

CITY OF SAN JOSÉ, CALIFORNIA



City Clerk

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STATE OF CALIFORNIA)
 COUNTY OF SANTA CLARA)
 CITY OF SAN JOSÉ)

I, Dennis D. Hawkins, City Clerk & Ex-Officio Clerk of the Council of and for the City of San José, in said County of Santa Clara, and State of California, do hereby certify that **Ordinance No. 29089**, the original copy of which is attached hereto, was passed for publication of title on the **15th day of May, 2012**, was published in accordance with the provisions of the Charter of the City of San José, and was given final reading and adopted on the **5th day of June, 2012** by the following vote:

AYES: CAMPOS, CHU, CONSTANT; HERRERA, KALRA, NGUYEN,
 OLIVERIO, PYLE, ROCHA; REED.

NOES: LICCARDO.

ABSENT: NONE.

ABSTAINED: NONE.

VACANT: NONE.

Said ordinance is effective as of **July 6, 2012**.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of San José, this **6th of June 2012**.

(SEAL)

DENNIS D. HAWKINS
 CITY CLERK & EX-OFFICIO
 CLERK OF THE CITY COUNCIL

ORDINANCE NO. 29089

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING TITLE 20 OF THE SAN JOSE MUNICIPAL CODE TO AMEND SECTION 20.40.100 OF CHAPTER 20.40 (COMMERCIAL ZONING DISTRICTS), TO AMEND SECTION 20.70.100 OF CHAPTER 20.70 (DOWNTOWN ZONING DISTRICTS), TO ADD A NEW PART 12.5 TO CHAPTER 20.80 (SPECIFIC USE REGULATIONS), TO ADD A NEW SECTION 20.200.875 TO CHAPTER 20.200 (DEFINITIONS), AND RESCINDING THE SUSPENSION OF THE EFFECTIVENESS OF SECTIONS 20.100.1500, 20.100.1510, 20.100.1520, 20.100.1525 AND 20.100.220 UNDER ORDINANCE NO. 28991, ALL IN ORDER TO ESTABLISH LAND USE REGULATIONS PERTAINING TO PAYDAY LENDING ESTABLISHMENTS

WHEREAS, the environmental impacts of this ordinance were reviewed and disclosed in that certain Final Program Environmental Impact Report prepared for the Envision San Jose 2040 General Plan, certified on September 28, 2011 ("Final Program EIR") and for which the City Council of the City of San José adopted its Resolution No. 76041, and the City Council has considered said Final Program EIR and Resolution prior to taking any approval actions on this Ordinance; and

WHEREAS, on November 8, 2011, the City Council adopted Ordinance No. 28991 suspending Ordinance No. 28958 pertaining to medical marijuana collectives; and

WHEREAS, Ordinance No. 28958 contained provisions to establish a process for issuance of Zoning Code Verification Certificates that would be applicable more generally and not specific only to medical marijuana collectives, that would be useful to the regulation of payday lending establishments; and

WHEREAS, the City Council now desires and believes it is in the public interest to consider and approve this Ordinance to amend the City's land use regulations

applicable to payday lending establishments, and the City Council is the decision-making body for this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. Section 20.40.100 of Chapter 20.40 of Title 20 of the San José Municipal Code is amended to read as follows:

20.40.100 Allowed Uses and Permit Requirements

- A. "Permitted" land uses are indicated by a "P" on Table 20-90.
- B. "Conditional" uses are indicated by a "C" on Table 20-90. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Conditional Use Permit as set forth in Chapter 20.100.
- C. "Special" uses are indicated by a "S" on Table 20-90. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Special Use Permit as set forth in Chapter 20.100.
- D. "Administrative" uses are indicated by an "A" on Table 20-90. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with an Administrative Permit as set forth in Chapter 20.100.
- E. "Restricted" land uses are indicated by an "R" on Table 20-90. These uses may occur in such designated districts, as an independent use, but only upon issuance of and in full compliance with a valid and effective Zoning Code Verification Certificate as set forth in Chapter 20.100.
- F. Land uses not Permitted are indicated by a "-" on Table 20-90. Land uses not listed on Table 20-90 are not Permitted.
- G. When the right column of Table 20-90 includes a reference to a Section number or a footnote, the regulations cited in the Section number or footnote apply to the use. In addition, all uses are subject to any other applicable provision of this Title 20 and any other Title of the San Jose Municipal Code.

