

*Jesus Ruiz*  
Mayor

*Rene Rodriguez*  
At Large

*Sergio Cox*  
District 1



*Gloria M. Rodriguez*  
District 2 / Mayor Pro-Tem

*Victor Perez*  
District 3

*Anthony Gandara*  
District 4

*Willie Norfleet, Jr.*  
City Manager

## **ORDINANCE NO. 362**

### **AN ORDINANCE OF THE CITY OF SOCORRO, REGULATING CREDIT ACCESS BUSINESSES**

#### **CHAPTER 1 - DEFINITIONS**

##### **1.1 Usage and Interpretation**

- 1.1.1. Usage. The following definitions are intended to provide descriptions for words and terms used within this title. Absent any conflict, words and terms used in this title shall have the meanings ascribed thereto in this title.
- 1.1.2. Conflicts. When words and terms are defined herein, and are also defined in other ordinance(s) of the city, shall be read in harmony unless there exists an irreconcilable conflict, in which case the definition contained in this title shall control.
- 1.1.3. Present and Past Tenses. Words used in the present tense include the future; words in the singular number include the plural number, and words used in the plural number include the singular number.
- 1.1.4. Specific Word Usage. The word shall is mandatory and not directory. The word structure includes the word building.
- 1.1.5. Words Not Defined. For any definition not listed in this chapter of this title, the definition found within the latest edition of Webster's Dictionary shall be used.

##### **1.2 Definitions**

- 1.2.1. "Certificate of registration" means a certificate of registration issued by the director under this article to the owner or operator of a credit access business.
- 1.2.1. "Consumer" means an individual who is solicited to purchase or who purchases the services of a credit access business.
- 1.2.2. "Consumer's language of preference" is the language the consumer understands best.
- 1.2.3. "Credit access business" has the meaning given that term in Section 393.601 of the Texas Finance Code.

- 1.2.4. "Deferred presentment transaction" has the meaning given that term in Section 393.601 of the Texas Finance Code.
- 1.2.5. "Director" means the director of the department designated by the city manager, or city manager's designee, to enforce and administer this chapter.
- 1.2.6. "Extension of consumer credit" has the meaning given that term in Section 393.001 of the Texas Finance Code.
- 1.2.7. "Freeway" means all U.S. interstate highways and other roadways designated as freeways in the master thoroughfare plan.
- 1.2.8. "Motor vehicle title loan" has the meaning given that term in Section 393.601 of the Texas Finance Code.
- 1.2.9. "Person" means any individual, corporation, organization, partnership, association, financial institution, or any other legal entity.
- 1.2.10. "Registrant" means a person issued a certificate of registration for a credit access business under this chapter and includes all owners and operators of the credit access business identified in the registration application filed under this chapter.
- 1.2.11. "State license" means a license to operate a credit access business issued by the Texas Consumer Credit Commissioner under Chapter 393, Subchapter G of the Texas Finance Code.

## **CHAPTER 2 – CREDIT ACCESS BUSINESS REGULATION**

### **2.1 Purpose**

- 2.1.1. The purpose of this article is to protect the welfare of the citizens of the City of Socorro by monitoring credit access businesses in an effort to reduce abusive and predatory lending practices. To this end, this article establishes a registration program for credit access businesses, imposes restrictions on extensions of consumer credit made by credit access businesses, imposes recordkeeping requirements on credit access businesses, and imposes restrictions on the locations of credit access businesses.

### **2.2 Violations; Penalty**

- 2.2.1. A person who violates a provision of this chapter, or who fails to perform an act required of the person by this chapter, commits an offense. A person commits a separate offense for each and every violation relating to an extension of consumer credit, and for each day during which a violation is committed, permitted, or continued.
- 2.2.2. An offense under this chapter is punishable by a fine of not more than five hundred dollars.

2.2.3 A culpable mental state is not required for the commission of an offense under this article and need not be proved.

2.2.4 The penalties provided for in subsection (b) are in addition to any other remedies that the city may have under city ordinances and state law.

