after its passage by the City Council and approval by the Mayor according to law.

PASSED by Council this 25 day of November, 2019.

MAYOR

ATTEST:

DEPUTY CITY CLERK

APPROVED by the Mayor this 25 day of November, 2019.

MAYOR