Table 20-90 Commercial Districts Land Use Regulations					
Use	Zoning District				Notes & Sections
	CO	CP	CN	CG	
General Retail					
Retail sales, goods and merchandise	-	P	P	P	
Alcohol, off-site sales – beer and/or wine only	-	C	C	C	Section 20.80.900
Alcohol, off-site sales, full range of alcoholic beverages	-	C	C	C	Section 20.80.900
Bakery, retail	-	P	P	P	
Food, beverage, groceries	-	P	P	P	
Nursery, plant	-	P	P	P	Note 1
Outdoor vending	-	A	A	A	Part 10, Chapter 20.80
Pawn shop/broker	-	C	C	C	See Title 6
Seasonal sales					Part 14, Chapter 20.80
Retail Art Studio	-	P	P	P	Section 20.40.140
Education and Training					
Child daycare center located on an existing school site or as an incident to an on-site Church/Religious Assembly use involving no building additions or changes to the site	P	P	P	P	
Day care center	C	C	C	C	
Instructional art studios	-	P	P	P	
Instructional art studios, with live models	-	C	C	C	
Private Instruction, personal enrichment	-	P	P	P	
School- elementary and secondary (Public or Private)	C	C	C	C	Note 16
School, driving (class C & M license)	-	P	P	P	Note 2
School, post secondary	-	P	P	P	Note 3
School, trade and vocational	-	C	C	C	
Entertainment and Recreation Related					
Arcade, amusement	-	C	C	C	
Dancehall	-	C	C	C	
Poolroom/Billiards Establishment	-	C	C	C	
Private club or lodge	C	C	C	C	
Recreation, Commercial (indoor)	-	P	P	P	
Recreation, Commercial (outdoor)	-	C	C	C	
Relocated Cardroom	-	-	-	C	Section 20.80.1155
Theatre, indoor	-	C	C	C	
Theatre, outdoor	-	-	-	C	
Food Services					
Banquet facility	-	C	C	C	
Caterer	-	P	P	P	Note 4
Drinking establishments	-	C	C	C	
Drinking establishment interior to a full-service hotel/motel that includes 75 or more guest rooms	-	P	P	P	Section 20.80.475
Public eating establishments	-	P	P	P	
Outdoor dining, incidental to a public eating establishment or a retail establishment	-	P	P	P	Section 20.40.520
Wineries, Breweries	-	C	C	C	
Health and Veterinary Services					

Table 20-90 Commercial Districts Land Use Regulations					
Use	Zoning District				Notes & Sections
	CO	CP	CN	CG	
Animal boarding, indoor	-	P	P	P	Section 20.40.120
Animal grooming	-	P	P	P	Section 20.40.120
Emergency ambulance service	C	C	C	C	
Hospital/ in-patient facility	C	C	C	C	
Medical Marijuana Collective	-	-	-	R	Part 9.5, Chapter 20.80
Office, medical	P	P	P	P	
Veterinary clinic	-	P	P	P	
General Services					
Bail Bond Establishment – Outside Main Jail Area		P	P	P	Part 1.5, Chapter 20.80
Bail Bond Establishment – Within Mail Jail Area		P	P	P	Note 14; Part 1.5, Chapter 20.80
Bed and Breakfast	-	P	P	P	Part 2, Chapter 20.80
Dry cleaner	-	P	P	P	
Hotel/motel	-	P	P	P	
Laundromat	-	P	P	P	
Maintenance and repair, small household appliances	-	P	P	P	
Messenger services	P	P	P	P	Note 2
Mortuary and funeral services	P	P	P	P	
Personal services	-	P	P	P	Section 20.200.880
Photo processing and developing	-	P	P	P	
Printing and publishing	-	P	P	P	
Offices and Financial Services					
Automatic Teller Machine	P	P	P	P	Section 20.80.200
Business Support	-	P	P	P	
Financial Institution	P	P	P	P	
Office, general business	P	P	P	P	Section 20.40.110
Payday Lending Establishment	-	R	R	R	Part 12.5, Chapter 20.80; Section 20.200.875
Public, Quasi-Public and Assembly Uses					
Cemetery	C	C	C	C	
Church/Religious Assembly	C	C	C	C	
Museums, libraries, parks, playgrounds, or community centers (Publicly operated)	P	P	P	P	
Museums, libraries, parks, playgrounds, or community centers (Privately operated)	C	C	C	C	
Residential					
Emergency residential shelter	C	C	C	C	Section 20.80.500
Live/Work	-	S	S	S	Section 20.40.130
Mixed Use residential/commercial	-	C	C	C	Note 6
Residential Care Facility for seven or more persons	C	C	C	C	
Residential Service Facility for seven or more persons	C	C	C	C	
Single Room Occupancy Hotel	-	C	C	C	Part 15, Chapter 20.80