### **2.3 Defenses**

2.3.1. It is a defense to prosecution under this article that at the time of the alleged offense the person was not required to be licensed by the state as a credit access business under Chapter 393, Subchapter G of the Texas Finance Code.

### **2.4 Registration**

2.4.1. Registration Application: To obtain a certificate of registration for a credit access business, a person must submit an application on a form provided for that purpose to the director. The application must contain the following:

- A. The name, street address, mailing address, facsimile number, and telephone number of the applicant.
- B. The business or trade name, street address, mailing address, facsimile number, and telephone number of the credit access business.
- C. The names, street addresses, mailing addresses, and telephone numbers of all owners of the credit access business, and the nature and extent of each person's interest in the credit access business.
- D. A copy of a current, valid state license held by the credit access business pursuant to Chapter 393, Subchapter G of the Texas Finance Code.
- E. A copy of a current, valid certificate of occupancy showing that the credit access business is in compliance with the City of Socorro Code.
- F. A nonrefundable application fee for the amount established.

2.4.2. An applicant or registrant shall notify the director within forty-five days after any material change in the information contained in the application for a certificate of registration, including, but not limited to, any change of address and any change in the status of the state license held by the applicant or registrant.

2.4.3 Issuance and display of certificate of registration; presentment upon request.

- A. The director shall issue to the applicant a certificate of registration upon receiving a completed application under Section 2.4.1.
- B. A certificate of registration issued under this section must be conspicuously displayed to the public in the credit access business. The certificate of registration must be presented upon request to the director or any peace officer for examination.

- 2.4.4 Expiration and renewal of certificate of registration.
- A. A certificate of registration expires on the earliest of:
    - 1. One year after the date of issuance; or
    - 2. The date of revocation, suspension, surrender, expiration without renewal, or other termination of the registrant's state license.
  - B. A certificate of registration may be renewed by making application in accordance with Section 2.4.1. A registrant shall apply for renewal at least thirty days before the expiration of the registration.
- 2.4.5 Non-transferability. A certificate of registration for a credit access business is not transferable.
- 2.4.6 A person commits an offense if the person acts, operates, or conducts businesses as a credit access business without a valid certificate of registration. A certificate of registration is required for each physically separate credit access business.
- 2.5 **Maintenance of records.**
- 2.5.1. A credit access business shall maintain a complete set of records of all extensions of consumer credit arranged or obtained by the credit access business, which must include the following information:
- 1. The name and address of the consumer.
  - 2. The principal amount of cash actually advanced.
  - 3. The length of the extension of consumer credit, including the number of installments and renewals.
  - 4. The fees charged by the credit access business to arrange or obtain an extension of consumer credit; and
  - 5. The documentation used to establish a consumer's income under Section 2.6
- 2.5.2. A credit access business shall maintain a copy of each written agreement between the credit access business and a consumer evidencing an extension of a consumer credit (including, but not limited to, any refinancing or renewal granted to the consumer).
- 2.5.3. A credit access business shall maintain copies of all quarterly reports filed with the Texas Consumer Credit Commissioner under Section 393.627 of the Texas Finance Code.
- 2.5.4. The records required to be maintained by a credit access business under this section must be retained for at least three years and made available for inspection

by the city upon request during the usual and customary business hours of the credit access business.

**2.6 Restriction on extension of consumer credit.**

- 2.6.1. The cash advanced under an extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining in the form of a deferred presentment transaction may not exceed twenty percent of the consumer's gross monthly income.
- 2.6.2. The cash advanced under an extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining in the form of a motor vehicle title loan may not exceed the lesser of:
1. Three percent of the consumer's gross annual income; or
  2. Seventy percent of the retail value of the motor vehicle.
- 2.6.3. A credit access business shall use a paycheck or other documentation establishing income to determine a consumer's income.
- 2.6.4. An extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining and that provides for repayment in installments may not be payable in more than four installments. Proceeds from each installment must be used to repay at least twenty-five percent of the principal amount of the extension of consumer credit. An extension of consumer credit that provides for repayment in installments may not be refinanced or renewed.
- 2.6.5. An extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining and that provides for a single lump sum repayment may not be refinanced or renewed more than three times. Proceeds from each refinancing or renewal must be used to repay at least twenty-five percent of the principal amount of the original extension of consumer credit.
- 2.6.6. For purposes of this section, an extension of consumer credit that is made to a consumer within seven days after a previous extension of consumer credit has been paid by the consumer will constitute a refinancing or renewal.

