

ORDINANCE NO. 2020-_____

AN ORDINANCE TO CREATE AND ENACT CHAPTER 11 OF TITLE 2 OF THE MOORHEAD MUNICIPAL CODE RELATING TO BUSINESS AND LICENSE REGULATIONS FOR SHORT-TERM CONSUMER LENDERS.

BE IT ORDAINED by the City Council of the City of Moorhead as follows:

SECTION 1. Chapter 11 of Title 2 of the Moorhead City Code is hereby created and enacted to read as follows:

Chapter 11

CONSUMER SHORT-TERM LENDERS

SECTIONS:

- 2-11-1: DEFINITIONS**
- 2-11-2: LICENSE REQUIRED**
- 2-11-3: APPLICATION FOR LICENSE**
- 2-11-4: LICENSE TERM AND FEES**
- 2-11-5: MISCELLANEOUS REQUIREMENTS FOR CONSUMER SHORT-TERM LENDERS**
- 2-11-6: MAINTENANCE OF RECORDS; ANNUAL REPORTS**
- 2-11-7: APPROVAL, DENIAL, SUSPENSION OR REVOCATION OF LICENSE**
- 2-11-8: VIOLATIONS AND PENALTIES**
- 2-11-9: OTHER APPLICABLE LAWS**
- 2-11-10: EFFECTIVE DATE**

2-11-1: DEFINITIONS:

Except as may otherwise be provided or clearly implied by context, all terms will be given their commonly accepted definitions. For the purpose of this chapter, the following definitions will apply:

CONSUMER SHORT-TERM LENDER: an individual or entity engaged in the business of making or arranging consumer short-term loans, other than a state or federally chartered bank, savings bank, or credit union.

CONSUMER SHORT-TERM LOAN: a loan to a borrower which has a principal amount, or an advance on a credit limit, of \$1,000 or less and requires a minimum payment within 60 days of loan origination or credit advance of more than 25 percent of the principal balance or credit advance. For the purposes of this section, each new advance of money to a borrower under a consumer short-term loan agreement constitutes a new consumer short-term loan.

INTERESTED OWNER: an individual with an ownership interest in a Licensed Consumer Short-Term Lender business. This includes but is not limited to direct owners, indirect owners, subsidiaries, and affiliates of the applicant and/or licensee.

2-11-2: LICENSE REQUIRED:

No person shall operate, maintain, or otherwise engage in business as a Consumer Short-Term Lender without first having received a license to do so as provided in this chapter.

2-11-3: APPLICATION FOR LICENSE:

- A. Any individual desiring to operate, maintain, or engage in business as a consumer short-term lender shall make their verified application in writing to the council upon such forms as the council from time to time shall require and shall file the same with the city clerk. The application set forth, in addition to other information as may from time to time be required by the council, the following information:
1. The name, street address, mailing address, facsimile number, and telephone number of the applicant.
 2. The business or trade name, street address, mailing address, facsimile number, and telephone number of the Consumer Short-Term Lender.
 3. The name, street address, mailing addresses, and telephone numbers of all owners of the Consumer Short-Term Lender, and the nature and extent of each person's interest in the business.
 4. A copy of a current, valid state license held by the Consumer Short-Term Lender pursuant to Minn. Stat. § 47.601.
- B. Each application shall also be accompanied by a certified check, money order, cashier's check, or cash in an amount equal to the annual license fee for one year for the license for which application is being made.
- C. The applicant shall be bound by all of the answers and information furnished on the application present to the City of Moorhead and any falsification of information requested on said application, or any other information requested by the City in its course of investigation of the applicants shall be grounds for denial of the license and, in addition thereto, shall be grounds for revocation of the license if the license is approved and issued prior to the discovery of such falsification.

2-11-4: LICENSE TERM AND FEES:

- A. A license issued for the operation of a business as a Consumer Short-Term Lender shall be issued for a period of one year and expire on December 31.
- B. The applicant shall pay in advance the fee as established by the City's fee schedule. Such license may thereafter be renewed annually by resolution of the council upon payment in advance of an annual fee as established by the City's fee schedule.

