

Recommended by:

Councilor Lashunda Scales
Chairperson, Economic Development Committee

Submitted by:

Councilor Lashunda Scales

ORDINANCE NO. _____

WHEREAS, it is the responsibility of the governing body of the City of Birmingham to set policies and enact regulations which improve the quality of life for everyone who lives, works or does business in the city and to attract new residents and new and diverse businesses and industry to become a part of the community; and

WHEREAS, it is an inherent function of the City of Birmingham to facilitate growth and diversification of the City's economic platform through business recruitment, retention and expansion; and

WHEREAS, the City of Birmingham has experienced a proliferation of businesses that are licensed and authorized to operate under the Title 5 of the Alabama Code, Chapter 18A Deferred Presentment Services Act and Title 5 of the Alabama Code, Chapter 19A Alabama Pawn Shop Act aka Title Pawn Loan business, Payday Loan business, Payday Advance business, Car Title Loan business ("Payday Loans/Title Pawn Loans"); and

WHEREAS, the Council finds that the concentration of Payday Advance, Payday Loan and Title Pawn Loan business within the territorial confines of the Birmingham City limits is detrimental to the City's development and effectively limits the ability of the City to attract diverse types of business which would be consistent with the City's land use plan; and

WHEREAS, it is in the best interest of the overall economic development to provide for orderly growth and balance the development of these business in order to have a diverse and stable economy; and

WHEREAS, the City of Birmingham actively seeks positive change through the formal structure of a land use plan that will ensure sustainable growth and development of city business and neighborhoods and deflect negative change, rather than simply react to change after it has occurred; and

WHEREAS, the City Council finds that it is in the best interest of the City that the issue of concentration or saturation of payday loan establishments be analyzed by the zoning staff, the regulated community and the citizens of the City of Birmingham for the purpose of determining the best possible approach for such regulation under the Constitution of the United States and the State of Alabama; and

WHEREAS, a period of repose is necessary in order to establish regulations made with reasonable consideration of, among other things, the character of the district and its peculiar

suitability for particular uses, and with a view to conserving the value of land usage and encouraging the most appropriate use of land throughout the city; and

WHEREAS, the Council of the City of Birmingham finds that it is in the public interest to provide for the zoning regulation of Payday Loan businesses and Title Pawn Loan businesses to guide the City's development and make a determination of how to minimize blight and deterioration of its communities as a result of certain types which although legally permitted, have some deleterious effects; and

WHEREAS, the City of Birmingham finds it necessary, proper and in the public interest to reassess its present zoning ordinances, policies and procedures concerning the location of Payday Loan businesses and Title Pawn Loan businesses; and

WHEREAS, a temporary moratorium on the issuance of business licenses and other approvals for such Payday Loan and Title Pawn Loan companies will create a more stable environment so that revisions to the City's zoning ordinances can be considered and adopted in an orderly and thorough process; and

WHEREAS, the proposed moratorium will allow the City of Birmingham to protect its communities from a perpetual blight while preserving the status quo; thereby allowing the City the opportunity to perform a comprehensive analysis to determine the appropriate means to reduce any further saturation of those Payday Loan and Title Pawn Loan businesses and to enact appropriate licensing requirements and other appropriate regulations of such zones; and

WHEREAS, the Council of the City of Birmingham finds that it is necessary and proper for the promotion of the prosperity and welfare of the citizens and in the best interest of the City, to declare a moratorium on the issuance of business licenses for new Payday Loan businesses and Title Pawn Loan businesses while the City researches, study and develops an appropriate zoning plan; and

WHEREAS, the City Council requests that the Economic Development Division work in conjunction with the Planning and Zoning and Economic Development Committees of the Birmingham City Council to lead the effort in developing a plan which will examine lawful alternatives with respect to limiting and discouraging the proliferation, saturation and clustering of many types of businesses within the City, including Payday Loan, Title Loan and Check Cashing businesses, using the resources available to municipalities under the Alabama law.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Birmingham that there is hereby declared a moratorium on the issuance of business licenses under The City of Birmingham Business License Code adopted by Ordinance No. 97-183, as amended, for any enterprise whose primary business activity is the making of Payday Loans or Payday Advances or the making of a Car Title Loan as further defined in this ordinance as of December 6, 2011, for six (6) months to study and develop a permanent zoning solution. During the period of the moratorium, applications, other than for renewal licenses for the aforementioned businesses, shall not be accepted by the Finance Department of the City of Birmingham and no new or original licenses for such businesses shall be issued.

This moratorium is not intended to impact those businesses currently operating within the City of Birmingham, unless such businesses cease operations and thereafter seek a renewed business license.

This moratorium shall in no way prohibit a business currently holding a license from obtaining a renewal of that license or obtaining a new license if the business relocates to an existing business of the same entity or takes some other action that would otherwise require a new license; furthermore the moratorium shall in no way prohibit a company from obtaining a new license if it purchases or merges with an existing licensed business and as a result is required to obtain a new license.

For the purpose of this moratorium, the following definitions are applicable:

Payday Loan or Payday Advance – *a business other than a financial institution that operates under Title 5 of the Alabama Code, Chapter 18A Deferred Presentment Services Act with a primary business activity of making small consumer loans which are usually backed by postdated check or authorization to make an electronic debit against an existing financial account, with loan repayment typically due when the borrower's next paycheck is issued in order to reclaim the postdated check or cancel the electronic debit.*

Car Title Loan / Title Pawn Loan Business – *a business other than a financial institution that operates under Title 5 of the Alabama Code, Chapter 19A Alabama Pawn Shop Act with a primary business activity of making small short-term consumer loans using the equity value of a car or other vehicle as collateral when the title to such vehicle is owned free and clear by the borrower.*

This Ordinance shall become immediately effective upon its adoption and approval of the City Council and publication by posting as required by law.

Approved this ____ day of _____ 2011.