



OFFICE OF THE CITY ATTORNEY
Long Beach, California

H-1

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City Attorney

October 23, 2012

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City of Long Beach
California

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RECOMMENDATION:

Recommendation to receive supporting documentation into the record, conclude the hearing, declare ordinance relating to the temporary limitation (moratorium) on payday lending, vehicle title loan, or check cashing businesses read, adopted as read, and laid over to the next regular meeting of the City Council for final reading; declaring the urgency thereof; and declaring this ordinance shall take effect immediately. (Citywide)

DISCUSSION

On October 2, 2012, the City Council adopted a minute order pursuant to an agenda request which initiated a moratorium against various high interest or high fee lender uses including those businesses engaged in payday lending, vehicle title lending and check cashing businesses in the City. The moratorium was initiated pursuant to the provisions of Chapter 21.50 of the Municipal Code, "Interim Prohibition of Uses."


The Ordinance which has been prepared for Council's consideration establishes a one year moratorium period. During this time, the Development Services Department and the Planning Commission will undertake a study on the propriety of amending the City's or zoning business regulations related to the above described uses. The one year moratorium will apply to any development or business license application received by the City after October 2, 2012. Specifically exempted from the moratorium provisions are those businesses "in the pipeline" who had submitted complete applications to the City before October 2, 2012. Those businesses currently in the pipeline will be required to pursue and complete the entitlement process in the normal course of the City's application procedures.

SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

ROBERT E. SHANNON, City Attorney

By 
MICHAEL J. MAIS
Assistant City Attorney

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH IMPOSING A MORATORIUM ON
PERMITTING AND ZONING ACTION RELATING TO NEW
PAYDAY LENDING, VEHICLE TITLE LOAN, OR CHECK
CASHING BUSINESSES; DECLARING THE URGENCY
THEREOF; AND DECLARING THAT THIS ORDINANCE
SHALL TAKE EFFECT IMMEDIATELY

WHEREAS, there exist business lending practices, commonly referred to as
“payday” lending practices, whereby lending businesses may legally advance money on
paychecks of low income and financially challenged persons, subject to very high interest
rates; and

WHEREAS, there also exist business lending practices, commonly referred
to as “vehicle title loans”, whereby lending businesses may legally advance money
subject to very high interest rates which are secured by borrowers’ vehicle titles; and

WHEREAS, there also exist business practices, commonly referred to as
“check cashing”; whereby businesses may legally cash checks while charging very high
fees; and

WHEREAS, payday lending, vehicle title loan, and check cashing practices
may be detrimental to numerous individuals including the elderly, the economically
disadvantaged, and other citizens of Long Beach who use these practices as a way of
overcoming immediate needs for cash; and

WHEREAS, payday lenders may often get paid before basic living
expenses such as rent, utilities, and child support payments, as payday lenders can
essentially hold the borrowers checking account hostage thus having the effect of
imposing a super priority lien; and

1 WHEREAS, car title loans may often trap borrowers in long-term debt while
2 placing one of a borrower's most valuable assets – an automobile – at risk of seizure;
3 and

4 WHEREAS, check cashing businesses may often charge an extremely high
5 percentage of the check cashed as a fee; and

6 WHEREAS, the inability of low-income consumers with poor credit history
7 to obtain certain services from federally-insured banks has resulted in a two-tiered
8 financial services industry. More financially-stable consumers are generally able to use
9 traditional banks, which charge low fees for checking and issue loans regulated by the
10 federal government, while lower-income, financially-vulnerable consumers often have to
11 rely upon the alternative financial services (AFS) industry for the same services. Payday
12 lending, check cashing, and vehicle title loan businesses are part of the growing AFS
13 industry; and

14 WHEREAS, the proliferation of the above described businesses have had
15 significant detrimental effects on the financial stability of low-income communities
16 throughout California and low-income neighborhoods in the surrounding cities. These
17 businesses operate almost exclusively in low-income neighborhoods and prey upon the
18 City of Long Beach's most financially vulnerable residents, drawing them into a cycle of
19 debt which may cause them to lose a significant share of their income to exorbitant fees
20 for simple financial transactions; and

21 WHEREAS, the City of Long Beach Zoning Code does not adequately
22 regulate the establishment, expansion, or re-location of the above described businesses
23 within the City of Long Beach; and

24 WHEREAS, it is in the City's best interest to promote orderly growth and
25 balance the development of these businesses in terms of both economics and aesthetics;
26 and

27 WHEREAS, the City of Long Beach requires time to study the feasibility of
28 developing suitable regulations of payday loan, vehicle title loan, or check cashing

1 businesses, as well as the zoning of these businesses within specific areas of the City;
2 and

