



CITY OF CARSON

PLANNING COMMISSION STAFF REPORT

WORKSHOP: February 24, 2009
SUBJECT: Ordinance No. 09-1419 requiring conditional use permits for payday loan facilities within the city
APPLICANT: City of Carson – Planning Division
REQUEST: Recommend approval of an ordinance to require conditional use permits for payday loan or deferred deposit uses within the city
PROPERTY INVOLVED: Citywide

COMMISSION ACTION

Concurred with staff
 Did not concur with staff
 Other

COMMISSIONERS' VOTE

AYE	NO		AYE	NO	
		Chairman Faletogo			Cannon
		Vice-Chair Saenz			Gordon
		Brimmer			Graber
		Brown			Verrett

Item No. 12C

I. Introduction

On June 24, 2008, the Planning Commission conducted a workshop to discuss research completed by staff in regards to check cashing and payday advance facilities and directed staff to conduct further research and draft an ordinance. The Planning Commission requested the ordinance address possible amortization periods, conditional use permit requirements, and location standards (Exhibit No. 1).

Since then, staff has contacted other cities, surveyed businesses, and prepared a draft ordinance for Planning Commission consideration.

II. Background

On December 31, 2004, regulatory responsibility for deferred deposit originators (also known as payday advance, payday loans, deferred deposit, advance checks), transferred from the Department of Justice to the Department of Corporations with the adoption of the California Deferred Deposit Transaction Law (Financial Code Section 23000 et. seq.). Since December 31, 2004, "deferred deposit originators" are no longer referred to or grouped together with the generic "check cashing" term.

Check cashing has become a generic term used to encompass several types of retail operations. Prior to January 1, 2005, the term "check cashing" has been known to include services such as processing checks for a fixed fee, payday advanced loans, and other financial services such as money wiring, money orders, and bill payment. As of January 1, 2005, the State of California re-defined check cashing to only include services such as cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. The service of "check cashing" does not include a state or federally chartered bank, savings association, credit union, or industrial loan company. Check cashing services are currently regulated by the California Department of Justice and does not include any type of deferred deposit or short-term loans.

In California, both services are required to obtain a permit or operating license from their regulating department prior to providing services as well as a business license from the local jurisdiction.

Check Cashing

Check cashing services include cashing checks, warrants, money orders or other commercial paper for a fee. California does not apply the check cashing laws to state and federally chartered banks, savings associations, credit unions and industrial loan companies. The state also excludes retail stores that may incidentally charge a fee not exceeding \$2 to cash checks or money orders as a service to customers. For check cashing services requiring a fee greater than \$2, businesses must obtain a check casher's permit from the California Department of Justice.

Check cashing services typically serve customers who, for a variety of reasons, are not members of traditional financial institutions such as banks and credit unions. Individuals



and families who typically do not maintain a checking account pay a one-time fee for these services. While the fees could be avoided or reduced by using traditional financial institutions, the one-time fees charged do not establish a cycle of debt.

Deferred Deposit/Payday Loans

A deferred deposit transaction, also known as payday loans is a transaction where a person/business defers depositing a customer's personal check/electronic check until a specific date, pursuant to a written agreement as provided by the California Finance Code Sections 23035. Payday advanced loans are limited, unsecured loans given to individuals. A transaction fee is required and if loans are not paid back in the original loan period, additional fees can be accrued due to bounced checks.

The State of California limits the face value of the customer's personal check or the electronic equivalent of the customer's personal check to \$300. The fee charged may not exceed more than 15% of the face amount of the check. The maximum APR allowed for a 14-day loan of \$300 is 460% and the maximum number of outstanding loans at one time is one (1). In addition, in order to legally engage in the business of deferred deposit transactions, the business must obtain a license from the California Department of Corporations.

In order to receive a short-term loan, a customer writes a post-dated personal check for a larger amount that includes the administration fee, typically \$300, and receives \$255 in cash. If the customer repays the loan within the two-week period, the fee is limited to the \$45 fee.

If the borrower is unable to repay the full loan amount within the two-week loan period, the lender deposits the borrower's check. Some of the brand name payday lenders do offer assistance such as an extended payment plan at least once in a 12-month period, however many of the smaller businesses do not provide this service. If the check is not covered, the borrower accumulates bounced check fees from both the bank and the lender. In some instances, to avoid the bounced check fees and other potential civil action, the borrower pays another \$45 fee from either the same lender or one of their competitors. If this practice is extended for one year, a borrower will pay \$1,170 in finance charges in exchange for the use of \$255 in cash.

Payday loans can provide an immediate source of short-term credit to meet emergency cash needs of consumers that may not have access to traditional sources of credit or elect not to use other sources of credit available to them. Payday lenders rarely perform time-consuming credit checks or evaluate the borrower's ability to repay the loan on the due date. Instead, the borrowers are required to provide information easily available to them, such as identification, proof of residence, recent paystub and checking account information in order to qualify for the short-term loan.

The Department of Corporations states that the majority of payday customers receive 2-5 deferred deposit transactions a year while the California Reinvestment Coalition states an average customer takes out 10-13 loans a year from a single lender.



Although payday lenders do provide a needed service to our community, due to the high interest rates and likelihood for borrowers to fall into a debt cycle or create a dependency on payday loans, payday loans have been targeted and described as predatory lending practices by the Center for Responsible Lending, California Reinvestment Coalition, advocacy groups, and other local jurisdictions (see Exhibit 3).

Response by Payday Loans Representatives

On February 18, 2009, staff met with representatives from two payday loan businesses, Advance America and Check into Cash. They claim that in California 90 percent of their customers pay back the loans within two weeks, that the average customer earns \$55,000 per year, and over half own a house. In order to obtain a payday loan, a customer must have a checking account, valid identification, a steady income, and proof of residence. The businesses do not charge accruing interest and there are no late fees. Businesses that charge anything other than the initial fee do so illegally (see Exhibit 4).

III. Analysis

Payday lending facilities have the potential to negatively impact the areas in which they locate by creating and encouraging poor money management, which in turn adds to the cycle of poverty, decreases quality of life, and threatens the general welfare of a community. Payday lending facilities do provide a needed service, however staff believes additional regulation via the conditional use permit process is necessary in order to prevent overconcentration, provide safety, protect the general welfare, and address any additional adverse impacts.

Currently in the City

Check cashing and payday loan facilities are not specifically addressed in the CMC but are categorized in the "financial offices, professional and bail bond" classifications. Under this classification, check cashing and payday loan facilities are automatically permitted in all commercial and industrial zones with the exception of the Commercial Automotive (CA) zone.

There are currently 2 (two) check cashing facilities (primary use) and eleven (11) payday facilities with registered business licenses within the city. Eight (8) out of the 11 payday facilities offer both payday and check cashing services. Following is a table identifying each facility and the zoning district.



	Business Name	Services Offered (Payday, Check Cashing or Both)	Zoning District
1.	Ace Cash Express, Inc.	Both	CN
2.	Check Into Cash	Both	CN
3.	Nix Check Cashing	Both	CR-D
4.	Cash America Payday Advance	Both	CR-D
5.	Payday Check Cashing and Advance	Both	CG
6.	Check N' Go	Both	CG-D
7.	Power Check Cashing Payday Advance	Both	MH
8.	USA Checks Cashed	Both	MU-CS
9.	Advance America #1096	Payday	MU-CS
10.	Pacific Cash Advance	Payday	CG-D
11.	Advance America #1169	Payday	CG-D
12.	Central Check Cashing	Check Cashing	CG-D
13.	Mar's Check Cashing Service	Check Cashing	CG-D

Six (6) sites are within the Commercial General (CG) zone; two (2) sites are within the Commercial Regional (CR) zone; two (2) sites are within the Commercial Neighborhood (CN) zone; two (2) sites are in the Mixed Use – Carson Street (MU-CS) zone; and one (1) site is within the Manufacturing Heavy (MH) zone (Exhibit No. 2).