2-11-5: MISCELLANEOUS REQUIREMENTS FOR CONSUMER SHORT-TERM LENDERS

- A. A Consumer Short-Term Lender shall make no more than two (2) Consumer Short-Term Loans of \$1,000, or less per person per calendar year.
- B. A Consumer Short-Term Loan requires a minimum repayment within sixty (60) days of loan origination.
- C. A Consumer Short-Term Lender must furnish a copy of the written loan contract to each borrower. The contract and disclosures must contain an itemization of all fees and charges to be paid by the borrower.
- D. For Consumer Short-Term Loans between \$0.00 and \$1,000.00, Consumer Short-Term Lenders may charge up to a \$25.00 fee, unless a different amount is prescribed by State law.
- E. For Consumer Short-Term Loans between \$350.00 and \$1,000, Consumer Short-Term Lenders shall not charge more than thirty-three percent (33%) annual interest on any Consumer Short-Term Loan, unless a different interest rate is prescribed by State law.
- F. A Consumer Short-Term Lender shall not extend repayment periods for Consumer Short-Term Loans. If a Consumer Short-Term Lender grants additional time to repay a Consumer Short-Term Loan, in no event shall the Consumer Short-Term Lender charge an additional fee for the extension or increase the balance owed above the original amount.
- G. At no time shall there be more than four (4) Consumer Short-Term Loan businesses located within the City of Moorhead.
- H. A license issued by the City of Moorhead shall be binding upon all Interested Owners of the Consumer Short-Term Lender business. An Interested Owner is prohibited from obtaining an additional license for a separate Consumer Short-Term Lender business.

2-11-6: MAINTENANCE OF RECORDS; ANNUAL REPORTS:

- A. A Consumer Short-Term Lender must annually file a report with the City Clerk that contains the following information for each calendar year:
 - 1. The total number of Consumer Short-Term Loans issued per calendar year;
 - 2. The total dollar amount, over and above principal, collected on Consumer Short-Term Loans;
 - 3. The average annual percentage rate and range of annual percentage rates for Consumer Short-Term Loans; and
 - 4. The state or origin for borrowers.

2-11-7: APPROVAL, DENIAL, SUSPENSION OR REVOCATION OF LICENSE:

- A. The city clerk shall be empowered upon council approval to issue licenses to a person to engage in business as a Consumer Short-Term Lender, upon application being made thereof to the office of the city clerk.
- B. Grounds for denying the issuance or renewal of a license include, but are not limited to, the following:
 - 1. The applicant is under the age of eighteen (18) years old
 - 2. The applicant has been convicted within the past five (5) years of any violation of a federal, state, or local law, ordinance provision, or other regulation
 - 3. The applicant has had a license to operate a business as a Consumer Short-Term Lender suspended or revoked within the preceding twelve (12) months of the date of application
 - 4. The applicant fails to provide any information required on the application or provides false or misleading information
 - 5. The applicant is prohibited by federal, state, or other local law, ordinance, or other regulation from holding a license
- C. However, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the City must deny the license.

- D. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this article.
- E. City council may suspend or revoke any license to operate a business as a Consumer Short-Term Lender, as defined in this article in accordance with the provisions of subsection 2-1-10A of this title.

2-11-8: VIOLATIONS AND PENALTIES:

- A. A conviction of any persons holding a license to operate a business as a Consumer Short-Term Lender, for a violation of this article or any crime directly related to the occupation licensed as prescribed by Minn. Stat. § 47.601, including, but not limited to, Minn. Stat. §§ 601, subd. 6, shall be grounds for immediate revocation of the license issued under the terms and conditions of this article.
- B. Any person violating any provisions of this article shall, upon conviction, be penalized in accordance with the provisions of section 1-4-2 of the Moorhead City Code.

2-11-9: OTHER APPLICABLE LAWS:

This ordinance is intended to complement Minnesota Statute Section 47.601, as amended from time to time. Nothing in this ordinance authorizes business by Consumer Short-Term Lenders or the issuance of Consumer Short-Term Loans that is regulated by other applicable laws or regulations.

2-11-10: EFFECTIVE DATE:

This ordinance shall take effect on January 1, 2021.

SECTION 2. This ordinance shall take effect on upon publication in accordance with the Moorhead City Charter.

PASSED by the City Council of the City of Moorhead this ____ day of _____, 202_.

APPROVED BY:

JOHNATHAN JUDD, Mayor

ATTEST:

CHRISTINA RUST, City Clerk

First Consideration:
Second Consideration:
Publication:

DRAFT