3 WHEREAS, in order to better protect the general health and welfare of
4 Long Beach, a temporary moratorium on issuance of business licenses, zoning permits,
5 zoning compliance certificates, and other approvals for such establishments will create a
6 more stable environment so that revisions of the City's Zoning Code and general
7 regulatory ordinances can, if necessary, be considered and adopted in an orderly and
8 thorough process;

9 NOW, THEREFORE, the City Council of the City of Long Beach ordains as
10 follows:

11 Section 1. Purpose and Findings. At the direction of the City Council,
12 Development Services and the Planning Commission will undertake or are currently
13 studying potential amendments to the zoning regulations or business regulations of the
14 City of Long Beach relating to the location and possible restrictions of land use approvals
15 related to payday lending, vehicle title loans, check cashing businesses, and other
16 similarly situated short-term consumer finance loan businesses as described in Section
17 21.15.475 of the Long Beach Municipal Code. Residents, Councilmembers and other
18 individuals have expressed concern that the proliferation of check cashing facilities,
19 payday advance or loan businesses, or vehicle title loan businesses throughout the City
20 have led to, or will lead to, the displacement of full service banking institutions in these
21 locales, making access to traditional banking services more difficult for certain
22 economically disadvantaged segments of the City's population.

23 The City Council specifically finds that the existing regulations contained in
24 the zoning and business regulations of the City may be in conflict with the zoning and
25 business regulations that are or will be studied by Development Services and the
26 Planning Commission pursuant to the City Council's direction. The City Council further
27 finds that this interim ordinance shall not conflict with the California Coastal Act.

28 Section 2. For the purpose of this moratorium, the following definitions

1 are applicable:

2 A. "Check cashing" is as currently defined in Section 21.15.473
3 of the Municipal Code and means a commercial land use that generally includes some or
4 all of a variety of financial services including cashing of checks, warrants, drafts, money
5 orders, or other commercial paper serving the same purpose; deferred deposit of
6 personal checks whereby the check casher refrains from depositing a personal check
7 written by a customer until a specific date; money transfers; payday advances; issuance
8 of money orders; distribution of governmental checks and food stamps; payment of utility
9 bills; issuance of bus passes and tokens; sale of phone cards; and similar uses. "Check
10 cashing" does not include a state or federally chartered bank, savings association, credit
11 union, or industrial loan company. "Check cashing" also does not include a retail seller
12 engaged primarily in the business of selling consumer goods, including consumables, to
13 retail buyers that cashes checks or issues money orders for a minimum flat fee not
14 exceeding two dollars (\$2.00) as a service to its customers that is incidental to its main
15 purpose or business.

16 B. "Financial institution" means an establishment open to the
17 public for the deposit, custody, loan, exchange or issue of money, the extension of credit
18 and/or facilitating the transmission of funds, that is licensed by the appropriate federal or
19 state agency as a bank, savings and loan association, credit union, or stock brokerage;

20 C. "Payday advance or loan business" means a business, other
21 than a financial institution, with a primary business activity of making small consumer
22 loans which are usually backed by a postdated check or authorization to make an
23 electronic debit against an existing financial account, with loan repayment typically due
24 when the borrower's next paycheck is issued in order to reclaim the postdated check or
25 cancel the electronic debit.

26 D. "Vehicle title loan business" means a business, other than a
27 "financial institution," with a primary business activity of making small, short-term
28 consumer loans using the equity value of a car or other vehicle as collateral when the title

1 to such vehicle is owned free and clear or nearly free and clear by the borrower.

2 Section 3. Estimated Time for Completion of Study. It is estimated that
3 the study or studies undertaken in connection with the adoption of this interim ordinance
4 shall take Development Services and the Planning Commission approximately one (1)
5 year to complete. For the purposes of this ordinance, this interim moratorium study
6 period shall expire no later than October 1, 2013, or at such time as the City does adopt
7 appropriate zoning or business regulations related to all or some of the above defined
8 businesses, whichever is sooner.

9 Section 4. Prohibition. During the one (1) year interim moratorium
10 period, no application shall be approved for a business license, conditional use permit,
11 administrative use permit or other land use entitlement for the establishment, expansion
12 or relocation of a check cashing facility; for a payday advance or loan business, or for a
13 vehicle title loan business as those terms are defined herein. Said prohibition shall apply
14 Citywide for the duration of the one (1) year interim moratorium period.

15 Section 5. Exceptions. The prohibition contained in this ordinance does
16 not apply to financial institutions as defined herein or where an application for said
17 development, construction, or use, was on file and deemed complete by the
18 Development Services Department on or before October 2, 2012. This exclusion applies
19 specifically to the following locations:

- 20 2706 South Street (Application No. 1203-5);
- 21 201 West Pacific Coast Highway (Application No. 1203-6); and
- 22 2004 Ximeno Avenue, Suite 200 (Application No. 1203-23);

23 all of which locations currently have applications on file with the City which applications
24 were accepted by the City and deemed complete prior to October 2, 2012. This
25 exclusion further applies to all other similarly situated businesses and/or uses that have
26 applications on file with the City, and which applications were deemed accepted and
27 complete by the City prior to October 2, 2012.