Other Cities

Several California cities have taken action on check cashing and payday facilities. The mechanisms include separation of uses by prescribed distances, prohibiting uses within their city, or moratoriums to study the issue. Eleven (11) cities in California were consulted in regards to the treatment of check cashing and payday facilities. The cities surveyed include Gardena, Hawthorne, Lakewood, Long Beach, Oceanside, San Bernardino, Santa Ana, Santa Monica, Signal Hill, South Gate and Torrance. Among these cities, a majority of them provide some form of restriction/regulation for check cashing and payday facilities and most prohibit payday facilities within their



commercial/redevelopment areas. The city of San Bernardino prohibits check cashing facilities in their city entirely and the city of Lakewood defines check cashing as a separate use from payday loans and restricts check cashing facilities to parcels greater than three (3) acres. The following is a list of the cities surveyed:

CITY	Land Use Regulations for Check Cashing/ Payday Facilities	Permitted in all zones	COMMENTS
Gardena	X		Conditional use permit is required in permitted zones
Hawthorne	X		Conditional use permit is required in permitted zones
Lakewood	X		Automatically permits payday loans and categorizes this use as a bank. Conditional use permit required for check cashing facilities and limited to parcels with a minimum of three (3) acres.
Long Beach	X		Conditional use permit is required in all commercial zones, not permitted in select commercial zones (Commercial Storage Area).
Oceanside	X		Requires CUP. Payday classified as adult businesses and requires distance and separation requirements.
San Bernardino	X		Prohibits check cashing facilities in all zoning districts
Santa Ana	X		Conditional use permit is required for permitted zones and new facilities must be at least 1,000 feet from another such facility.
Santa Monica	X		CUP required for Payday loans.
Signal Hill	X		Not permitted in all commercial zones
South Gate	X		Limits hours of operation. Security requirements.
Torrance	X		Conditional use permit is required in all commercial zones

Proposed Ordinance

The draft ordinance will define “check cashing”, “payday loan”, and “deferred deposit” within CMC Section 9191 and require conditional use permits for all primary and ancillary payday loan services. The draft ordinance will also establish an amortization period for existing payday loan businesses. Since check cashing services are not looked upon as predatory lending, nor does it seem to pose a threat of over-concentration in the city, staff recommends that the city continue to automatically permit check cashing uses



under the “financial offices, professional and bail bond” classifications and add the use “check cashing” for clarification.

The draft ordinance proposes the following amendments and restrictions (for the complete ordinance and all restrictions, please see Exhibit No. 5:

Definitions

- Add Article IX Chapter 1, Part 9, Section 9191.084, Section 9191.456, and Section 9191.176 (additions are in *italics* and underlined):

“Section 9191.084 *Check Cashing or Check Cashing Business.* Shall mean any business or type of service that is required to obtain a ‘Check Casher Permit’ from the Attorney General’s Department of Justice and/or provides services which include the acts of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose for compensation. Check cashing does not include any form of deferred deposit, payday loan, or short-term lending.

Section 9191.176 *Deferred Deposit or Deferred Deposit Originator.* Shall mean any business or type of service that is required to obtain a ‘Deferred Deposit Originator License’ from the California Department of Corporations and provides services such as a transaction whereby a person defers depositing a customer’s personal check until a specific date, pursuant to a written agreement for a fee or other charge. Also includes any type of short-term lending.

Section 9191.456 *Payday Loan.* See *Deferred Deposit.*”

Permitted Uses

- Article IX, Chapter 1, Part 3, Division 1, Section 9131.1 of the Carson Municipal Code entitled “Uses Permitted” under sub-heading “Offices” (amendments are in *italics* and underlined):

Division 1. Uses Permitted

§ 9131.1 Uses Permitted.

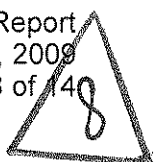
Uses are permitted in the commercial zones as indicated in the following table:

USES PERMITTED IN COMMERCIAL ZONES	
Legend	
X.	Automatically permitted use.
L.	Automatically permitted use provided special limitations and requirements are satisfied as noted herein or in Division 8 of this Part.



D.	Use permitted subject to the approval of the Director.					
LD.	Use permitted provided special limitations and requirements are satisfied as noted herein, in Division 8 of this Part and in Division 8 of Part 2, and subject to the approval of the Director.					
C.	Use permitted upon approval of a conditional use permit.					
CC.	Use permitted upon approval of the City Council as prescribed, under other provisions of the Carson Municipal Code.					
All commercial uses permitted by this Part shall be subject to the requirements contained in CMC 9172.23, Site Plan And Design Review, except temporary uses (See CMC 9131.1). (Ord. 84-704)						
	ZONES					
	CN	CR	CG	CA	MU-CS	MU-SB
Offices:						
Business, professional, financial, insurance, real estate, utility payments, telegraph, telephone answering service, messenger service, advertising, newspaper or publishing (no printing), ticket agency, travel agency, employment agency, collection agency, detective agency, security service, bail bondsman, <u>check cashing</u> . (See CMC 9138.17 and 9138.18)	X	X	X		L	L
	CN	CR	CG	CA	MU-CS	MU-SB
<u>Payday loan</u>	<u>C</u>	<u>C</u>	<u>C</u>			
Drive through banks	X	X	X			
Wholesale business, manufacturer's agent, broker (no storage or deliveries other than samples).	L	L	L			X

- Article IX, Chapter 1, Part 3, Division 8, Section 9138.17(1) of the Carson Municipal Code entitled "Mixed Use – Carson Street (MU-CS)" under "Prohibited Uses" (additions are in *italics* and underlined):



1. Prohibited Uses.

- a. Any use not fully enclosed in a building.
- b. Dismantling of vehicles or the storage of vehicles for parts.
- c. Outside storage.
- d. Arcade.
- e. Massage parlor
- f. Drive-through restaurants.
- g. Bowling alley as a primary use.
- h. Driving skills course.
- i. Indoor mini-mart or auction house.
- j. Public assembly uses, including but not limited to churches, temples or other places of religious worship, not associated with recreational areas designated for exclusive use of permitted residential uses.
- k. Sexually oriented business establishments.
- l. Vehicle sales and service.
- m. Payday loans.
- m. n. All uses are prohibited except as expressly permitted by the provisions of this Section.

- Article IX, Chapter 1, Part 3, Division 8, Section 9138.18(C)(2) of the Carson Municipal Code entitled "Mixed Use – Sepulveda boulevard (MU-SB)" under "Prohibited Uses" (additions are in *italics* and underlined):

- a. Any use not fully enclosed in a building.
- b. Dismantling of vehicles or the storage of vehicles for parts.
- c. Outside storage.
- d. Arcade.
- e. Massage parlor
- f. Tattoo parlor
- g. Drive-through restaurants and drive-through pharmacies.
- h. Bowling alley, as a primary use.
- i. Driving skills course.
- j. Indoor mini-mart or auction house.
- k. Night clubs
- l. Public assembly uses, including but not limited to churches, temples or other places of religious worship, not associated with recreational areas designated for exclusive use of permitted residential uses.
- m. Sexually oriented business establishments.
- n. Vehicle sales and service.
- o. Payday loans
- op. All uses are prohibited except as expressly permitted by the provision of this Section.



- Article IX, Chapter 1, Part 4, Section 9141.1 of the Carson Municipal Code entitled "Uses Permitted" under sub-heading "Uses Permitted in Commercial Zones". Additions are after "Adult businesses" and before "Massage service" (amendments are in *italics* and underlined):

	ZONES	
	ML	MH
Uses Permitted in Commercial Zones:		
Retail services and offices:		
<i>Payday loan</i>	<u>CUP</u>	<u>CUP</u>

Nonconforming Uses

- Article IX, Chapter 1, Part 8, Division 2, Section 9182.22 of the Carson Municipal Code entitled "Termination of Existing Nonconforming Use" (additions are in *italics* and underlined; deletions are shown in strikethrough):

Section 9182.22 Termination of Existing Nonconforming Use.

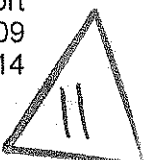
A lawfully established use which becomes a nonconforming use, including any buildings, structures or facilities designed or intended only for uses which are nonconforming, shall be terminated and such buildings, structures or facilities shall be removed or made conforming in all respects within the time period specified in subsection A or B of this Section, whichever is applicable and results in the later termination date.

A. The time period indicated in the following table measured from the date of becoming a non conforming use:

Use	Allowable Life
Use of land without buildings or structures.	1 year
Use involving only buildings or structures which would not require	3 years



a building permit to replace such buildings or structures (but not including a mobile home park).	
Mobile home park; mobile homes on individual lots.	35 years
Use involving buildings or structures which would require a building permit to replace such buildings or structures.	20 years
Outdoor advertising use.	5 years
Trailer parks	20 years
Producing oil wells, oils storage tanks.	20 years
Sale of convenience goods at automobile service stations within 300 feet of any school.	20 years
Arcades	5 years
Existing indoor mini-marts, auction house.	10 months
Truck-related uses defined in CMC 9148.8 which require a conditional use permit.	1 year
Cargo Container Storage; provided, however, that effective February 5, 1988: (1) No cargo container storage shall be permitted within fifty (50) feet of any residentially zoned property which involves any stacking more than one (1) container high; (2) No cargo container storage shall be permitted within one hundred (100) feet of any residentially zoned property which involves any stacking more than two (2) containers high; and (3) In no event shall any cargo container storage be permitted on any site which involves any stacking more than three (3) containers high.	6 months
Existing food/grocery stores in residential zones.	Expires December 31, 2003



Multiple-family residential uses located within a Mixed-Use (MU) District with ten (10) or more units (except existing mobile home parks), subject to CMC 9182.24.	2 years
Adult Business	5 years
Massage service.	1 year
Tattoo service	1 year
Wireless telecommunications facility, transmitter, receiver or repeater station – radio, television, microwave.	5 years
Second dwelling unit.	5 years
Vehicle repair and service located within the Commercial, Regional (CR) Zone, the Mixed-Use Residential (MUR) Overlay District and properties in all zones within one hundred (100) feet of residential zones, subject to CMC 9182.26.	5 years
Truck yard.	1 year
Alcoholic and Beverage Control (ABC) License, on-sale and off-sale only (subject to the requirements of 9138.5)	3 years
Alcoholic and Beverage Control (ABC) License, on-sale and off-sale only with a conditional use permit shall be subject to the requirements of 9138.5	1 year
Transient Hotels, motels with a conditional use permit shall be subject to the requirements of 9138.19	1 year
<u>Payday loan</u>	<u>3 years</u>

Requiring conditional use permits within the commercial and manufacturing zones allows the city to regulate the number and location of payday loan facilities. The additional review and oversight of payday loans would also preclude the likelihood of over-concentration.



