



REPORT TO COUNCIL

City of Sacramento

915 I Street, Sacramento, CA 95814-2604
www. CityofSacramento.org

Public Hearing
October 7, 2008

Honorable Mayor and
Members of the City Council

Title: Emergency Ordinance: Extension of Check Cashing Centers Moratorium (M07-070)

Location/Council District: Citywide

Recommendation: Conduct a public hearing and upon conclusion adopt an emergency **Ordinance** extending the moratorium on check cashing centers and facilities in the City of Sacramento for an additional one year (requires a 4/5 vote).

Contact: Jennifer Glen, Assistant Planner, (916) 808-4771; Joy Patterson, Principal Planner, (916) 808-5607

Presenters: Jennifer Glen, Assistant Planner, 808-4771

Department: Development Services

Division: Current Planning

Organization No: 21001010

Description/Analysis

Issue: On October 16, 2007, City Council adopted Ordinance No. 2007-080, an emergency measure that established a 45-day moratorium on check cashing centers and facilities. On November 27, 2007, City Council adopted Ordinance No. 2007-089 extending the moratorium an additional ten months and fifteen days. Unless further extended, the emergency ordinance will expire by its own terms at the end of the ten month, fifteen day period, which is October 15, 2008. Additional time is necessary to continue research on the cumulative impact of these facilities, and staff recommends that the term of Ordinance No. 2007-080, as extended by Ordinance No. 2007-089, be extended for an additional period of one year, the maximum extension period allowed by Government Code section 65858.

Councilmember Sheedy initially requested that staff investigate a moratorium on check cashing centers and facilities in the City of Sacramento. The purpose of the emergency ordinance was to allow the time to gather data and develop

regulations for check cashing facilities in city neighborhoods and communities.

Currently, the zoning regulations in Title 17 of the City Code allow check cashing centers by right in most commercial zones, with the exception that they are prohibited in some Special Planning Districts.

The Department of Corporations has jurisdiction over the business-practices of these facilities statewide (California Financial Code §23000-23106).

Due to the continuing budgetary concerns that began in the 2007/08 fiscal year, staff has been limited in its ability to conduct research and outreach and to develop regulations for a permanent ordinance. Since the extension of the original emergency ordinance establishing the moratorium, staff has continued limited research on the blighting effects of check cashing facilities, as per Government Code section 65858 (d). This research included the monitoring of jurisdictions nationally in terms of how other local municipalities are addressing the concerns of check cashing centers in their respective communities. Research yields various stages of legislative acts at the local level including moratoriums, prohibitions, and permanent ordinances to minimize the impacts of these establishments. Staff has been in contact with other jurisdictions seeking direction in their investigations of blighting effects due to check cashing facilities.

In addition to monitoring other cities and counties nationwide, staff has been tracking action on the state level in California. Assembly Bill (AB) 2845 was introduced to the State Assembly this past spring. The bill was significantly amended during the legislative process, and subsequently, never passed out of the originating house, thus not becoming law. In the city's communications with the lead author's office in the State Assembly, it is yet to be determined whether another bill will be introduced next year.

The additional time allotted with this extension is needed to continue the research focused on the negative impacts these centers have on surrounding neighborhoods and to develop regulations to address these negative impacts. Concern is related to the tendency of check cashing centers to displace traditional full service banking institutions in lower income neighborhoods which in turn can further undermine the economic stability and viability of the commercial corridors in these neighborhoods.

Staff has established a time table for action to adopt a permanent ordinance. On November 19, 2008, staff will conduct a meeting with the stakeholders of these establishments within the city. This will allow for the communication and outreach necessary to gather and support findings for permanent regulations. On February 12, 2009, staff intends to introduce a permanent ordinance to the City Planning Commission. Following this action, staff will schedule the ordinance to be heard by the City Council's Law and Legislation Committee on Tuesday, March 10, 2009, and forwarded to City Council with the recommendation of approval on March 24, 2009. These dates, although tentative based on agenda availability, indicate staff's commitment to a permanent ordinance, and shall be adhered to barring no extenuating circumstances.