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1 Section 6. The City Council finds and determines that the proposed
2 interim ordinance is not in conflict with the various provisions of the California Coastal Act
3 because, among other things, the proposed interim ordinance does not in any way affect
4 access to or the enjoyment of coastal related activities.

5 Section 7. Declaration of Urgency. This ordinance is an emergency
6 measure, and it is urgently required for the reason that, pending completion of the
7 necessary planning study, and a determination relative to the potential need to amend
8 the zoning or business regulations of the City, it is necessary to limit construction,
9 development or use of the above defined facilities in order to avoid the adverse impacts
10 that might be inconsistent with the pending revisions to the zoning or business
11 regulations of the City being considered during the interim period.

12 Section 8. This ordinance is an emergency ordinance duly adopted by
13 the City Council by a vote of at least five (5) of its members and shall take effect
14 immediately. The City Clerk shall certify to a separate roll call and vote on the question
15 of the emergency of this ordinance and to its passage by the vote of five (5) members of
16 the City Council of the City of Long Beach, and cause the same to be posted in three (3)
17 conspicuous places in the City of Long Beach.

18 This ordinance shall also be adopted by the City Council as a regular
19 ordinance, to the end that in the event of any defect or invalidity in connection with the
20 adoption of this ordinance as an emergency ordinance, the same shall, nevertheless, be
21 and become effective on the thirty-first day after it is approved by the Mayor. The City
22 Clerk shall certify to the passage of this ordinance by the City Council of the City of Long
23 Beach and shall cause the same to be posted in three conspicuous places in the City of
24 Long Beach.

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I hereby certify that on a separate roll call and vote which was taken by the City Council of the City of Long Beach upon the question of emergency of this ordinance at its meeting of _____, 2012, the ordinance was declared to be an emergency by the following vote:

Ayes:	Councilmembers:	_____

Noes:	Councilmembers:	_____

Absent:	Councilmembers:	_____

I further certify that thereafter, at the same meeting, upon a roll call and vote on adoption of the ordinance, it was adopted by the City Council of the City of Long Beach by the following vote:

Ayes:	Councilmembers:	_____

Noes:	Councilmembers:	_____

Absent:	Councilmembers:	_____

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I further certify that the foregoing ordinance was thereafter adopted on final reading by the City Council of the City of Long Beach at its meeting of _____, 2012, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

Clerk

Approved: _____
(Date)

Mayor

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Belmont Heights Community Association
375 Redondo Avenue #332
Long Beach, CA 90814
www.mybelmonthheights.org

October 3, 2012

Gary DeLong
Councilmember, 3rd District
City of Long Beach
Long Beach, CA

Dear Councilmember:

The Board of the Belmont Heights Community Association (BHCA) is appealing the Planning Commission decision supporting the staff recommendation at 213 Roswell.

This property is in an R-1-N (single family residential, standard lot) zone. Until recently there were two homes on the lot, which was a legal, non-conforming use of the property, since these homes were constructed before down-zoning occurred. Once the house was demolished without the review of a building inspector, current building codes must apply for any new construction. In this case, this means there can be no more than one home built on the lot.

We ask that you remember that, in the late 1990s, the BHCA led the efforts to down-zone Belmont Heights. This was a hard-fought and serious exercise in codifying the will of the residents of our neighborhood. We owe it to the health of our neighborhood to uphold this R-1 zoning. Having numerous lots with multiple houses caused parking, open-space, density, and quality of life issues for years. Homeowners now move into our neighborhood precisely because we have worked hard to curtail the R-2 trend.

We are not unsympathetic to the needs of home owners, but we must look at the big picture. Granting variances for homeowners who do not conform to planning requirements rewards those who break the rules. Conversely, those who abide by current building laws are left wondering why they should go to the trouble of complying with regulations. Furthermore, the property owner is not a newcomer to the building code in that he remodeled the back home on the lot.

Frankly, allowing an exception for this project will open the door for the many more demolitions and rebuilds that can - and the assumption will be with the blessing of the City - follow. This is in clear violation of the down-zoning ordinance. Allowing the homeowner on Roswell - who had many opportunities to work with city staff on creating a new house in a legal fashion - to flagrantly disregard current zoning is setting a risky precedent. The value of all surrounding property is adversely affected by illegal activity.

Mr. Mayor and Council members, we request that you honor the current code of R-1-N in Belmont Heights and not grant this applicant at 213 Roswell a variance to erect a second home on the lot.

Thank you for your consideration,

Dianne Sundstrom
President, BHCA

cc: Mayor and Council Members