The amortization period of three (3) years would apply to all payday loan facilities existing prior to the adoption of the draft ordinance and the time period would commence at the time of ordinance adoption. Payday loans would be allowed three (3) years to amortize their investments and apply for a conditional use permit. The CUP process would allow the Planning Commission to provide regulation and reasonable oversight to payday loan facilities, where currently the city is unable to provide any land use regulation.

With the passing of the ordinance recommended by staff, the two (2) payday loans located within the MU-CS zone would be required to terminate its use or convert to a check cashing facility within the amortization period of 3 years. These businesses also have the option of extending their amortization period if they are able to prove additional time is needed to amortize their investments. The existing payday loans within the commercial and manufacturing zones (except the MU-CS zone) would be subject to Planning Commission approval of a conditional use permit, therefore the Planning Commission would also have the option of denying a conditional use permit.

The Planning Commission may consider alternative remedies in addressing the 2 locations within the MU-CS zone. Alternative options can include prohibiting new payday stores and allowing the 2 existing stores to obtain a CUP within the 3 year amortization period.

IV. Conclusion

Currently, the CMC does not specifically address check cashing or payday facilities but classifies these uses as "financial offices, professional and bail bond" classification. Check cashing services have not been identified to be a predatory practice and staff recommends no additional review or requirements be added for this use.

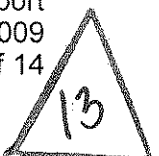
Payday services have the potential to threaten the general welfare by benefitting from a debt cycle created by their services and can give a negative perception of the economic viability and growth within the city. The majority of neighboring cities with similar demographics as the city of Carson have placed some form of land use regulation to address the potential impacts of payday facilities.

The draft ordinance will establish an amortization period of 3 years which will require existing businesses to apply for a conditional use permit. Payday loans within the MU-CS zone will be required to terminate their use prior to the expiration of the amortization period.

V. Recommendation

That the Planning Commission:

WAIVE further reading and RECOMMEND APPROVAL of Resolution No. 09-__ entitled, "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CARSON RECOMMENDING TO



CITY COUNCIL APPROVAL OF AN ORDINANCE TO AMEND THE CARSON MUNICIPAL CODE BY ADDING ARTICLE IX (PLANNING AND ZONING), CHAPTER 1, PART 9, SECTION 9191.084, SECTION 9191.176, AND SECTION 9191.456, AND AMENDING SECTION 9131.1, SECTION 9138.17, SECTION 9138.18, SECTION 9141.1, AND SECTION 9182.22 IN REGARDS TO CONDITIONAL USE PERMIT REQUIREMENTS FOR PAYDAY LOANS”.

VI. Exhibits

1. Planning Commission minutes for June 24, 2008. (pgs. 15-16)
2. Map of check cashing and payday loan facilities. (pg. 17)
3. Articles and Reports in regards to Payday Loans. (pg. 18-28)
4. Information provided by the Payday Loan representatives. (pg. 29)
5. Resolution. (pgs. 30-38).

Prepared by:


Sharon Song, Associate Planner

Reviewed by:


John F. Signo, AICP, Senior Planner

Approved by:


Sheri Repp, Planning Manager

**MINUTES
CITY OF CARSON
PLANNING COMMISSION REGULAR MEETING
CITY COUNCIL CHAMBERS
CARSON, CALIFORNIA 90745**

JUNE 24, 2008 – 6:30 P.M.

12. NEW BUSINESS DISCUSSION

A) Workshop to discuss potential land use regulations for check cashing facilities within the city

Applicant's Request:

The applicant, city of Carson – Planning Division, is requesting the Commission direct staff to conduct further research on an ordinance amendment addressing check cashing facilities within the city or to receive and file. The properties involved would be citywide.

Staff Report and Recommendation:

Associate Planner Song presented staff report and the recommendation to consider and discuss the information provided for the workshop; to direct staff to conduct further research and prepare a draft Ordinance amendment; or to receive and file the report.

Commissioner Cannon expressed his concern with the predatory nature of the pay day loan activities; and questioned if any cities have taken steps to rid their cities of these establishments.

Staff addressed a typical amortization period for legal, nonconforming businesses of this type, typically taking one to five years for the process.

Chairman Faletogo expressed his belief that check cashing businesses are necessary, but added that the pay day loan charges are excessive and predatory.

Commissioner Saenz noted his concern these establishments create a poor image for a city and stated they should be banned; and concurred that these businesses charge excessive fees.

Commissioner Cannon questioned if the City could separately regulate the pay day loan and check cashing activities.

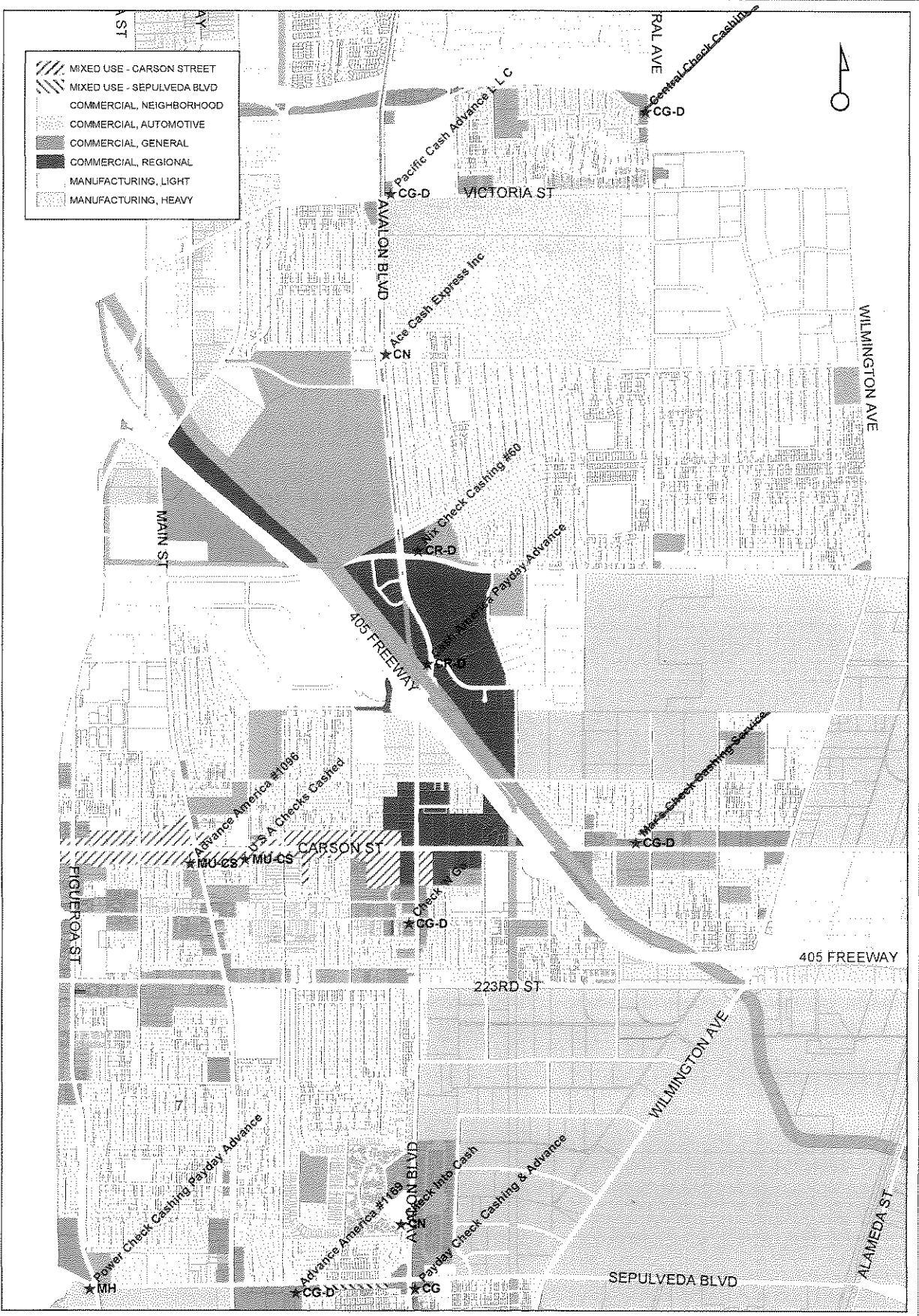
Planning Manager Repp stated that if the Commission desired, staff could research the statistics on blighted conditions and crime statistics near/around these establishments and possibly require these establishments to offer money management workshops or educational materials on budgeting.

