

ORDINANCE NO. 2012-378

**AN INTERIM ORDINANCE OF THE LOS ALTOS CITY COUNCIL ESTABLISHING
A TEMPORARY MORATORIUM ON THE ESTABLISHMENT, EXPANSION, OR
RELOCATION OF PAYDAY LENDING AND CHECK CASHING BUSINESSES
WITHIN THE CITY OF LOS ALTOS DECLARING THE URGENCY THEREOF, TO
TAKE EFFECT IMMEDIATELY**

NOW THEREFORE, the City Council of the City of Los Altos does hereby ordain as follows:

SECTION 1. FINDINGS AND PURPOSE: In accordance with California Government Code section 65858, the City Council finds and declares that this Ordinance is deemed necessary for the following reasons:

1. The inability of low-income consumers with poor credit history to obtain certain services from federally-insured banks has resulted in a two-tiered financial services industry. More financially-stable consumers are generally able to use traditional banks, which charge low fees for checking and issue loans regulated by the federal government, while lower-income, financially-vulnerable consumers often have to rely upon the alternative financial services (AFS) industry for the same services. Payday lending and check cashing businesses are part of the growing AFS industry.
2. Payday lending businesses typically offer small, 14-day loans for which they charge effective interest rates upwards of 460% annual percentage rate (APR). California law currently caps individual payday loans at \$300, from which a 15% fee can be deducted. As a result, payday lending businesses in California generally charge \$45 for a two-week \$300 loan. According to a 2007 survey conducted by the California Department of Corporations, 48% of payday loan borrowers in California take out payday loans at least once per month. Because payday loan consumers tend to engage in cyclical borrowing, research has demonstrated that the typical borrower ultimately pays \$800 for a \$300 loan.
3. Check cashing outlets cash checks for a large fee, a significant percentage of the amount of the check, or deposit funds onto prepaid debit cards that incur a per-transaction fee. The fees withdrawn from cashed checks are generally significantly higher than the fees that would be charged by most federally-insured banks.
4. In the fact of limited state and federal legislation restricting payday lending and check cashing, the growth of these industries has been extremely rapid. Since 1997, when payday lending became legal in California, more than 2,000 payday lending businesses have been established. In 2010, California payday lenders issued \$12 million in loans to 1.6 million borrowers. The check cashing industry has experienced similarly rapid growth. A study by the Consumer Federation of America found that the check cashing industry doubled in size between 1994 and 2000, and again between 2000 and 2005.
5. The proliferation of these businesses has had significant detrimental effects on the financial stability of low-income communities throughout California and low-income neighborhoods in the surrounding cities. These businesses operate almost exclusively in

low-income neighborhoods and prey upon the City of Los Altos' most financially vulnerable residents, drawing them into a cycle of debt or causing them to lose a significant share of their income to exorbitant fees for simple financial transactions.

6. The City of Los Altos Zoning Code (Los Altos Municipal Code Chapter 14) does not adequately regulate the establishment, expansion, or relocation of payday lending and check cashing businesses within the City of Los Altos.
7. In light of the foregoing, the City Council finds that the establishment, expansion or relocation of payday lending and check cashing businesses within the City of Los Altos presents a current and immediate threat to public health, safety and welfare. The City Council further finds that a temporary moratorium on the establishment, expansion or relocation of payday lending and check cashing businesses within the City of Los Altos is warranted so that the City Council may review and consider possible amendments to the City of Los Altos Zoning Code to address this threat on a permanent basis.

SECTION 2. MORATORIUM:

A. Scope: This Ordinance prohibits the establishment, expansion or relocation, which includes, but is not limited to, the issuance of any use permit, building permit, variance, subdivision or any other applicable permit, approval, or entitlement for use for development, of any payday lending business or check cashing business within the City of Los Altos.

B. Applicability: This Ordinance shall apply to the following use:

1. Payday Lending Businesses: For purposes of this Ordinance, the terms "payday lending businesses" shall mean retail businesses owned or operated by a "licensee" as that term is defined in California Financial Code section 23001(d), as amended from time to time.

SECTION 3. COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT: The City Council finds that this Ordinance is not subject to the California Environmental Quality Act (CEQA) because the activity is not a project as defined by Section 15378 of the CEQA guidelines. The Ordinance has no potential for resulting in physical change to the environment either directly or indirectly. Furthermore, pursuant to Section 15060(c)(2) of the CEQA Guidelines, the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment because this Ordinance prevents changes in the environment pending the contemplated review of City of Los Altos Zoning Code amendments applicable to payday lending and check cashing businesses.

SECTION 4. EFFECTIVE DATE: This Ordinance is declared to be an urgency measure adopted pursuant to the provisions of Government Code section 65858. As set forth in the findings above, this Ordinance is necessary for preserving the public safety, health and welfare. Pursuant to Government Code section 65858, this Ordinance is effective immediately and shall be in full force and effect for forty-five (45) days from the date of its adoption. After notice pursuant to section 65090 of the Government Code and a public hearing, the Council, by four-fifths (4/5ths) vote, may extend the effectiveness of this Ordinance for twenty-two (22) months and fifteen (15) days in accordance with the provisions of Government Code section 65858.

SECTION 5. PUBLICATION: The City Clerk shall cause this Ordinance to be published in a newspaper of general circulation as required by state law.

SECTION 6. SEVERABILITY: If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part of provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be held unconstitutional, invalid or unenforceable.

PASSED AND ADOPTED by the City Council of the City of Los Altos, this 10th day of April, 2012, by the following vote:

AYES: CASAS, FISHPAW, PACKARD, SATTERLEE, CARPENTER
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

Attest:



Lee Price, MMC, CITY CLERK



Valorie Cook Carpenter, MAYOR