Policy Considerations: The extension of the moratorium is consistent with the City's Strategic Plan focus areas to achieve sustainability and livability in the City of Sacramento.

Environmental Considerations:

California Environmental Quality Act (CEQA):

Under the California Environmental Quality Act (CEQA) guidelines, continuing administrative activities do not constitute a project and are therefore exempt from review.

Sustainability Considerations: There are no sustainability considerations applicable to an extension of the moratorium on check cashing centers and facilities.

Committee/Commission Action: None.

Rationale for Recommendation: The extension of the emergency ordinance to suspend the creation of new check cashing centers and the expansion of existing check cashing centers will allow the necessary time to be devoted to further researching the adverse effects of these centers on blighted areas.

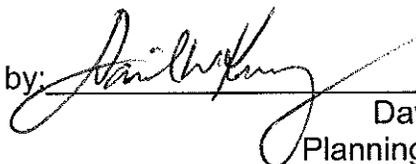
Check cashing centers are believed to concentrate their locations in lower-income neighborhoods. Accessibility to these centers for their targeted customers appears to contribute to, and worsen, the challenged economic conditions of the communities they serve.

With the additional one year extension, staff will further evaluate and consider the location of such facilities in relation to economically-challenged communities, their orientation to other check cashing facilities, blighting effects on surrounding areas, and introduce a permanent ordinance that would ease and/or prevent the negative aspects associated with them.

Financial Considerations: There are no financial considerations associated with this ordinance.

Emerging Small Business Development (ESBD): No goods or services are being purchased under this report.

Respectfully Submitted by:



David Kwong
Planning Manager

Approved by: William Thomas
William Thomas
Director of Development Services

Recommendation Approved:

Ray Kerridge
RAY KERRIDGE
City Manager

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Attachment 1

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

**AMENDING ORDINANCE NO. 2007-080, AS EXTENDED BY
ORDINANCE NO. 2007-089, TO EXTEND THE TERM OF THE MORATORIUM ON
CHECK CASHING CENTERS IN THE CITY OF SACRAMENTO FOR AN
ADDITIONAL ONE YEAR AND DECLARING THE ORDINANCE TO BE AN
EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY UPON ADOPTION
(M07-070)**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1. Findings.

The City Council of the City of Sacramento finds and declares as follows:

A. General Findings.

1. Check cashing businesses cash payroll, government, personal, and other types of checks, among other related services, while taking a commission off the face-value of the check.

2. Payday lender businesses (also known as deferred deposit transaction businesses and advanced payday lenders) provide small cash loans based on a borrower's personal check held for future deposit or on electronic access to a borrower's bank account. Generally, the borrower must include the fee for the loan in the face value of the personal check.

3. According to the Consumer Federation of America, because of the high fees paid for these short term loans and check cashing services, some borrowers may pay the equivalent of more than 900% annual percentage rate interest on their loan. In California, the fee for a payday loan can be up to \$17.50 for every \$100 borrowed, up to the maximum of \$300. The annual percentage rate for such a transaction is 911% for a one week loan, 456% for a two-week loan, and 212% for a one-month loan. Since payday loans were legalized in California in 1997, more than 3,500 payday loan

businesses have opened in the state.

4. According to the California Reinvestment Coalition ("CRC"), check cashing and payday lender businesses have grown over 1100% nation-wide between 1996 and 2003 and are estimated to be growing at a rate of 15% a year. The growth of check cashing and payday lender businesses appears to be focused in lower income neighborhoods where full service financial institutions are removing their branch offices.

5. A recent study by The Progressive Policy Institute revealed that a traditional bank account is the first step toward giving low-income Americans access to the mainstream tools for wealth creation now taken for granted by the middle-class. The unchecked proliferation of check cashing and payday lender businesses in the commercial districts of lower income neighborhoods leads to the displacement of full service banking institutions, making access to traditional banking services even more difficult in lower income neighborhoods. Without appropriate controls, a result of the continuing high growth of check cashing and payday lender businesses will be a reduction or displacement of needed financial services and other commercial benefits in these neighborhoods, .

