



Jesse Arreguín
Councilmember, District 4

CONSENT CALENDAR
April 30, 2013

To: Honorable Mayor and Members of the City Council
From: Councilmembers Arreguín, Anderson, and Moore
Subject: Referral to City Manager: Restrictions on Check Cashing Stores

RECOMMENDATION:

Refer to the City Manager and Planning Commission the issue of amending the Zoning Ordinance to restrict new check cashing stores in Berkeley, and request that the City Manager bring back to Council regulations on new check cashing stores.

In its analysis and development of options, staff should consider the following approaches:

- Amend the definition of “Financial Services, Retail” in the Zoning Ordinance (23F.04.010) by striking references to “check cashing stores”. Additionally, staff should develop a new definition in the ordinance for “check cashing stores/payday lenders”, and establish a new use category.
- Additionally, staff should consider the following regulatory approaches: 1) prohibiting new check cashing stores in all commercial zones in Berkeley, or 2) increasing the level of discretion required for zoning permits for new check cashing stores to a Use Permit/Public Hearing in all commercial zones.
- Staff should also consider regulations most recently adopted by the City of San Jose and any other jurisdictions, specifically limiting payday lending establishments by setting: (1) a distance or separation requirement between payday lending businesses to prevent overconcentration in low-income communities, and (2) a distance requirement separating payday lending businesses from residential areas and other places (i.e., schools, parks, churches, adult uses, or liquor stores).

BACKGROUND:

Payday loans, which are secured using a personal check, have short repayment periods and very high fees. Payday loan borrowers often cannot afford to open a checking account, or do not have sufficient resources to take out a line of credit or receive a bank loan, therefore they are forced to rely on short term loans. Payday loans encourage chronic, repeat borrowing because borrowers often lack sufficient income to both repay the loan and meet living expenses. An estimated 91% of payday loans are taken out by previous borrowers, showing the cyclical financial dependency.¹ These loans have a disproportionate impact on low-income borrowers and need more regulation. Payday lenders are disproportionately concentrated in predominately African-American and Latino neighborhoods. They are also more prevalent in communities where low- and very low-income families live. In California, nearly half of borrowers take out payday loans at least once a month, and more than one third have taken out loans from multiple payday lenders simultaneously.²

Currently check cashing stores, which provide payday loans, money transfers, and allow customers to cash checks subject to a fee, are allowed in most commercial zones in Berkeley. In order to open a new check cashing store, the owner must apply for a zoning permit. Under the Zoning Ordinance check cashing stores are permitted under the “Financial Services, Retail” use category. Check cashing stores or other lending institutions are regulated differently in different zoning districts, however no district currently has an outright prohibition on new check cashing stores.

According to the city Finance Department there are currently three check cashing stores in Berkeley. They are:

| | |
|---|---------------------------|
| <i>California Check Cashing Stores, LLC</i> | <i>3276 Adeline St</i> |
| <i>Check Center</i> | <i>2005 San Pablo Ave</i> |
| <i>No Hassle Check Cashing Inc</i> | <i>2800 San Pablo Ave</i> |

All three have zoning permits to operate at their locations. Since zoning permits ride with the land and not the particular business, if any of these stores closed a new check cashing store or bank could open at that location without requiring a new permit. Moreover, any new regulations would not apply to these businesses and would be prospective.

Check cashing stores have significant negative impacts on distressed communities, by providing lending that includes excessive fees and creating a cycle of repeat borrowing for low-income residents who borrow to have enough money to cover basic living

¹ “Payday Lenders and Economically Distressed Communities: A Spatial Analysis of Financial Predation”, page 2, Department of Sociology, The Colorado College, February 2009

² “Report on the Status of Payday Lending in California”, page 4, Silicon Valley Community Foundation, October 2009

expenses and pay high check cashing fees. The excessive fees run strikingly as high as 400% when expressed as an annual percentage rate.³ Additionally, there are secondary impacts associated with check cashing stores, which include noise, litter, and other problems.

Other jurisdictions, including the City of San Jose,⁴ have adopted regulations to restrict the location and number of check cashing businesses. Given the negative impacts that these businesses have on our community, the City should join these other cities in adopting regulations to restrict new check cashing stores.

FINANCIAL IMPLICATIONS:

Staff time involved with analyzing regulatory approaches, including ordinances adopted in other cities, and developing options for Commission and Council discussion.

CONTACT PERSON:

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Attachments:

1. Definition of Financial Services, Retail from Zoning Ordinance
2. Spreadsheet outlining permitting requirements for Check Cashing stores in Berkeley

³ "Payday Lenders and Economically Distressed Communities: A Spatial Analysis of Financial Predation", page 2, Department of Sociology, The Colorado College, February 2009

Berkeley Municipal Code Section 23F.04.010

Financial Services, Retail: An office, open to the public, offering teller or counter financial services including either cash, checking and/or savings account transactions or some combination thereof, including, but is not limited to, banks, check cashing stores, savings and loans and credit unions offering such services at that location.

How Check Cashing Stores Are Regulated by Commercial District
 Except for C-SA District, check cashing is classified as “Financial Services, Retail”

| Zoning District | Permit Required | Special Conditions |
|------------------------|---|---|
| <i>R-Districts</i> | Retail not permitted in any residential district, so check cashing stores are not allowed | |
| <i>C-1</i> | AUP | |
| <i>C-N</i> | Use Permit/Public Hearing | |
| <i>C-E</i> | Use Permit/Public Hearing | |
| <i>C-NS</i> | Use Permit/Public Hearing | |
| <i>C-SA</i> | Use Permit/Public Hearing | Check Cashing Stores specifically defined and regulated separately from banks |
| <i>C-T</i> | AUP | |
| <i>C-SO</i> | Use Permit/Public Hearing | |
| <i>C-W</i> | AUP | |
| <i>C-DMU</i> | ZC/AUP | Under 7,500 s.f. = ZC; Over 7,500 s.f. = AUP; Within Addison District Overlay = AUP |