The Commission noted its support for money management educational requirements; stated they'd like to see closer scrutiny of the excessive fees these businesses charge; noted they would like staff to do further research into the possibility of amortizing existing pay day loan businesses, issuance of conditional use permits, and consideration of location standards.

Chairman Faletogo opened the public hearing. There being no one in the audience, Chairman Faletogo closed the public hearing.

Planning Commission Decision:

It was the consensus of the Planning Commission to direct staff to conduct further research regarding adopting regulations that limit the predatory nature of pay day loan activities; for staff to address financial workshop requirements to better assist customers with money management; to address amortization issues for established pay day loan businesses in Carson; to address the issuance of conditional use permits and development of regulations; and to address location standards.



Payday/Check Cashing Locations
EXHIBIT NO. - 2



Nonprofit Publisher of Consumer Reports

Health Care Food Safety Telecom & Utilities Financial Services Product Safety Other Issues
 About • News • Resources • Tips • Support • Contact • Search

FACT SHEET ON PAYDAY LOANS

Consumers Union, AARP and Consumer Action have sponsored California legislation to protect consumers by creating reasonable oversight of the "payday loan" industry. The bill is Senate Bill 834, introduced by Senator Don Perata (D-Oakland).

"Payday" loans are small, short-term loans made by check cashers or similar businesses at extremely high interest rates. Typically, a borrower writes a personal check for \$100-\$300, plus a fee, payable to the lender. The lender agrees hold onto the check until the borrower's next payday, usually one week to one month later, only then will the check be deposited. In return, the borrower gets cash immediately. The fees for payday loans are extremely high: up to \$17.50 for every \$100 borrowed⁽¹⁾, up to a maximum of \$300. The interest rates for such transactions are staggering: 911% for a one-week loan; 456% for a two-week loan, 212% for a one-month loan.

PROBLEMS CAUSED BY PAYDAY LOANS

1. Payday loans become a trap and are not used on a one-time basis as originally claimed by the industry.

Consumers who must borrow money this way are usually in desperate debt. The high rates make it difficult for many borrowers to repay the loan, thus putting many consumers on a perpetual debt treadmill. Because they cannot repay the loan, they often extend the loan by paying the \$17.50 per \$100 fee several times over. Thus, many consumers end up paying far more in fees than what they borrowed. This kind of credit puts people in worse financial shape than when they started. For already desperate people, borrowing more money at triple-digit interest rates is like throwing gasoline on a fire.

When this practice was legalized in California three years ago the industry argued that payday loans were used for occasional emergencies for a short term⁽²⁾. This is simply untrue. **According to a Wall Street analyst covering the industry, "the average customer makes 11 transactions a year, which shows that once people take [out a payday loan], they put themselves behind for quite some time.⁽³⁾"** A manager of PD Chex, a payday lender in Colorado, estimated that only two percent of customers take only one loan. **The owner of the store, Avrum Schulzinger, went on to say that "he expects all of PD Chex's customers to default eventually."⁽⁴⁾** Stories from payday patrons make the results of these subsequent loans clear—consumers take them to meet a quick need, find themselves unable to meet their needs on their next payday, take subsequent loans and quickly get trapped by the outlandish fees.

Payday lenders claim they are the only option for debt-strapped consumers. **But borrowing more money at triple-digit interest rates is never the right solution for people in debt.** Instead, payday loans make problems worse. As the data shows, virtually everyone takes more than one payday loan and thus the loans are similar to an addiction. This is not a legitimate loan product that benefits consumers. In fact, because most consumers believe they could be prosecuted for passing a bad check, the payday

EXHIBIT NO. - 3



loan suddenly becomes their priority debt. Thus, the original debt problems that brought them to the lender often cannot be resolved.

2. Payday loan rates are way too high, especially given their low risk.

The industry claims its extremely high fees are necessary on account of the risk being taken and its high loss ratio. In fact, in Colorado, one of the few places in the country that collects actual data from the industry, **payday lenders charge-off only 3%** of the loans made from 1996-1997, while their loans had an average APR of 485.26%.⁽⁵⁾ **Conversely, California banks charged off 2.7% of credit card debt** in those same years, while having an APR of 15 - 22%.⁽⁶⁾ Thus, the payday loan industry's claim of risk and loss simply does not stand up to close scrutiny and do not justify the high rates charged. Therefore, there is plenty of room for rates to decrease, as called for by SB 834.

Further evidence of the low risk is the rapid growth of the industry, both in California and around the country. Since payday loans were legalized in California effective January 1, 1997, more than 3,500 payday loan outlets have opened in the state. The industry is extremely profitable. A State of Tennessee report stated that the industry return on equity in 1997 was 30%.⁽⁷⁾

3. Payday lenders are virtually unregulated in California.

Unlike consumer finance lenders, such as Household Finance or Avco Finance, who also make small loans, payday lenders are virtually unregulated. Other states have much more regulation for payday lenders including audit, examination, bonding, and reporting requirements.

4. Consumers are easily deceived by payday loans.

This transaction is inherently deceptive. By requiring consumers to turn over a post-dated check, consumers are often coerced or harassed by illegal threats or collection practices. For example, they will be threatened with jail for passing a bad check, even though the law specifically says they cannot be prosecuted if the check bounces. Payday lenders often deposit a check before the agreed-upon date, causing the check to bounce and imposing more fees on consumers.

WHAT SB 834 DOES

SB 834 is based on a model bill drafted by national consumer groups including the Consumer Federation of American and the National Consumer Law Center. The bill's major provisions are as follows:

1. Reduces the allowable fee for payday loans. The bill essentially allows the same charges for payday loans as the Financial Code currently allows for small loans made by licensed finance lenders. The allowed charges would thus be a \$5 "set-up" fee, plus a maximum interest rate of 36% per year (or 3% per month or 1.5% for two weeks). Thus, a \$100, two-week loan would cost a maximum of \$6.50 (\$5 set-up fee plus \$1.50 interest) as compared to current law allowing a \$17.50 charge. A \$200 loan, two-week loan would cost \$8, rather than \$35.

2. Provides greater disclosure and other consumer protections:

(a) Rollovers: The bill provides stronger protections against "rollover" or extensions of the original loan. For example, a check casher would be



prohibited from entering into a second loan with a consumer until 30 days have elapsed from the termination of the first loan. If lenders wish to extend the time for repayment of the loan, they may do so, but cannot charge a new fee for doing so.

(b) Improved disclosures: The bill requires lenders to give a notice to borrowers stating that borrowers cannot be threatened with prosecution for passing a bad check if they cannot repay the loan.

(c) Stronger penalties for violations: The bill allows consumers to recover civil penalties of \$2,000 per violation of the law, as well as actual damages, and punitive damages for intentional violations.

3. Provides for greater regulatory oversight by the Department of Justice, including:

(a) Licensing and bonding: Lenders must obtain a license and maintain a bond to pay claims brought by consumers.

(b) Record-keeping: Lenders must maintain records of each loan to allow examiners to determine if the law was followed.

(c) Reporting: Lenders must file annual reports detailing loan volume, average annual APR of loans and length of loans, along with other information.

ALTERNATIVES TO PAYDAY LOANS

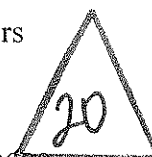
Payday lenders are not the only alternative for consumers facing debt problems. After all, they were legalized in California two years ago. Consumers obviously managed to deal with their debt for decades before anyone had heard of payday loans.

1. Negotiate a payment plan with creditors. The best alternative to payday loans is for consumers is to deal directly with their debt. Most creditors will accept partial payments if one sets up a payment plan. Consumers can negotiate such plans themselves or contact the local nonprofit Consumer Credit Counseling Services (CCCS) office for help. Paying off debts through a payment plan, rather than taking on even more debt at exorbitant interest rates, is the best way to deal with financial problems. CCCS offices also teach money management skills to help consumers prevent financial problems in the first place.

