

1 [Zoning - Interim Moratorium on New Check Cashing and Pay Day Lender Uses.]

2
3 **Urgency Ordinance approving an interim zoning moratorium on new check cashing**
4 **and pay day lender uses for 45 days and making required findings, including findings**
5 **related to the imposition of an interim moratorium, findings of consistency with the**
6 **priority policies of Planning Code Section 101.1, and environmental findings.**

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

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

11 Section 1. Findings.

12 Section (a). General Findings.

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

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

20 (3) According to the Federal Trade Commission and Consumer Reports, because of
21 the high fees paid for these short term loans and check cashing services, some borrowers
22 may pay the equivalent of more than 900% annual percentage rate interest on their loan. In
23 California, the fee for a pay day loan can be up to \$17.50 for every \$100 borrowed, up to the
24 maximum of \$300. The annual percentage rate for such a transaction is: 911% for a one-week
25 loan; 456% for a two-week loan; and 212% for a one-month loan.

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

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

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

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

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

11 Section (b). Findings related to imposition of an interim moratorium.

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

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

22 (2) These interim controls are intended and designed to deal with and ameliorate the
23 problems and conditions associated with the proliferation of check cashing and pay day lender
24 businesses in the City's commercial districts and areas of mixed residential and commercial
25 uses by imposing a temporary City-wide moratorium on any such new businesses.

1 (3) This Board has considered the impact on the public health, safety, peace, and
2 general welfare if the interim controls proposed herein were not imposed.

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

7 Section (c). Planning Code Section 101.1 Findings.

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

14 Section (d). Environmental Findings.

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

19 Section 2. The following interim zoning moratorium shall be adopted as an Urgency
20 Ordinance:

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

23 (b) For purposes of this Ordinance, a check cashing use shall be a retail use owned or
24 operated by a "check casher" as defined in California Civil Code section 1789.31, as amended
25

1 from time to time, regardless of whether such check cashing use is the primary or secondary
2 business service provided by the check casher.

3 (c) For purposes of this Ordinance, a pay day lender use (also known as deferred
4 deposit transaction businesses and advanced pay day lenders) shall be a retail business
5 owned or operated by a "licensee" as defined in California Government Code section
6 23001(d), as amended from time to time, regardless of whether such pay day lender use is
7 the primary or secondary business service provided by the licensee.

8 (d) This interim moratorium shall remain in effect for 45 days unless extended in
9 accordance with California Government Code section 65858 or permanent controls are
10 adopted to address the proliferation of check cashing and pay day lender uses, whichever first
11 occurs.

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

16 Section 3. Within 25 days of the effective date of this Ordinance, the Planning
17 Department shall submit to the Clerk of the Board a written report describing measures taken
18 to alleviate the conditions that led to the adoption of the Ordinance and proposing permanent
19 controls. Upon receipt of the report, the Clerk shall calendar a motion for the full Board to
20 consider and approve said report. Said hearing and the action taken thereon shall be no later
21 than 35 days after this Ordinance is finally adopted.

22 APPROVED AS TO FORM:
23 DENNIS J. HERRERA, City Attorney

24 By: _____
25 Marlena G. Byrne
Deputy City Attorney