Table 20-90 Commercial Districts Land Use Regulations					
Use	Zoning District				Notes & Sections
	CO	CP	CN	CG	
Single Room Occupancy Living Unit	-	C	C	C	Part 15, Chapter 20.80
Drive-Through Uses					
Drive-through in conjunction with any use	-	-	C	C	
Recycling Uses					
Reverse vending	A	A	A	A	
Small collection facility	A	A	A	A	
Transportation and Utilities					
Data Center	-	-	-	C	
Community television antenna systems	C	C	C	C	
Off-site, alternating use and alternative parking arrangements	S	S	S	S	Section 20.90.200
Parking establishment, off-street	C	C	C	C	
Utility facilities, excluding corporation yards, storage or repair yards and warehouses	C	C	C	C	
Television, radio studios without antenna/dishes	-	-	-	C	
Short term parking lot for uses or events other than on-site	-	-	-	C	Note 7
Wireless communication antenna	C	C	C	C	Section 20.100.1300
Wireless communication antenna, slimline monopole	S	S	S	S	Section 20.80.1900
Wireless communication antenna, building mounted	P	P	P	P	Section 20.80.1910
Electrical Power Generation					
Private Electrical Power Generation Facility	C	C	C	C	Note 2
Co-Generation Facility	S	S	S	S	
Stand-by/Backup					
Facilities that do not exceed noise or air standards	A	A	A	P	
Facilities that do exceed noise or air standards	C	C	C	C	
Temporary Stand-by/Backup	P	P	P	P	
Solar Photovoltaic System	P	P	P	P	Section 20.100.610(C)(7)
Vehicle Related Uses					
Accessory installation, passenger vehicles and pick-up trucks	-	-	C	P	
Auto broker, wholesale, no on-site storage	P	P	P	P	
Car wash, detailing	-	-	C	C	
Gas or charge station	-	C	C	P	Note 8, Note 15
Gas or charge station with incidental service and repair	-	C	C	P	Note 9, Note 13
Glass sales, installation and tinting	-	-	C	P	Note 13
Sale or lease, commercial vehicles	-	-	C	C	Note 13
Sale passenger vehicles, pick-up trucks not exceeding twenty-five (25) feet in length, and motorcycles	-	C	S	P	Note 12, Note 13
Leasing (rental) passenger vehicles, pick-up trucks not exceeding twenty-five (25) feet in length, and motorcycles	-	C	C	P	Note 2
Sale, vehicle parts	-	C	P	P	Note 11

Table 20-90 Commercial Districts Land Use Regulations					
Use	Zoning District				Notes & Sections
	CO	CP	CN	CG	
Tires, batteries, lube, oil change, smog check station, air conditioning servicing of passenger vehicles and pick-up trucks	-	-	C	P	Note 10, Note 13
Historic Reuse					
Historic Landmark Structure Reuse	S	S	S	S	Part 8.5 Chapter 20.80

Notes Applicable to all Commercial Districts:

- (1) In the CP District, landscaping materials, such as rock, mulch, and sand are limited to prepackaged sales.
- (2) No on site storage of vehicles permitted in the CP and CN Zoning Districts.
- (3) Includes public and private colleges and universities, as well as extension programs and business schools.
- (4) Not a catering facility.
- (5) No on site storage of vehicles permitted.
- (6) Mixed Use residential/commercial only under approved Village Plan or in Signature Project consistent with the General Plan.
- (7) Use must be less than twenty-four (24) hours.
- (8) No incidental repair or service permitted.
- (9) Incidental repair includes air conditioning service, carburetor & fuel injection service, electrical service, radiator service, and tune-up, lube, oil change, and smog check, as well as tires, batteries and accessories installation. Does not allow body repair or painting.
- (10) Non engine and exhaust related service and repair allowed as incidental.
- (11) No outdoor sales areas or dismantling allowed.
- (12) In the CG District, incidental repair of vehicles requires a Special Use Permit. Incidental repair of vehicles is prohibited in all other commercial districts.
- (13) All vehicle-related repair, service, and accessory or other installation shall be conducted within a fully enclosed building.
- (14) Bail Bond Establishments shall not be located and are prohibited uses on the ground floors of structures located within the Main Jail Area, as that area is defined in Section 20.80.070 of Chapter 20.80 of this Title. Bail Bond Establishments are allowed as shown on Table 20-90 on other, above-ground floors of structures. All Bail Bond Establishments shall meet all distance requirements specified in Section 20.80.075 of Chapter 20.80 of this Title
- (15) Pedestal charging stations that are incidental to a separate primary use, that do not impact on-site or off-site vehicular circulation, and that serve patrons of the primary use on-site are permitted in all commercial zoning districts.
- (16) Public schools are subject to the regulations of this Title, subject to the provisions of California Government Code section 53094 for classroom facilities.

SECTION 2. Section 20.70.100 of Chapter 20.70 of Title 20 of the San José Municipal Code is amended to read as follows:

20.70.100 Allowed Uses and Permit Requirements

- A. "Permitted" land uses are indicated by a "P" on Table 20-140.
- B. "Conditional" uses requiring Planning Commission approval as the initial decision-making body are indicated by a "C" on Table 20-140. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a conditional use permit approved by the Planning Commission, or City Council on appeal, as set forth in Chapter 20.100.
- C. "Conditional" uses requiring City Council approval as the initial decision-making body are indicated by a "CC" on Table 20-140. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a conditional use permit approved by the City Council as set forth in Chapter 20.100. Applications for these uses shall first be considered by the Planning Commission at a public hearing of the Commission for the Commission's report and recommendation on the application to the City Council pursuant to the processes set forth in Chapter 20.100.
- D. "Special" uses are indicated by a "S" on Table 20-140. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a special use permit as set forth in Chapter 20.100.
- E. "Administrative" uses are indicated by an "A" on Table 20-140. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with an administrative permit as set forth in Chapter 20.100.
- F. "Restricted" land uses are indicated by an "R" on Table 20-90. These uses may occur in such designated districts, as an independent use, but only upon issuance of and in full compliance with a valid and effective Zoning Code Verification Certificate as set forth in Chapter 20.100.
- G. Land uses not permitted are indicated by a "-" on Table 20-140. Land uses not listed on Table 20-140 are not permitted.
- H. The column of Table 20-140, under the heading Additional Use Regulations for the DG Area, identifies further regulations on the uses of ground-floor building space within a portion of the DC Zoning District. The portion of the DC District included in the DG Area is described in Section 20.70.520. These regulations apply to ground-floor building space, defined as Downtown Ground-Floor Space ("DG Area"), in Section 20.70.520 of this Chapter. If there are no additional regulations on properties located in the DG Area noted in this column, the use regulations for the DG Area remain those regulations of the DC Zoning District.

- I. The "Parking" column of Table 20-140 establishes the required parking. The amount of parking may not be increased or decreased unless modified by the Director as set forth in Sections 20.70.320 and 20.70.330 of this Chapter.
- J. When the right column of Table 20-140 includes a reference to a section number or a footnote, the regulations cited in the section number or footnote apply to the use. In addition, all uses are subject to any other applicable provision of this Title 20 and any other title of the San José Municipal Code.