2. Credit cards/Secured credit cards. Some credit card companies specialize in consumers with financial problems or poor credit histories. Consumers should shop around and not assume they do not qualify for a credit card. Secured credit cards are another option. A secured card is basically a credit card tied to a savings account (\$500 for example). The card's credit line is the amount deposited in the savings account. The funds of the account "secure" the amounts charged on the card. Once a consumer has successfully used the secured card for 6 months - 1 year, they can then qualify for a regular unsecured credit card.

3. Advances from employers. Many employers will grant paycheck advances to employees. Because this is a true advance, and not a loan, it obviously is a better alternative than payday lenders.

4. Credit unions. Credit unions offer small, short-term loans to their members. Many more consumers



can join credit unions now that affiliation requirements are less strict.

5. Overdraft protection. Most banks offer checking accounts with overdraft protection. Payday lenders claim their fees are lower than paying bounced check fees, but a better alternative is to prevent bounced check fees in the first place.

6. Lines of credit from finance lenders. Finance lenders such as Household offer small lines of credit to consumers with less than perfect credit histories. These credit lines range from \$2,000-\$5,000 with interest rates from 25-35% APR.

Footnotes:

(1) Current law allows lenders to charge 15% of the "face amount of the check." Civ. Code Sec. 1789.33 (emphasis added). Because the face amount of the check must also include the fee for the loan, in order to borrow a net amount of \$100, the consumer must write a check for \$117.62 ($\$117.625 \times .15 = \100). Most lenders simply round off the \$17.62 amount to \$17.50.

(2) Analysis, Assembly Committee on Banking and Finance, SB 1959 (Calderon), p. 5 ("Arguments in Support") (June 24, 1996).

(3) M. Anderson, "Cash poor, choice rich, Paycheck-advance firms move in," Sacramento Business Journal (Jan. 11, 1999).

(4) A. Berenson, "Fringe banking hot despite bite, Payday loans' interest rates legal," The Denver Post (May 5, 1996).

(5) State of Colorado Department of Law, Office of the Attorney General, "Post-Dated Check Cashers Supervised Lenders' Annual Report." (1996 and 1997)

(6) California Bankers Association.

(7) State of Tennessee, Dept. of Financial Institutions, Report to the General Assembly on the Deferred Presentment Service Act at 9 (1998).

Consumers Union's West Coast Regional Office
November, 1999

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Lenders may lose welcome

By Paul Eakins, Staff Writer

Article Launched: 06/29/2008 10:33:38 PM PDT



Mary Maddron, a Long Beach retiree, finds Papa Cash convenient and very dependable for some financial services. Some check-cashing facilities charge fees of 1 to 5 percent to cash a check. Critics say that these practices can cost the working poor more than they realize. (Diandra Jay / Staff Photographer)

LONG BEACH - When Luis Negron needs to pay his rent, he often just walks one block to a financial services business near Seventh Street and Long Beach Boulevard to pay with a wire service.

"I know a lot of people that go there," he said.

A few blocks east at Arteaga's Market, 617 E. Seventh St., Erika Lopez of Westminster often cashes her husband's paychecks from his gardening job when she is visiting family in Long

Beach, she said. Lopez closed out her checking account with a mainstream bank because she didn't like the service there, she said.

"I think this is better," she said in Spanish last week. "It's useful to send money as far away as Mexico."

Check-cashing businesses, which usually also provide wire



Signs inside Papa Cash list the services the Long Beach check-cashing facility provides its customers. Critics of the check-cashing industry and similar short-term lenders want these businesses, which they say prey on the poor and are a community blight, to be limited. (Diandra Jay / Staff Photographer)

transfers, money orders and payday loans - for a fee, of course - are a common financial resource for some Long Beach residents. But the City Council is concerned about the negative effects the businesses can have on neighborhoods.

The council on Tuesday will consider a one-year, citywide moratorium on new check-cashing businesses while the city's Planning Commission and Development Services division investigate

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what permanent measures ought to be taken to control the number of the businesses in Long Beach.

The council move was prompted by a proposal introduced by council members Bonnie Lowenthal and Suja Lowenthal earlier this year - and approved in June - to ban new check-cashing businesses from the Downtown Planned Development District for a year.

Other council members then indicated that if a moratorium is good enough for downtown, it should be good enough for the rest of the city.

Critics say the businesses prey on the poor with high fees and interest rates and can attract crime, while proponents say the businesses provide a valuable service.

Cynthia Ojeda, of the North Pine Neighborhood Association, which was one of several downtown groups that asked the Lowenthals to introduce the moratorium, called the businesses "a pariah." Although her effort began with a downtown moratorium, she said she supports the citywide ban and wants to see different businesses in Long Beach.

"We are adamant about this decision, that it's more of a social issue now than a community issue," Ojeda said. "I think they probably serve a purpose for the community, but I'd like to see a cap (on the number)."

Fred Kunik, co-owner of Continental Currency, a company with 65 financial service businesses in

Southern California and Nevada, including three in Long Beach, said his businesses don't cause an unusual number of problems.

"We service the needs of the community that are not serviced by banks, or can't be," Kunik said. "If there wasn't a need for our service, we wouldn't be there."

The city's proposed moratorium ordinance cites statistics from several organizations on the effect of check-cashing businesses.

The Consumer Federation of America says that some borrowers who use payday loans may pay the equivalent of more than a 900 percent annual percentage rate.

Liana Molina of the California Reinvestment Coalition said she supports the city's effort. She said payday loan businesses target the "working poor," who take out loans to make ends meet, but in the process lose income.

"It often strips people's assets," Molina said. "We're concerned about the predatory nature of the loans themselves."

At one Long Beach lender, a \$255 short-term loan has an equivalent of 460.08 percent APR and a \$35.29 finance charge.

Other services cost as well.

To cash a check of up to \$750, another business charges 1 percent of the check amount plus 50 cents, while a check over \$3,000 costs 3 percent

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of the amount. At a different location, checks of more than \$4,000 have a 5 percent fee, which means at least \$200 for people to access their money.

Community effort Hidden costs Differing views

Molina said there are 16 payday lenders in Long Beach. City officials couldn't provide a list of check-cashing businesses Friday, but 411.com lists 26 such businesses locally.

Some people who use, live near or work at the cash-checking businesses expressed mixed feelings about them last week.

Negron said the services are convenient and that as a neighbor of one, he isn't worried that they attract an unsavory element.

"I don't think it causes problems," Negron said.

Long Beach retiree Mary Maddron said she occasionally goes to the nearby Papa Cash at 730 Pacific Ave.

"If I need any cash, I'll come over here," Maddron said. "They're very dependable."

But Lucy Garcia, who has worked three years at Papa Cash and lives close by, said she would prefer to see more banks in the neighborhood than check-cashing businesses.

"I work at this place, but they bring a lot of bad people to the area," Garcia said.

Richard Kay, a disabled former Merchant Marine who lives in central Long Beach, said the businesses have pros and cons.

"These are convenient for the homeless or people that are on public assistance," Kay said.

But, he said: "They charge an outrageous percentage. They're getting rich off the needy."

Bonnie Lowenthal said this is one of the things that concerns her neighborhood groups and what led her to support the moratorium.

"There are people who think with the loan type of business, that the interest rates are too high and can easily get people in debt without their understanding how that is happening," Lowenthal said.

But when the council voted to create the citywide moratorium last month, two council members, Patrick O'Donnell and Val Lerch, showed trepidation and voted against it.

At that meeting, Lerch said: "I don't think it's the job of this council to regulate how our community decides to spend their money."

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What: Long Beach City Council meeting

When: 5 p.m. Tuesday

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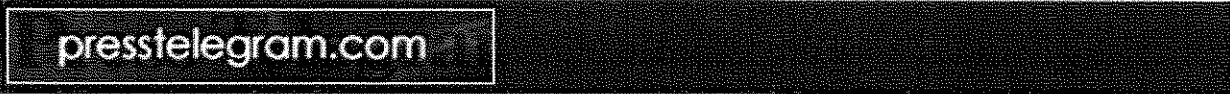
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Where: Council Chambers, City Hall, 333 W. Ocean Blvd.

TV: Broadcast live on Charter Cable Channel 8 and replayed at 7:30 p.m. Thursday, 7:30 p.m. Friday, 10 a.m. Saturday and 2 p.m. Sunday

Internet: www.longbeach.gov/cityclerk/council_online .asp

PAYDAY LOANS

1.9 million California households use payday loans.

459 percent average APR for a payday loan.

99 percent of payday loan borrowers are repeat customers.

\$400 million per year - what payday loan customers spend on payday loan fees.

Source: California Reinvestment Coalition

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From the Los Angeles Times

More in middle class using payday lenders

The short-term loan stores are proliferating in suburban areas as the economy worsens. Critics say they trap the working poor with steep interest rates; lenders say they provide a needed service.