B. Under the current provisions of Title 17 of the Sacramento City Code (the Zoning Code), check cashing centers, check cashing facilities, and payday lender businesses (collectively "check cashing centers") are classified as commercial services and are allowed in most nonresidential zones by right.

C. On October 16, 2007, the City Council adopted Ordinance No. 2007-080 establishing a forty-five (45) day moratorium on check cashing centers in the City of Sacramento as an emergency ordinance to take effect immediately. The purpose of Ordinance No. 2007-080 was to protect the public health, safety, and welfare by prohibiting the review, approval, and issuance of any building permits or other development-related permits for any new check cashing center or expansion or modification of an existing check cashing center while the City studies and enacts new land use regulations to address the effects and potentially blighting impacts check cashing centers can have on the surrounding neighborhoods as detailed above in subsection (A). Allowing the establishment of new, and the expansion of existing, check cashing centers pending the development and enactment of the needed land use regulations would frustrate and interfere with the efforts to protect the City's neighborhoods from the continuing proliferation of these uses and their associated impacts.

D. On November 27, 2007 the City Council conducted a duly noticed public hearing and determined that additional time was needed for staff to continue to research and develop appropriate land use regulations to address the effects and potentially blighting neighborhood impacts of check cashing centers, to identify all community and industry stakeholders, and to conduct stakeholder outreach to ensure appropriate input from and involvement of all concerned and affected parties in the development of the needed land use regulations. At the conclusion on the hearing, the City Council adopted

Ordinance No. 2007-089 extending the term of Ordinance No. 2007-080 as provided in Government Code section 65858 for an additional ten months and fifteen days. Ordinance No. 2007-080, as extended by Ordinance No. 2007-089, will expire by its own terms on October 15, 2008.

E. During the term of Ordinance No 2007-080, as extended by Ordinance No. 2007-089, the City has taken the following measures to alleviate the conditions which led to the adoption of Ordinance No. 2007-080 and Ordinance No. 2007-089: Staff has evaluated the efforts of various local jurisdictions throughout the country to prevent and remediate blight caused by the existence of check cashing centers through local legislation. In addition to this, staff has monitored Assembly Bill (AB) 2845 to determine if regulation on the state level would make local regulation unnecessary. However, the bill did not pass out of the Assembly and died. It is yet to be determined whether similar legislation will be introduced next year on the state level. Subsequently, staff has continued to inventory industry stakeholders that conduct business within the city. In conjunction with this, staff has scheduled a stakeholder meeting for Wednesday, November 19, 2008 in order to address the concerns of the industry and communicate the issues facing the communities in which these establishments are located.

Despite its efforts over the past year, the City Council determines that additional time is needed for staff to continue to research and develop the most appropriate and effective land use regulations to address the effects and potentially blighting neighborhood impacts of check cashing centers.

F. This Ordinance is enacted as an urgency measure under Government Code section 65858 to protect against the current and immediate threat to the public health, safety, and welfare that check cashing centers can pose to the City as described above were the moratorium on check cashing centers established by Ordinance No. 2007-080 and extended by Ordinance No. 2007-089 to expire before the needed land use regulations are in place. It is appropriate that this Ordinance take effect immediately to ensure that check cashing centers are not established or expanded during the thirty day period that would otherwise elapse before this Ordinance would take effect.

SECTION 2. Extension of Moratorium on Check Cashing Centers.

Ordinance No. 2007-080, as extended by Ordinance No. 2007-089, establishing a moratorium on check cashing centers, is amended by extending its term for an additional one year as provided in Government Code section 65858. As amended by this ordinance, Ordinance No. 2007-080, as extended by Ordinance No. 2007-089, shall be of no further force and effect two (2) years from the date of the original adoption of Ordinance No. 2007-080.

SECTION 4. Declaration of Emergency.

This Ordinance is declared to be an emergency ordinance to take effect immediately upon adoption by the City Council pursuant to Sacramento City Charter Section 32(g)(2). The facts constituting the emergency are as set forth in Section 1 of this Ordinance, all of which are incorporated into this section as facts supporting the emergency nature of this Ordinance.

