



# CITY OF CARSON

## PLANNING COMMISSION STAFF REPORT

CONTINUED PUBLIC HEARING: March 10, 2009

SUBJECT: Continued Public Hearing for 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

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### 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. 10A***

## 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).

On February 24, 2009, the Planning Commission held a public hearing to discuss draft Ordinance No. 09-1419 and continued the public hearing to March 10, 2009. The justification for the continuance was to provide the Commission additional time to review the ordinance.

## II. Background

Since February 24, 2009, staff has met with personnel working at the two payday locations within the MU-CS zone. Staff has also researched additional information in regards to statistics and best practices of payday loan facilities.

## III. Analysis

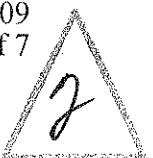
### *The California Department of Corporations*

The California Department of Corporations conducted a Payday Loan study in 2007. The study states that the majority of payday customers receive 2-5 deferred deposit transactions a year and that, "although most borrowers report turning to payday lenders as a one-time solution to an immediate financial need, most report that the establishment of a payday loan account opens the door to a repetitive cycle of borrowing that is difficult if not impossible to end". (Exhibit No. 2)

Payday lending facilities do provide a needed service and some payday lending corporations do provide adequate facilities and incorporate best management practices into their business, however staff believes additional regulation via the conditional use permit process is necessary in order to prevent overconcentration, address the existing facilities that may not be operating at an acceptable level, provide safety, protect the general welfare, and address any additional adverse impacts.

### *Trade Associations*

The Community Financial Services Association of America (CFSA) and the Financial Service Centers of America (FISCA) are two of the largest national trade associations for payday lenders. Payday lenders pay a fee to be members of these organizations. These trade associations adopt best practices that hold the businesses at a higher standard of responsibilities and they also encourage businesses to implement them. (Exhibit No. 3) Although these associations are available to businesses, not all payday lenders are members and not all members practice their adopted best practices.



### Currently in the City

There are currently 2 (two) check cashing facilities (primary use) and eleven (11) payday facilities within the city. One of the payday facilities is currently operating without a business license because it was denied by the Fire Department in January, 2009. In addition, another payday lender within the city is operating illegally without a state license. Eight (8) out of the 11 payday facilities offer both payday and check cashing services. Most of the payday lenders within the city are members of one or both of the trade associations listed above.

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.

### Proposed Ordinance

Since February 24, 2009, staff has revised the draft ordinance to allow the two existing payday loan facilities within the MU-CS zone to apply for a conditional use permit while prohibiting any new facilities within the MU-CS and MU-SB zones. The two payday facilities within the MU-CS zone are Advance America #1096 and USA Checks Cashed. Upon further research and site visits, staff believes Advance America operates at a higher standard than other payday facilities within the city.

The draft ordinance (Exhibit No. 4) will define “check cashing”, “payday loan”, and “deferred deposit” within CMC Section 9191 and require all existing and new payday loan facilities to obtain a conditional use permit for all primary and ancillary payday loan services the commercial and industrial zones. The ordinance will prohibit any new payday facilities within the MU-CS and MU-SB zones. The draft ordinance will also establish an amortization period for existing payday loan businesses.

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. The existing payday loans within the commercial and manufacturing zones 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.

With the passing of the revised draft ordinance recommended by staff, the two (2) payday loans located within the MU-CS zone would be allowed to apply for a conditional use permit and while prohibiting any future payday facilities within the MU-CS and MU-SB zones.

The Planning Commission may consider an alternative ordinance that would require the 2 locations within the MU-CS zone to terminate its use or convert to a permitted use within the amortization period of 3 years.