By Kim Christensen

December 24, 2008

One in a series of occasional stories

With its quaint downtown and tree-lined streets, the unpretentious city of Cleveland, Tenn., in the foothills of the Great Smoky Mountains seems an unlikely epicenter for a \$50-billion-a-year financial industry.

But this is where W. Allan Jones founded Check Into Cash, the granddaddy of modern payday lenders, which cater to millions of financially strapped working people with short-term loans -- at annualized interest rates of 459%.

"It's the craziest business," said Jones, 55, a genial homegrown tycoon who founded his privately held company in 1993. "Consumers love us, but consumer groups hate us."

In years past, a worker might have asked his employer for an advance on his paycheck. Now, with a driver's license, a pay stub and a checking account, he can walk into a typical payday loan store, postdate a check for \$300 and stroll out with \$255 in cash after a \$45 fee.

No muss, no fuss, no credit check.

Americans now pay as much as \$8 billion a year to borrow at least \$50 billion from payday lenders, by various estimates.

That's more than 10 times the level of a decade ago, according to a report by the California Department of Corporations. In California alone, customers now borrow about \$2.5 billion a year from payday lenders, the report said.

Nationwide, the number of payday outlets has exploded from zero in 1990 to some 25,000 today, running the gamut from mom-and-pop outfits to national chains

Advocacy groups have long bashed payday loans as debt traps for the working poor, accusing lenders of baiting their customers with easy cash -- and then hooking them into an endless cycle of repeat borrowing.

As the economy has worsened, however, payday loans have increasingly become crutches for those higher up the economic scale, said Elizabeth Warren, a Harvard law professor who chairs a congressional watchdog panel on the \$700-billion bailout for the financial system.

More and more middle-class families use the loans "to put off the day of reckoning," she said: "Too many families live with no cushion, so when something goes wrong they turn to payday lenders."

Payday loans aren't available only on payday. The term derives from the fact that they are designed to help borrowers get from one paycheck to the next, usually about two weeks.

Sheryl Loebig is a single mother of four who works as a paralegal for the nonprofit Legal Aid Society of Orange County.

After her aging Chevy Blazer died in early 2006, she cobbled together six payday loans for a \$1,500 down payment on a new Toyota Corolla. She had no other credit options, she said, because medical bills had driven her into bankruptcy.

Two years later, the Anaheim resident had racked up \$7,000 in fees to renew her loans every two weeks -- but still owed more than \$1,000.

"I am desperately trying to pay them down, but I just can't," said Loebig, 47, who earns \$33,000 a year. "I don't drink. I don't party. I don't go out. I don't have a cellphone. We don't have cable or any of the other amenities. I don't spend much on anything, but I still have nothing left over to pay the loans down."

Loebig said she was determined to repay the loans, "no matter what." But with take-home pay of \$1,800 to \$2,000 a month and rent, child care, a car payment and other expenses, she said, she was lucky to cover the fees on her loans, much less pay them off.

She had come to dread her own payday, since that meant spending the evening driving around Orange County, writing checks to her lenders.

"It's so bad, I can't sleep the night before, just thinking about it," she said.

Since 2006, as incomes have stagnated while costs of gasoline, mortgages and groceries have risen, more Southern California payday lenders have opened in suburban areas, according to a Times analysis of state records.

In the last year, outlets have sprung up in Woodland Hills, Simi Valley, Lake Forest and La Quinta, near Palm Springs.

With tidy lobbies that resemble bank branches, many outlets are in shopping centers anchored by Wal-Marts, grocery stores or other big retailers. Lenders say their typical customers include homemakers, firefighters and teachers, whose steady jobs qualify them for loans.



Short of cash to fix her ailing BMW this year, Lunetta Blanks could have paid the bill with plastic. Instead, the federal investigator opted for a payday loan, shelling out \$300 to pay off a \$255 loan from the Advance America branch in her Silver Lake neighborhood.

"I'm trying to pay off my credit card, so I'd rather just pay them than put it on the card," Blanks said. "It's pretty high, but when you need the money, you need the money."

As an alternative to payday lending, some credit unions and other lenders have begun offering short-term, small-dollar loans at annual rates as low as 12%. But many borrowers are unaware of such options.

Although industry statistics show that most borrowers repay on time, many do not. Instead, they borrow from a second lender to pay off the first, or repeatedly roll over or "flip" their loans into new ones, sinking ever deeper in debt.

The Center for Responsible Lending, a nonprofit, nonpartisan advocacy group, contends that the average payday loan is flipped eight times, pushing the cost of a \$325 cash advance to \$793.

"That's common, that's hoped for, that's expected," said Ginna Green, the North Carolina-based group's California communications manager. "These loans are designed to be flipped and refinanced, over and over and over."

Lenders say that Green's organization and others exaggerate borrowers' difficulties.

"Consumer groups are very effective at using that 3- or 4% of horror stories about people who misused the product and got more loans than they can afford," said Steven Schlein, a spokesman for Community Financial Services Assn. of America, a trade group.

Most payday borrowers earn \$25,000 to \$50,000 a year, and most loan stores that don't offer check-cashing or pawn services are in middle-class neighborhoods, he said.

"Why would you have a business model to make loans to people who can't pay you back?" he said.

In California the maximum loan amount is \$300, which yields borrowers \$255 after a fee of \$15 per \$100. That's 17.6% of the amount borrowed, so if a customer takes a year to pay it off, it works out to an annual rate of 459% -- 17.6% multiplied by 26 two-week periods.

Lenders say it's unfair to express their fees as percentage rates because their loans are designed to be short-term. Some liken the cash advances to taxi rides, saying that both are bad choices for the long haul -- and that borrowers know it.

"We are dealing with people who are a whole lot smarter than what the consumer groups say they are," said Jones of Check Into Cash.

Modern payday lending's roots reach to illegal "salary buying" of a century ago, when loan sharks charged workers up to 300% for cash advances on their paychecks. That led to government regulation of small loans, which eventually were made by finance companies and other traditional lenders.

But as mainstream lenders abandoned the market for larger, more profitable loans, fledgling payday lenders stepped in -- and quickly multiplied.

Jones, widely considered an industry pioneer, got his start in his hometown of Cleveland, Tenn., population 38,000.

He had dropped out of college two decades earlier to work in his father's credit bureau and collections business, he said, when he hit upon the cash advance idea in 1993 while wooing a job candidate from Johnson City, Tenn.

"I found him in this old service station and he had a banner up that said 'Check Cashing,'" Jones said. "When I went in to try to hire him, I had to keep moving out of the way because customers kept coming in and thanking him for being open."

As Jones tells it, grateful borrowers were happy to trade 20% of their next paycheck for a two-week advance rather than miss bill payments or face bank fees for bounced checks.

"Our first customer was an Army recruiter," he recalled. "He came in on a Friday and said his check hadn't arrived. His son had a birthday that Saturday and wanted a \$100 bicycle and he didn't want to disappoint him."

Jones, whose fortune has been pegged at \$500 million, owns a gated 600-acre estate in Cleveland, complete with a lighted football field and spectator stands, a car collection that includes "everything my daddy wouldn't buy me," two corporate jets, a shopping center, office buildings, apartments and restaurants.

A major philanthropist and preservationist, he has doled out millions for civic projects, including a new wrestling facility at Cleveland High School and an aquatics center at the University of Tennessee in Knoxville.

But not even good works can quiet those who decry payday lenders.

"We look at those big pots of money and we know where it came from: low- to moderate-income workers who are writing checks each week without money in the bank," said Jean Ann Fox, the Consumer Federation of America's director of consumer protection.

Still, payday lenders' profits are only slightly higher than those of banks and other financial institutions, according to a December 2007 study by researchers from Vanderbilt University Law School and the University of Oxford. The study noted that while payday lenders' interest rates can be astronomical, they also have higher costs because of defaults.

Jones said his company -- which now has 1,270 outlets in more than 30 states -- makes \$1.12 on the \$15 fee it charges on a \$100 loan, after labor, overhead and other costs.

"Look out your window and tell me if you see any big bank buildings," he said to a reporter in Los Angeles, its skyline punctuated by towers owned by U.S. Bank, Wells Fargo and Bank of America. "You see any big payday loan buildings sticking up? You tell me who's making all the money."

His major competitors include privately held Ace Cash Express, based in Irving, Texas, and at least five large publicly traded lenders, led by Advance America Cash Advance of Spartanburg, S.C., with some 2,850 branches.

Advance America was founded by George D. Johnson Jr., a developer and former Blockbuster Entertainment executive, and William "Billy"



Webster IV, a Fulbright scholar who hit big with Bojangles fried chicken franchises and later was President Clinton's advance man.

After leaving government service in 1995, Webster turned for ideas to Johnson, now 66, whom he'd met through the restaurant business.