**2.7 Requirement of consumer understanding of agreement.**

- 2.7.1. Every agreement between the credit access business and a consumer evidencing an extension of consumer credit (including, but not limited to, any refinancing or renewal granted to the consumer), must be written in the consumer's language of preference. Every credit access business location must maintain on its premises, to be available for use by consumers, agreements in the English and Spanish languages.

- 2.7.2. For every consumer who cannot read, every agreement between the credit access business and a consumer evidencing an extension of consumer credit (including, but not limited to, any refinancing or renewal granted to the consumer) must be read to the consumer in its entirety in the consumer's language of preference, prior to the consumer's signature.
- 2.7.3. For every consumer who cannot read, every disclosure and notice required by law must be read to the consumers in its entirety in the consumer's language of preference, prior to the consumer's signature.

**2.8 Referral to consumer credit counseling.**

2.8.1 A credit access business shall provide a form, to be prescribed by the Director, to each consumer seeking assistance in obtaining an extension of consumer credit which references non-profit agencies that provide financial education and training programs and agencies with cash assistance programs. The form will also contain information regarding extensions of consumer credit, and must include the information required by Section 2.5 A.1.—5. specific to the loan agreement with the consumer. If the Director has prescribed a form in the consumer's language of preference, the form must be provided to the consumer's language of preference.

**2.9 Location of Credit Access Businesses.**

2.9.1 A. No credit access businesses may be located within 1,000 feet, measured from property line to property line, of any other credit access business.

2.9.2 No credit access businesses may be located within 300 feet, measured from property line to property line, of a lot within an area zoned for residential dwelling units.

2.9.3 No credit access business may be located within 500 feet of an existing freeway or new freeway, measured from the property line of the credit access business to the nearest freeway or new freeway travel lane.

2.9.4 A credit access business may only operate within a freestanding building.

2.9.5 Credit access businesses are prohibited as accessory uses and may not operate in the same freestanding building as any other use.

2.9.6 In zoning districts where credit access businesses are permitted, a conditional use permit shall be required, and an application must be made with the planning and zoning commission for the conditional use permit.

2.9.7 Failure to comply with the provisions of this Chapter or those contained within this Title shall subject the property to forfeiture of the conditional use permit.

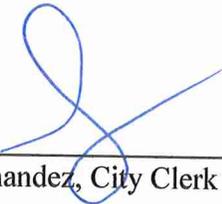
2.9.8 Any credit access business not in conformance with the provisions of this Chapter at the time of the effective date of this ordinance shall be deemed to be nonconforming and subject to any penalties contained within this Chapter or any Chapter of the City of Socorro Code of Ordinances.

**READ, ADOPTED AND APPROVED** this 5<sup>th</sup> day of March, 2015.

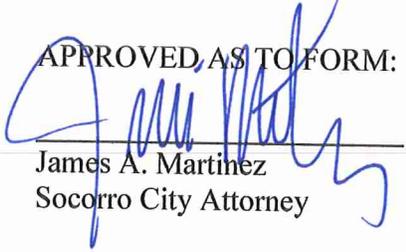
CITY OF SOGORRO, TEXAS

  
\_\_\_\_\_  
Jesus Ruiz, Mayor

ATTEST:

  
\_\_\_\_\_  
Sandra Hernandez, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
James A. Martinez  
Socorro City Attorney

Introduction and First Reading: February 19, 2015  
Second Reading and Adoption: March 5, 2015