Below is a summary of the changes to the draft ordinance proposed by staff. For a copy of the entire draft ordinance, please see exhibit No. 4:

Proposed Changes to Draft Ordinance

- 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
<b>Offices:</b>						
Business, professional, financial, insurance, real estate, utility payments, telegraph, telephone	X	X	X		L	L

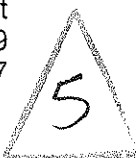


answering service, messenger service, advertising, newspaper or publishing (no printing), ticket agency, travel agency, employment agency, collection agency, detective agency, security service, bail bondsman <u>check cashing</u> . (See CMC 9138.17 and 9138.18)						
	CN	CR	CG	CA	MU-CS	MU-SB
<u>Payday loan</u> (See CMC Section 9182.28)	<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. (See CMC Section 9182.28)
- n. All uses are prohibited except as expressly permitted by the provisions of this Section.



- Article IX, Chapter 1, Part 8, Division 2, Section 9182.28 of the Carson Municipal Code entitled "Payday Loans" under heading "Site Nonconformities" (additions are in *italics* and underlined):

**"9182.28 Payday Loans**

A. Existing lawfully established payday loan facilities within the MU-CS (Mixed-Use – Carson Street) zone shall obtain a Conditional Use Permit by the Planning Commission pursuant to CMC 9172.21. An application for a Conditional Use Permit shall be submitted within a three (3) year period of the effective date of Ordinance No. 09-1419."

**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.

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. However, payday loans do provide a needed service to our residents. 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 all existing businesses to apply for a conditional use permit. Payday loans within the MU-CS zone will be allowed to apply for a conditional use permit while prohibiting any future payday loans within the MU-CS and MU-SB zones. An alternative ordinance requiring the two payday locations within the MU-CS to terminate their use prior to the amortization period can be adopted by the Planning Commission.

**V. Recommendation**


That the Planning Commission:

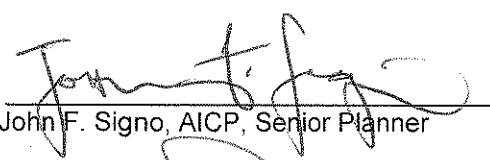
WAIVE further reading and RECOMMEND APPROVAL of Resolution No. 09-\_\_ entitled, "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CARSON RECOMMENDING TO CITY COUNCIL APPROVAL OF AN ORDINANCE TO AMEND THE CARSON MUNICIPAL CODE BY ADDING ARTICLE IX (PLANNING AND ZONING), CHAPTER 1, PART 9, SECTION 9191.084, SECTION 9191.176, SECTION 9191.456, AND SECTION 9182.28, 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. 8-9)
2. Excerpts from the California Department of Corporations 2007 Payday Loan Study. (pgs. 10-14)
3. Sample of Best Practices supported by Trade Associations (pgs. 15)
4. Resolution. (pgs. 16-26)

**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.

**Exhibit 1**

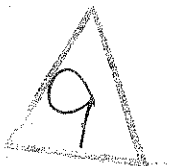




Planning Commission Decision:

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.

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## **CONCLUSIONS**

Although the overwhelming majority of lenders operate according to the guidelines established in the Financial Code that governs payday lending, there is an immediate need for the establishment of a real time information network that allows lenders to identify borrowers who have more than one account and/or more than one open loan at any given period. Findings show that more than two thirds of borrowers have engaged in multiple site borrowing, which by their own account creates a situation where deferred deposit transaction activities no longer provide a solution to short term financial challenges, but becomes an additional factor in their monthly debt issues. Although most borrowers report turning to payday lenders as a one-time solution to an immediate financial need, most report that the establishment of a payday loan account opens the door to a repetitive cycle of borrowing that is difficult if not impossible to end.

Although all lenders report that they provide responsible borrowing information to their clients when loans are made, additional efforts to inform borrowers of long-term borrowing costs may be needed to assist in the prevention of payday loan abuse and industry losses associated with unpaid loans.

## **Exhibit 2**



Respondent Demographics

In the survey, a number of demographic questions were asked. When looking at the loans obtained by borrowers, the demographic characteristics of the borrowers are summarized in the tables below. All 1,494 respondents were asked these questions and it represents the best information available on the characteristics of borrowers.

