

1 [Zoning –Three-Month Extension of Interim Moratorium on New Check Cashing and Pay Day
2 Lender Uses.]

3 **Urgency Ordinance approving a three-month extension of the interim zoning**
4 **moratorium on new check cashing and pay day lender uses and making required**
5 **findings, including findings related to the imposition of an interim moratorium, findings**
6 **of consistency with the priority policies of Planning Code Section 101.1, and**
7 **environmental findings.**

8
9 Note: Additions are single-underline italics Times New Roman;
10 deletions are ~~strikethrough italics Times New Roman~~.
11 Board amendment additions are double underlined.
12 Board amendment deletions are ~~strikethrough normal~~.

13 Be it ordained by the People of the City and County of San Francisco:

14 Section 1. Findings.

15 (a) General Findings.

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

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

23 (3) According to the Federal Trade Commission and Consumer Reports, because of
24 the high fees paid for these short term loans and check cashing services, some borrowers
25 may pay the equivalent of more than 900% annual percentage rate interest on their loan. In
California, the fee for a pay day loan can be up to \$17.50 for every \$100 borrowed, up to the

1 maximum of \$300. The annual percentage rate for such a transaction is: 911% for a one-week
2 loan; 456% for a two-week loan; and 212% for a one-month loan.

3 (4) According to the California Reinvestment Coalition, check cashing and pay day
4 lender businesses have grown over 1100 percent nation-wide between 1996 and 2003.
5 According to the Federal Trade Commission and Consumer Reports, since pay day loans
6 were legalized in California in 1997, more than 3,500 pay day loan businesses have opened
7 in the state.

8 (5) The Brookings Institute conservatively estimates that check cashing and pay day
9 lending businesses sell \$40 million worth of their services annually out of 56 locations in San
10 Francisco. The average check cashing or pay day lender establishment in the City has a
11 sales volume of \$737,000 annually. The estimates provided by the Brookings Institute are
12 conservative because they only include check cashing and pay day lender businesses that
13 provide those services as their primary or secondary business service, and do not include
14 tertiary providers of these services, including grocery stores, convenience stores, and gas
15 stations.

16 (6) According to the Brookings Institute, these providers of check cashing and pay day
17 lending services are heavily concentrated in San Francisco's poorer neighborhoods, which
18 also have a higher percentage of minority residence than other parts of the City. The median
19 income in a neighborhood with these types of financial services is roughly \$38,000, compared
20 with a City-wide median income of about \$60,000. One in five residents in these
21 neighborhoods lives in poverty, compared with a City-wide rate of about one in ten.
22 Additionally, 30 percent of residents in these neighborhoods with a check cashing or pay day
23 lender business are Latino, compared with a City-wide rate of about 14 percent. The
24 neighborhood with the highest concentration of check cashing and pay day lender businesses
25 (Census Tract No. 176.01), has a median household income of just \$23,899, nearly one in

1 three of its residents lives below the poverty line, and it has one of the highest concentrations
2 of African American residents in the City.

3 (7) The Brookings Institute found that these check cashing and pay day lender
4 businesses tend to cluster together in the City, saturating particular neighborhoods with their
5 high-priced financial service products. Roughly half of the core providers of these check
6 cashing and pay day lender businesses are located in just four neighborhoods in the City.

7 (8) Concerns have been raised that the unchecked proliferation of these businesses is
8 displacing charter banks, which offer a much broader range of financial services, and other
9 desired commercial development in the City, particularly in the commercial districts of lower
10 income neighborhoods. Without appropriate controls, the result of the high growth of check
11 cashing and pay day lender business could be a reduction or displacement of needed
12 financial services and other commercial benefits.

13 (9) On January 10, 2006, the Board of Supervisors adopted Ordinance No. 01-06, an
14 urgency Ordinance that imposed a 45-day moratorium on check cashing and payday lender
15 uses. A copy of said Ordinance is on file with the Clerk of the Board of Supervisors in File No.
16 051721, and is incorporated herein by reference.

17 (10) On January 13, 2005, the Mayor signed Ordinance no. 01-06 into law.

18 (11) On December 9, 2005, the Planning Department issued a report entitled
19 “Preliminary Report on Land Use Issues and Policy Opportunities for Check Cashing and Pay
20 Day Lender Businesses” for the Board’s consideration. A copy of said report is on file with the
21 Clerk of the Board of Supervisors in File No. 051721 and is incorporated herein by reference.

22 (12) On December 15, 2005, during a hearing of the Budget and Finance Committee
23 of the Board of Supervisors, the Committee considered the Planning Department’s report and
24 held a hearing at which it took testimony from the public and from various City departments
25 regarding check cashing and payday lender uses.

1 (13) On February 28, 2006, the Board of Supervisors, in accordance with California
2 Government Code section 65858, and in furtherance of Ordinance No 01-06, by Motion No.
3 06-28 formally issued the Planning Department’s report entitled “Preliminary Report on Land
4 Use Issues and Policy Opportunities for Check Cashing and Pay Day Lender Businesses.” A
5 copy of said Motion is on file with the Clerk of the Board of Supervisors in File No. 060229,
6 and is incorporated herein by reference.