"George said, 'Something just came across my desk. Why don't we go look at it?' " recalled Webster, 51, who once worked for a payday lender to examine it from the inside out.

"It was an incredible business," he said. "I had never seen a business that was as quick to fulfill such a compelling consumer demand."

He and Johnson started Advance America in 1997 and took it public in 2004. Last year the company made 11.5 million loans to 1.5 million customers, posting \$54 million in net income on record revenue of \$709 million.

Through the first nine months of this year, Advance America's revenue decreased 4.7% to \$501.5 million, and net income fell 24% to \$32.5 million.

The decline is largely due to legislative efforts to cap interest rates.

Payday lenders have flourished in part by persuading state lawmakers to exempt them from usury limits and small-loan rate caps of 24% to 48% for banks and other financial institutions.

In a 2007 study, the nonpartisan National Institute on Money in State Politics found that California was among the top recipients of contributions from payday lenders. State-level candidates and party committees garnered \$837,673 from 1999 to 2006, trailing only Illinois and Florida. Last year, the industry gave at least \$109,000 more, state records show.

In April, a bill to cap California payday interest rates at 36% died after the Assembly Banking and Finance Committee gutted it, with some members saying that people living paycheck to paycheck needed the loans.

Similar laws have passed elsewhere, though, with dire results for payday lenders.

Congress last year put a 36% rate limit on loans to members of the armed services, effectively ending cash advances to military families. When Oregon set the same cap last year, it all but shut down payday lending there.

In November, voters in Ohio and Arizona rejected ballot measures to lift legislative restrictions on payday lenders, adding those states to a list of about a dozen others that either do not permit payday lending or heavily restrict it.

Payday lenders have begun to offer lower-interest loans in some of those states.

"The pendulum has swung a little more toward the side of the consumer action groups," said Daniel O'Sullivan, an analyst with Utendahl Capital Partners in New York.

But he's not ready to count out the industry just yet.

"At the end of the day, there is a need for the product," said O'Sullivan, whose firm has no financial stake in it. "So it comes down to finding something that makes sense for everybody -- something the companies can make money at without putting people into a debt spiral."

kim.christensen@latimes.com

Times staff writer Doug Smith contributed to this report.

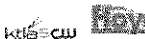
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Payday Loans in the State of California

- To Get A Payday Advance You Must Have The Following:
 - A checking account (proof of your checking account)
 - Two valid forms of identification (generally a drivers' license or ID)
 - A job or steady income (with two recent paystubs in the past 30 days)
 - Proof of residence (generally a utility bill)

- A payday loan is a fee-based product. State law mandates that stores can charge NO more than 15% per \$100 (\$17.65 = \$15+tax) up to a maximum loan amount of \$255. There is NO accruing interest, NO late fees. It is illegal to charge ANY more than the initial fee.
 - APR vs. Fee-based Product: by Federal Truth and Lending Guidelines, we are mandated by the Federal Government to display our Annual Percentage Rate (APR). Though this is only a two-week loan, if amortized (one took out this loan every two weeks for an entire year), it would amount to 391 percent. However, since it is illegal for us to charge interest or late payments, one really needs to differentiate that this isn't like a car loan or credit card, it's simply a two-week loan.
 - Payday advance compares favorably to many consumer alternatives, even when expressed as annual percentage rates for two-week terms: \$100 payday advance with \$15 fee is 391% APR.; \$100 bounced check with \$54.87 NSF/merchant fee is 1431% APR; \$100 credit card balance with \$37 late fee is 965% APR; a \$100 utility bill with \$46.16 late/reconnect fees is 1203% APR; a \$100 off-shore Internet payday advance with \$25 fee is 651.79% APR; \$29 overdraft protection fee on \$100 is 755%.

- In the State of California....
 - 90 percent of customers pay back their loan in two weeks.
 - The average customer makes \$55,000/year. Over half own a home. And nearly one-third have been to college.
 - It is illegal to 'rollover' a loan. That is where one can get into the known 'cycle of debt' where one takes out a loan, then takes out another incurring another fee to pay off the initial principal and the trend continues there in a downward spiral from there. Rollovers are illegal in the State of California and in 22 other states.

- How Do Payday Lenders Compare As Employers?
 - The entry level employee makes between \$10-15/ hour. All have full health, dental and vision insurance for them and their families. All have 401k options.

- Our Opposition Has Suggested Our Businesses Operate on a 36 Percent APR – What Would That Mean For The Industry?
 - This would inevitably force them out of business.
 - At a 36% APR, the total fee charged on a \$100, two-week advance would be \$1.38. Payday advance lenders could not cover the cost of originating a loan, let alone meeting employee payroll and benefits and other fixed business expenses.

CITY OF CARSON
PLANNING COMMISSION
RESOLUTION NO. 09-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CARSON RECOMMENDING TO CITY COUNCIL THE APPROVAL OF AN ORDINANCE TO AMEND THE CARSON MUNICIPAL CODE BY ADDING ARTICLE IX (PLANNING AND ZONING), CHAPTER 1, PART 9, SECTION 9191.084, SECTION 9191.176, AND SECTION 9191.456, AND AMENDING SECTION 9131.1, SECTION 9138.17, SECTION 9138.18, SECTION 9141.1, AND SECTION 9182.22 IN REGARDS TO CONDITIONAL USE PERMIT REQUIREMENTS FOR PAYDAY LOANS

THE PLANNING COMMISSION OF THE CITY OF CARSON, CALIFORNIA, HEREBY FINDS, RESOLVES AND ORDERS AS FOLLOWS:

Section 1. The Planning Commission is recommending approval of an ordinance amendment as described in Exhibit "A" attached hereto to the Carson City Council. The proposed ordinance amends Article IX (Planning and Zoning), section 9131.1, section 9138.17, section 9141.1, section 9138.19, and adding section 9191.084, section 9191.176, and section 9191.456 to establish conditional use permit requirements for payday loans. A public hearing was duly held on February 24, 2009, at 6:30 P.M. at City Hall, Council Chambers, 701 East Carson Street, Carson, California. A notice of time, place and purpose of the aforesaid meeting was duly given.

Section 2. Evidence, both written and oral, was duly presented to and considered by the Planning Commission at the aforesaid meeting.

Section 3. The Planning Commission finds that:

- a) The proposed ordinance providing conditional use permit requirements for payday loans supports and is consistent with the City of Carson General Plan.
- b) The implementation of the proposed ordinance facilitates the on-going protection of the health, safety and welfare of the Carson community.

Section 4. The Planning Commission further finds that proposed Ordinance No. 09-1419 is exempt from the California Environmental Quality Act (CEQA) Guidelines per Section 15061(b)(3), which exempts projects where it can be positively determined that the activity does not have the potential to cause a significant effect on the environment. The Planning Commission determines that Ordinance No. 09-1419 will not impact the environment.

Section 5. The Secretary shall certify to the adoption of the Resolution and shall transmit copies of the same to the applicant.

Section 7. This action shall become final and effective fifteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of the Carson Zoning Ordinance.

PASSED, APPROVED AND ADOPTED THIS 24th DAY OF FEBRUARY, 2009

CHAIRMAN

ATTEST: _____

SECRETARY

EXHIBIT NO. - 5



DRAFT ORDINANCE NO. 09-1419

AN ORDINANCE OF THE CITY OF CARSON, CALIFORNIA, TO AMEND THE CARSON MUNICIPAL CODE BY ADDING ARTICLE IX (PLANNING AND ZONING), CHAPTER 1, PART 9, SECTION 9191.084, SECTION 9191.176, AND SECTION 9191.456, AND AMENDING SECTION 9131.1, SECTION 9138.17, SECTION 9138.18, SECTION 9141.1, AND SECTION 9182.22 IN REGARDS TO CONDITIONAL USE PERMIT REQUIREMENTS FOR PAYDAY LOANS

WHEREAS, on December 31, 2004, regulatory responsibility for deferred deposit originators (also referred to as payday loans), transferred from the Department of Justice to the Department of Corporations with the adoption of the California Deferred Deposit Transition Law (Financial Code Section 23000 et. seq.); and

WHEREAS, on January 1, 2005, the State of California defined the term "check cashing" to only include services such as processing checks for a fixed fee, warrants, drafts, money orders, or other commercial paper serving the same purpose. The service of "check cashing" does not include any type of deferred deposit or short-term loan; and

WHEREAS, public concerns for payday loan facilities and their predatory lending practices brought on concerns for the unregulated use within the city; and

WHEREAS, to prevent over-concentration of payday loans and predatory lending practices from threatening the general welfare, the Planning Commission requested that an ordinance requiring conditional use permits for payday loans be prepared.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. That the City Council, exercising their independent judgment, finds that the proposed code amendment is exempt from the California Environmental Quality Act (CEQA) Guidelines per Section 15061(b)(3), which exempts projects where it can be positively determined that the activity does not have the potential to cause a significant effect on the environment. The City Council determines that the proposed Code Amendment will not impact the environment.