**Table 49: Gender of Borrowers**

<u>Gender</u>	<u>Unweighted</u>		<u>Weighted</u>	
	<u>Frequency</u>	<u>Percent</u>	<u>Frequency</u>	<u>Percent</u>
Male	601	40.2	684,896	40.2
Female	893	59.8	1,016,787	59.8
Total	1,494	100	1,701,683	100.0

**Table 50: Race and Ethnicity of Borrowers**

<u>Race\Ethnicity</u>	<u>Unweighted</u>		<u>Weighted</u>	
	<u>Frequency</u>	<u>Percent</u>	<u>Frequency</u>	<u>Percent</u>
Caucasian	533	35.7	603,473	35.5
Hispanic	541	36.2	619,000	36.4
Black	275	18.4	313,490	18.4
Asian	38	2.5	43,416	2.6
American Indian	31	2.1	34,917	2.1
Hawaiian or Pacific Islander	20	1.3	23,003	1.4
Other	31	2.2	35,576	2.1
Refused	23	1.5	26,460	1.6
Total	1,494	100	1,701,683	100.0

**Table 51: Age of Borrowers**

<u>Age</u>	<u>Unweighted</u>		<u>Weighted</u>	
	<u>Frequency</u>	<u>Percent</u>	<u>Frequency</u>	<u>Percent</u>
LESS THAN 18	3	0.2	3,587	0.2
18 - 24	137	9.1	155,656	9.1
25 - 34	368	24.6	418,667	24.6
35 - 44	353	23.6	401,791	23.6
45 - 54	280	18.7	318,785	18.7
55 - 64	189	12.7	215,806	12.7
65 - 74	68	4.5	77,008	4.5
75+	22	1.5	25,211	1.5
Refused	72	4.8	81,551	4.8
Do not know/cannot remember	3	0.2	3,619	0.2
Total	1,494	100.0	1,701,683	100.0

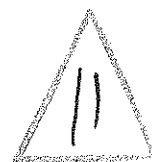


Table 52: Education of Borrowers

<u>Education</u>	<u>Unweighted</u>		<u>Weighted</u>	
	<u>Frequency</u>	<u>Percent</u>	<u>Frequency</u>	<u>Percent</u>
Less than High School graduate	145	9.7	164,766	9.7
High school graduate / GED	500	33.5	569,763	33.5
Some college	437	29.3	498,101	29.3
College graduate	272	18.2	309,388	18.2
Post graduate degree	51	3.4	57,724	3.4
Trade/business school graduate	22	1.5	25,585	1.5
Refused	63	4.2	71,927	4.2
<u>Do not know/cannot remember</u>	4	0.3	4,429	0.3
Total	1,494	100.0	1,701,683	100.0

Table 53: Reported Income of Borrowers

<u>Income</u>	<u>Unweighted</u>		<u>Weighted</u>	
	<u>Frequency</u>	<u>Percent</u>	<u>Frequency</u>	<u>Percent</u>
Under \$10,000	96	6.4	109,365	6.4
\$10,000 to \$19,999	174	11.6	197,703	11.6
\$20,000 to \$29,999	219	14.7	249,596	14.7
\$30,000 to \$39,999	233	15.6	265,213	15.6
\$40,000 to \$49,999	177	11.8	201,251	11.8
\$50,000 to \$59,999	118	7.9	134,727	7.9
\$60,000 to \$69,999	68	4.6	77,920	4.6
\$70,000 to \$79,999	50	3.4	57,304	3.4
\$80,000 to \$89,999	31	2.1	35,331	2.1
\$90,000 to \$99,999	14	1.0	16,375	1.0
\$100,000 and over	32	2.1	36,009	2.1
Refused	242	16.2	275,368	16.2
<u>Do not know/cannot remember</u>	40	2.7	45,522	2.7
Total	1,494	100.0	1,701,683	100.0



Payday Loan Activities – Borrowing from Multiple Locations

Three of every four participants indicated that they had taken multiple loans from several locations at the same time. The remaining participants either did not know that although illegal, multiple loans could be taken at the same time or were afraid to take more than one loan out at a time because they had been told by their lender that they could not have more than one loan outstanding at a time.

