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

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

Section 1. Findings.

Section (a). General Findings.

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

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

(3) According to the Federal Trade Commission and Consumer Reports, because of the high fees paid for these short term loans and check cashing services, some borrowers may pay the equivalent of more than 900% annual percentage rate interest on their loan. In California, the fee for a pay day loan can be up to $17.50 for every $100 borrowed, up to the maximum of $300. The annual percentage rate for such a transaction is: 911% for a one-week loan; 456% for a two-week loan; and 212% for a one-month loan.
According to the California Reinvestment Coalition, check cashing and pay day lender businesses have grown over 1100 percent nation-wide between 1996 and 2003. According to the Federal Trade Commission and Consumer Reports, since pay day loans were legalized in California in 1997, more than 3,500 pay day loan businesses have opened in the state.

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

According to the Brookings Institute, these providers of check cashing and pay day lending services are heavily concentrated in San Francisco’s poorer neighborhoods, which also have a higher percentage of minority residence than other parts of the City. The median income in a neighborhood with these types of financial services is roughly $38,000, compared with a City-wide median income of about $60,000. One in five residents in these neighborhoods lives in poverty, compared with a City-wide rate of about one in ten. Additionally, 30 percent of residents in these neighborhoods with a check cashing or pay day lender business are Latino, compared with a City-wide rate of about 14 percent. The neighborhood with the highest concentration of check cashing and pay day lender businesses (Census Tract No. 176.01), has a median household income of just $23,899, nearly one in three of its residents lives below the poverty line, and it has one of the highest concentrations of African American residents in the City.
(7) The Brookings Institute found that these check cashing and pay day lender businesses tend to cluster together in the City, saturating particular neighborhoods with their high-priced financial service products. Roughly half of the core providers of these check cashing and pay day lender businesses are located in just four neighborhoods in the City.

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

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

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

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

(2) These interim controls are intended and designed to deal with and ameliorate the problems and conditions associated with the proliferation of check cashing and pay day lender businesses in the City’s commercial districts and areas of mixed residential and commercial uses by imposing a temporary City-wide moratorium on any such new businesses.
This Board has considered the impact on the public health, safety, peace, and
general welfare if the interim controls proposed herein were not imposed.

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

Section (c). Planning Code Section 101.1 Findings.

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

Section (d). Environmental Findings.

The Planning Department has determined that the actions contemplated in this
Ordinance are in compliance with the California Environmental Quality Act (California Public
Resources Code sections 21000 et seq.). Said determination is on file with the Clerk of the
Board of Supervisors in File No. 051721 and is incorporated herein by reference.

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

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

(b) For purposes of this Ordinance, a check cashing use shall be a retail use owned or
operated by a “check cashier” as defined in California Civil Code section 1789.31, as amended
from time to time, regardless of whether such check cashing use is the primary or secondary business service provided by the check casher.

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

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

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

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

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

By: [Signature]

Marlena G. Byrne
Deputy City Attorney

Supervisor Ammiano and City Treasurer
BOARD OF SUPERVISORS

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12/8/2005
Urgency Ordinance approving an interim zoning moratorium on new check cashing and pay day lender uses for 45 days and making required findings, including findings related to the imposition of an interim moratorium, findings of consistency with the priority policies of Planning Code Section 101.1, and environmental findings.

January 10, 2006 Board of Supervisors — FINALLY PASSED
Ayes: 10 - Ammiano, Daly, Dufty, Elsbernd, Ma, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval
Excused: 1 - Alioto-Pier
I hereby certify that the foregoing Ordinance was FINALLY PASSED on January 10, 2006 by the Board of Supervisors of the City and County of San Francisco.

Gloria L. Young
Clerk of the Board

Date Approved

Mayor Gavin Newsom