Section 2. Article IX Chapter 1, Part 9, Section 9191.084, Section 9191.456, and Section 9191.176 is hereby added, in its entirety, as follows (additions are in *italics* and underlined):

“Section 9191.084 Check Cashing or Check Cashing Business. Shall mean any business or type of service that is required to obtain a ‘Check Casher Permit’ from the Attorney General’s Department of Justice and/or provides services which include the acts of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose for compensation. Check cashing does not include any form of deferred deposit, payday loan, or short-term lending.

Section 9191.176 Deferred Deposit or Deferred Deposit Originator. Shall mean any business or type of service that is required to obtain a ‘Deferred Deposit Originator License’ from the California Department of Corporations and provides services such as a transaction whereby a person defers depositing a customer’s personal check until a specific date, pursuant to a written agreement for a fee or other charge. Also includes any type of short-term lending.

Section 9191.456 Payday Loan. See Deferred Deposit.”

Section 3. Article IX, Chapter 1, Part 3, Division 1, Section 9131.1 of the Carson Municipal Code entitled “Uses Permitted” under sub-heading “Offices” is hereby amended (amendments are in *italics* and underlined):

“Division 1. Uses Permitted

§ 9131.1 Uses Permitted.

Uses are permitted in the commercial zones as indicated in the following table:

USES PERMITTED IN COMMERCIAL ZONES	
Legend	
X.	Automatically permitted use.
L.	Automatically permitted use provided special limitations and requirements are satisfied as noted herein or in Division 8 of this Part.
D.	Use permitted subject to the approval of the Director.
LD.	Use permitted provided special limitations and requirements are satisfied as noted herein, in Division 8 of this Part and in Division 8 of Part 2, and subject to the approval of



	the Director.
C.	Use permitted upon approval of a conditional use permit.
CC.	Use permitted upon approval of the City Council as prescribed, under other provisions of the Carson Municipal Code.
	All commercial uses permitted by this Part shall be subject to the requirements contained in CMC 9172.23, Site Plan And Design Review, except temporary uses (See CMC 9131.1). (Ord. 84-704)

	ZONES					
	CN	CR	CG	CA	MU-CS	MU-SB
Offices:						
Business, professional, financial, insurance, real estate, utility payments, telegraph, telephone answering service, messenger service, advertising, newspaper or publishing (no printing), ticket agency, travel agency, employment agency, collection agency, detective agency, security service, bail bondsman, <u>check cashing</u> . (See CMC 9138.17 and 9138.18)	X	X	X		L	L
<u>Payday loans</u>	<u>C</u>	<u>C</u>	<u>C</u>			
Drive through banks	X	X	X			
Wholesale business, manufacturer's agent, broker (no storage or deliveries other than samples).	L	L	L			X"



Section 4. Article IX, Chapter 1, Part 3, Division 8, Section 9138.17(1) of the Carson Municipal Code entitled "Mixed Use – Carson Street (MU-CS)" under "Prohibited Uses" is hereby amended, as follows (amendments are in *italics* and underlined):

1. Prohibited Uses.

- a. Any use not fully enclosed in a building.
- b. Dismantling of vehicles or the storage of vehicles for parts.
- c. Outside storage.
- d. Arcade.
- e. Massage parlor
- f. Drive-through restaurants.
- g. Bowling alley as a primary use.
- h. Driving skills course.
- i. Indoor mini-mart or auction house.
- j. Public assembly uses, including but not limited to churches, temples or other places of religious worship, not associated with recreational areas designated for exclusive use of permitted residential uses.
- k. Sexually oriented business establishments.
- l. Vehicle sales and service.
- m. Payday loans.*
- n.* All uses are prohibited except as expressly permitted by the provisions of this Section.

Section 5. Article IX, Chapter 1, Part 3, Division 8, Section 9138.18(C)(2) of the Carson Municipal Code entitled "Mixed Use – Sepulveda boulevard (MU-SB)" under "Prohibited Uses" (additions are in *italics* and underlined):

- a. Any use not fully enclosed in a building.
- b. Dismantling of vehicles or the storage of vehicles for parts.
- c. Outside storage.
- d. Arcade.
- e. Massage parlor
- f. Tattoo parlor
- g. Drive-through restaurants and drive-through pharmacies.
- h. Bowling alley, as a primary use.
- i. Driving skills course.
- j. Indoor mini-mart or auction house.
- k. Night clubs
- l. Public assembly uses, including but not limited to churches, temples or other places of religious worship, not associated with recreational areas designated for exclusive use of permitted residential uses.



- m. Sexually oriented business establishments.
- n. Vehicle sales and service.
- o. Payday loans
- op. All uses are prohibited except as expressly permitted by the provision of this Section.

Section 6. Article IX, Chapter 1, Part 4, Section 9141.1 of the Carson Municipal Code entitled "Uses Permitted" under sub-heading "Uses Permitted in Commercial Zones". Additions are after "Adult businesses" and before "Massage service" is hereby amended, as follows (additions are in *italics* and underlined):

	"ZONES"	
	ML	MH
Uses Permitted in Commercial Zones:		
Retail services and offices:		
<i>Payday loans</i>	<u>CUP</u>	<u>CUP "</u>

Section 7. Article IX, Chapter 1, Part 8, Division 2, Section 9182.22 of the Carson Municipal Code entitled "Termination of Existing Nonconforming Use" is hereby amended as follows (additions are in *italics* and underlined):

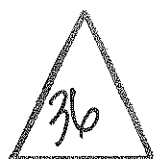
"Section 9182.22 Termination of Existing Nonconforming Use.

A lawfully established use which becomes a nonconforming use, including any buildings, structures or facilities designed or intended only for uses which are nonconforming, shall be terminated and such buildings, structures or facilities shall be removed or made conforming in all respects within the time period specified in subsection A or B of this Section, whichever is applicable and results in the later termination date.

A. The time period indicated in the following table measured from the date of becoming a non conforming use:



Use	Allowable Life
Use of land without buildings or structures.	1 year
Use involving only buildings or structures which would not require a building permit to replace such buildings or structures (but not including a mobile home park).	3 years
Mobile home park; mobile homes on individual lots.	35 years
Use involving buildings or structures which would require a building permit to replace such buildings or structures.	20 years
Outdoor advertising use.	5 years
Trailer parks	20 years
Producing oil wells, oils storage tanks.	20 years
Sale of convenience goods at automobile service stations within 300 feet of any school.	20 years
Arcades	5 years
Existing indoor mini-marts, auction house.	10 months
Truck-related uses defined in CMC 9148.8 which require a conditional use permit.	1 year
<p>Cargo Container Storage; provided, however, that effective February 5, 1988:</p> <p>(1) No cargo container storage shall be permitted within fifty (50) feet of any residentially zoned property which involves any stacking more than one (1) container high;</p> <p>(2) No cargo container storage shall be permitted within one hundred (100) feet of any residentially zoned property which involves any stacking more than</p>	6 months



two (2) containers high; and (3) In no event shall any cargo container storage be permitted on any site which involves any stacking more than three (3) containers high.	
Existing food/grocery stores in residential zones.	Expires December 31, 2003
Multiple-family residential uses located within a Mixed-Use (MU) District with ten (10) or more units (except existing mobile home parks), subject to CMC 9182.24.	2 years
Adult Business	5 years
Massage service.	1 year
Tattoo service	1 year
Wireless telecommunications facility, transmitter, receiver or repeater station – radio, television, microwave.	5 years
Second dwelling unit.	5 years
Vehicle repair and service located within the Commercial, Regional (CR) Zone, the Mixed-Use Residential (MUR) Overlay District and properties in all zones within one hundred (100) feet of residential zones, subject to CMC 9182.26.	5 years
Truck yard.	1 year
Alcoholic and Beverage Control (ABC) License, on-sale and off-sale only (subject to the requirements of 9138.5)	3 years
Alcoholic and Beverage Control (ABC) License, on-sale and off-sale only with a conditional use permit shall be subject to the requirements of 9138.5	1 year
Transient Hotels, motels with a	1 year



conditional use permit shall be subject to the requirements of 9138.19	
<u>Payday loans</u>	<u>3 years"</u>

Section 8. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that anyone or more sections, subsections, clauses, phrases or portions be declared invalid.

Section 9. The City Clerk shall certify to the passage of this ordinance and cause it to be posted in three conspicuous places in the city of Carson, and it shall take effect on the thirty-first (31) day after it is approved by the Mayor.

PASSED, APPROVED, and ADOPTED this ____ day of _____, 2009.

Mayor, Jim Dear

ATTEST:

City Clerk, Helen Kawagoe

APPROVED AS TO FORM:

William W. Wynder, City Attorney