7 (14) On February 28, 2006, the Board of Supervisors adopted Ordinance No. 34-06,
8 an urgency Ordinance that extended the moratorium on check cashing and payday lender
9 uses for three months. A copy of said Ordinance is on file with the Clerk of the Board of
10 Supervisors in File No. 060212, and is incorporated herein by reference.

11 (15) On March 10, 2006, the Mayor signed Ordinance No. 34-06 into law.

12 (16) An extension of the interim zoning moratorium on new check cashing and payday
13 lender uses will provide the City necessary additional time to draft and adopt laws that will
14 regulate the location of check cashing and payday lenders.

15 (b) Findings related to the extension of the interim zoning moratorium.

16 (1) Planning Code Section 306.7 provides for the imposition of interim zoning controls
17 to accomplish several objectives, including preservation of historic and architecturally
18 significant buildings and areas; preservation of residential neighborhoods; preservation of
19 neighborhoods and areas of mixed residential and commercial uses in order to preserve the
20 existing character of such neighborhoods and areas; and development and conservation of
21 the City’s commerce and industry to maintain the City’s economic vitality, provide its citizens
22 with adequate jobs and business opportunities, and maintain adequate services for its
23 residents, visitors, businesses and institutions.

24 (2) California Government Code section 65858 provides for the imposition of interim
25 zoning moratoria.

1 (3) The extension of these interim controls is intended and designed to deal with and
2 ameliorate the problems and conditions associated with the proliferation of check cashing and
3 pay day lender businesses in the City’s commercial districts and areas of mixed residential
4 and commercial uses by imposing a temporary City-wide moratorium on any such new
5 businesses.

6 (4) This Board has considered the impact on the public health, safety, peace, and
7 general welfare if the extension of the interim controls proposed herein were not imposed.

8 (5) This Board has determined that the public interest will be best served by extending
9 these interim controls at this time in order to ensure that the legislative scheme that may be
10 ultimately adopted is not undermined during the planning and legislative process for
11 permanent controls, which process shall be conducted within a reasonable time.

12 (c). Planning Code Section 101.1 Findings.

13 The extension of the interim zoning moratorium advances and is consistent with Priority
14 Policies 1, 2 and 5 of Planning Code section 101.1 in that they attempt to conserve a diverse
15 economic base, including existing neighborhood-serving retail uses, and neighborhood
16 character. With respect to Priority Policies 3, 4, 6, 7 and 8, the Board finds that the extension
17 of the interim zoning moratorium does not, at this time, have an effect upon these policies
18 and, thus, will not conflict with said policies.

19 (d). Environmental Findings.

20 The Planning Department has determined that the actions contemplated in this
21 Ordinance are in compliance with the California Environmental Quality Act (California Public
22 Resources Code sections 21000 et seq.). Said determination is on file with the Clerk of the
23 Board of Supervisors in File No. _____ and is incorporated herein by reference.

24 Section 2. The extension of the interim zoning moratorium, as described below, shall
25 be adopted as an Urgency Ordinance:

1 (a) No existing retail use may be converted to a check cashing use or pay day lender
2 use and no new check cashing use or pay day lender use may be permitted within the City.

3 (b) For purposes of this Ordinance, a check cashing use shall be a retail use owned or
4 operated by a “check casher” as defined in California Civil Code section 1789.31, as amended
5 from time to time, regardless of whether such check cashing use is the primary or secondary
6 business service provided by the check casher.

7 (c) For purposes of this Ordinance, a pay day lender use (also known as deferred
8 deposit transaction businesses and advanced pay day lenders) shall be a retail business
9 owned or operated by a “licensee” as defined in California Financial Code section 23001(d),
10 as amended from time to time, regardless of whether such pay day lender use is the primary
11 or secondary business service provided by the licensee.

12 (d) The extension of the interim moratorium shall remain in effect (i) for three months
13 from passage, or (ii) until permanent controls are adopted to address the proliferation of check
14 cashing and pay day lender uses, whichever first occurs.

15 (e) If application of this Ordinance would have the effect of denying approvals needed
16 for the development of a project with a significant component of multifamily housing, as such
17 terms are defined in California Government Code Section 65858, this moratorium shall not
18 apply to such a project.

19 Section 3. If permanent controls are not adopted within 70 days of the effective date of
20 this Ordinance, the Planning Department shall submit to the Clerk of the Board a written
21 report describing measures taken to alleviate the conditions that led to the adoption of the
22 Ordinance and proposing permanent controls. Upon receipt of the report, the Clerk shall

23 //

24 //

25 //

DRAFT DRAFT DRAFT—FOR DISCUSSION PURPOSES ONLY—DRAFT DRAFT DRAFT

1 calendar a motion for the full Board to consider and approve said report. Said hearing and the
2 action taken thereon shall be no later than 80 days after this Ordinance is finally adopted.

3 APPROVED AS TO FORM:
4 DENNIS J. HERRERA, City Attorney

5 By: _____
6 Marlena G. Byrne
7 Deputy City Attorney

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25