Of those who had taken multiple loans:

- Four had taken up to two loans at one time;
- Five had taken up to three loans at one time;
- Two had taken up to five loans at one time; and
- One had taken up to seven loans at one time

When asked why they went to more than one location to obtain a loan, answers varied from one location not being able to lend enough to having to borrow from one company to pay off another company.

*“I use the money I get from the first one to pay off the loan for the second one”*

*“I blow a lot of money and sometimes I need the extra money to cover the things in the house”*

*“I’d gotten it down to just two loans (from five), but my wife got laid off and we needed the extra money”*

Several respondents indicated that when faced with a decision of which lender to pay back if multiple loans were due, they “let one go”, meaning the decision was made to default on a loan and not pay it back.

Of the four participants who were not actively borrowing, three had been borrowers at multiple locations. When asked how they were able to pay off all of their loans and not return the answers varied.

*“Some I paid off, others I just let go and never went back. They called for a while, but it just ended up on my credit or something”*

*“I just decided to not take the loan again until I eventually got down to just the one. It was hard, but I was tired of paying so much money in fees.”*

For multiple location borrowers, “exit” strategies and ways of limiting the number of loans was addressed. Of those who had thought of a way to get down to a fewer number of loans, none felt they were able to begin the process of loan elimination at the time of the discussions.

*“I’d like to get rid of all of my loans, but right now, I don’t have a way of paying them all off.”*

*“I just got a new job. My friend and I were living in a hotel and that [taking multiple loans] is how we were paying for it.”*

*“Before they changed the law you could get more than one time, now I have to go to more than one place to get what I need.”*

*“On the day when my bills were due, I would leave my route and catch the bus from place to place to pay them back...It would take the whole day. It was like another job.”*

*“When I get my income tax check next year, I’ll probably pay one or two of them and see how much I have left for the others.”*

Other Credit Options

Of the 16 borrowers who participated in the discussions:

- All had a department store credit card or account
- All had an open checking account, but only four had savings accounts
- All had a major credit card (not a debit card)
- Two had car notes where payments were still due
- Two had open student loan accounts.
- One had a pre-tax loan with H and R Block; and
- None were home owners

When asked what other options are considered before a payday loan is taken, most said that they considered nothing else as an option.

*“The pawn shop already has all of my stuff. This is the only way I make it through the month”*

*“I can’t ask family cause’ most of them don’t have it. I’d rather just go to the payday place rather than have a family loan hanging over my head anyway.”*

*“Short of going out and robbing a bank, there ain’t no other option for me and I ain’t committing no crime!”*

*“If I had to, I guess I could budget better.”*

For those who had used or thought of using other credit options, the ease and anonymity of borrowing from payday lenders was more appealing than going to pawn shops or family in addition to the ability to quickly turn around loan balances.

For those who were actively borrowing, the question was posed “If payday loans were not available at all, who would you go to about obtaining the funds you need?:

- Four respondents said that they would have to budget better
- Two said that they would try to make due with what they earned until they got paid again
- Six said they did not know what they would do







# Best Practices for the Payday Advance Industry

CFSA Members must abide by the following Best Practices:

- 1. Full disclosure.** A member will comply with the disclosure requirements of the state in which the payday advance office is located and with federal disclosure requirements including the Federal Truth in Lending Act. A contract between a member and the customer must fully outline the terms of the payday advance transaction. Members agree to disclose the cost of the service fee both as a dollar amount and as an annual percentage rate ("APR"). A member, in compliance with CFSA guidelines where they do not conflict with applicable federal, state or local requirements, will further ensure full disclosure by making rates clearly visible to customers before they enter into the transaction process.
- 2. Compliance.** A member will comply with all applicable laws. A member will not charge a fee or rate for a payday advance that is not authorized by state or federal law.
- 3. Truthful advertising.** A member will not advertise the payday advance service in any false, misleading, or deceptive manner, and will promote only the responsible use of the payday advance service.
- 4. Encourage consumer responsibility.** A member will implement procedures to inform consumers of the intended use of the payday advance service. These procedures will include the placement of a "Customer Notice" on all marketing materials, including all television, print, radio and on-line advertising, direct mail and in-store promotional materials.
- 5. Rollovers.** Members shall not allow customers to rollover a payday advance (the extension of an outstanding advance by payment of only a fee) unless expressly authorized by state law, but in such cases where authorized the member will limit rollovers to four (4) or the state limit, whichever is less.
- 6. Right to rescind.** A member will give its customers the right to rescind, at no cost, a payday advance transaction on or before the close of the following business day.
- 7. Appropriate collection practices.** A member must collect past due accounts in a professional, fair and lawful manner. A member will not use unlawful threats, intimidation, or harassment to collect accounts. CFSA believes that the collection limitations contained in the Fair Debt Collection Practices Act (FDCPA) should guide a member's practice in this area.
- 8. No criminal action.** A member will not threaten or pursue criminal action against a customer as a result of the customer's check being returned unpaid or the customer's account not being paid.
- 9. Enforcement.** A member will participate in self-policing of the industry. A member will be expected to report violations of these Best Practices to CFSA, which will investigate the matter and take appropriate action. Each member company agrees to maintain and post its own toll-free consumer hotline number in each of its outlets.
- 10. Support balanced legislation.** A member will work with state legislators and regulators to support responsible legislation of the payday advance industry that incorporates these Best Practices.
- 11. Extended Payment Plan\*.** Each member will provide customers who are unable to repay a payday advance according to their original contract the option of repaying the advance over a longer period of time. Such an extended payment plan will be offered in compliance with any requirement in state law to provide an extended payment plan or, in the absence of such a requirement in state law, in compliance with the Best Practice "Guidelines for Extended Payment Plans." A member will adequately disclose the availability of the Extended Payment Plan to its customers in compliance with any requirement in state law for such a disclosure or, in the absence of such a requirement in state law, in compliance with the Best Practice "Guidelines for Extended Payment Plans."
- 12. Internet lending.** A member that offers payday advances through the Internet shall be licensed in each state where its payday advance customers reside and shall comply with the disclosure, rollover, rate, and other requirements imposed by each such state, unless such state does not require the lender to be licensed or to comply with such provisions, or the state licensing requirements and other applicable laws are preempted by federal law.
- 13. Display of the CFSA Membership Seal.** A member company shall prominently display the CFSA Membership Seal in all stores to alert customers to the store's affiliation with the association and adherence to the association's Best Practices.

\* Laws in some states do not permit implementation of CFSA's Extended Payment Plan (EPP). CFSA is working with regulators in these states to obtain approval of CFSA's EPP and with legislators to promote its adoption into state law.

CITY OF CARSON  
PLANNING COMMISSION  
RESOLUTION NO. 09-

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, SECTION 9191.456, AND SECTION 9182.28, 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 and March 10, 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.

Exhibit No. 4





PASSED, APPROVED AND ADOPTED THIS 10th DAY OF MARCH, 2009

\_\_\_\_\_  
ATTEST:

\_\_\_\_\_  
CHAIRMAN

\_\_\_\_\_  
SECRETARY



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, SECTION 9191.456, AND SECTION 9182.28, 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
<b>Offices:</b>						
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> (See CMC Section 9182.28).	<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 (See CMC Section 9182.28).
- 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
<b>Uses Permitted in Commercial Zones:</b>		
Retail services and offices:		
<u>Payday loans</u>	<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.** Article IX, Chapter 1, Part 8, Division 2, Section 9182.28 of the Carson Municipal Code entitled "Payday Loans" under heading "Site Nonconformities" is hereby added as follows (additions are in *italics* and underlined):

**"9182.28 Payday Loans**

A. Existing lawfully established payday loan facilities within the MU-CS (Mixed-Use – Carson Street) zone shall obtain a Conditional Use Permit by the Planning Commission pursuant to CMC 9172.21. An application for a Conditional Use Permit shall be submitted within a three (3) year period of the effective date of Ordinance No. 09-1419."

**Section 9.** 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 10.** 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