Table 20-140 Downtown Districts Land Use Regulations					
Use	Zoning Districts		Applicable Notes & Sections		
	DC	DC-NT1	Additional Use Regulations for the DG Area	Parking	Applicable to All Downtown Districts
Offices and Financial Services					
Automatic Teller Machine	P	P		No parking	Section 20.80.200
Business Support	P	P	S, Notes k and n	No parking	
Financial institution	P	P	S, Note n	2.5 per 1,000 sq. ft.*	
Financial Services	P	P	S, Notes m and n	No parking	
Offices, business and administrative	P	P	S, Notes i and n	2.5 per 1,000 sq. ft.*	Section 20.70.110
Payday Lending Establishment	R	R			Part 12.5, Chapter 20.80; Section 20.200.875
Research and development	P	P	-	2.5 per 1,000 sq. ft.*	Note 1
General Retail					
Alcohol, off-site sales -- beer and/or wine only	C	C		No parking	Section 20.80.900
Alcohol, off-site sales -- full range of alcoholic beverages	C	C		No parking	Section 20.80.900
Auction	S	-	-	No parking	
Food, beverage, groceries	P	P		No parking	
Open air sales establishments and areas	S	S		No parking	
Outdoor vending	S	S		No parking	Part 10, Chapter 20.80
Pawn Shop, Pawn Broker	C	C	Note b	No parking	
Retail sales, goods and merchandise	P	P	Note a	No parking	
Seasonal sales	P	P		No parking	Part 14, Chapter 20.80

Table 20-140 Downtown Districts Land Use Regulations					
Use	Zoning Districts		Applicable Notes & Sections		
	DC	DC-NT1	Additional Use Regulations for the DG Area	Parking	Applicable to All Downtown Districts
Education and Training					
Day care center	P	P	S, Notes c and n	No parking	
Post-secondary School	P	P	-	1 per 360 sq. ft.	
Trade School	P	P	-	1 per 360 sq. ft.	
Personal enrichment, Instructional Art	P	P	-, Note d	1 per 360 sq. ft.	
School, elementary (grades K-8)	C	C	-	1 per teacher and employee	
High School (grades 9-12)	C	C	-	.75 per teacher and employee and 1 per each 10 students	
Entertainment and Recreation Related					
Amusement arcade	C	-	Note e	No parking	
Movie Theater	P	P		No parking	
Recreation Commercial/Indoor	P	P		No parking	
Poolroom	S	-		No parking	
Private club or lodge	P	P	-	1 per 360 sq. ft.	
Food Services					
Banquet facility	P	P	Note f	No parking required	
Caterer	P	P	C, Note f	No parking	
Drinking establishments	C	C		No parking	
Drinking establishments with an approved maximum occupancy load of over 250 persons and that operate between 12:00 midnight and 6:00 a.m.	CC	-		No Parking	Note 7
Drinking establishments interior to a full-service hotel/motel with 75 or more guest rooms	P	P		No parking	Section 20.80.475
Public eating establishments	P	P		No parking	
Wineries, Breweries	C	C		No parking	
Health and Veterinary Services					
Animal grooming	P	P	-	No parking	
Animal Boarding, indoor	P	P	-	No parking	
Emergency ambulance service	C	-	-	No parking	
Hospital/ in-patient medical facility	C	-	-	1.5 per doctor	
Medical or Dental Clinic/Out-patient facility	P	P	-	1.5 per doctor	
Veterinarian	P	P	-	1.5 per doctor	

Table 20-140 Downtown Districts Land Use Regulations					
Use	Zoning Districts		Applicable Notes & Sections		
	DC	DC-NT1	Additional Use Regulations for the DG Area	Parking	Applicable to All Downtown Districts
General Services					
Bed and breakfast	P	P	S, Note l	.35 per room	Part 2, Chapter 20.80
Hotel/motel	P	P	r, Note l	.35 per room	
Maintenance and repair of household appliances	P	P	-	No parking	
Mortuary and funeral services	C	C	-	.75 per employee and vehicle	
Personal Services	P	P	Note g	No parking	
Printing and Publishing	P	P	Note h	No parking	
Public, Quasi-Public and Assembly Uses					
Auditorium	C	-	-	No parking	
Cemetery	C	C	-	No parking	
Church/religious assembly	P	P		No parking	
Information Center	P	P		No parking	
Museums, libraries	P	-	P	No parking	
Parks, playgrounds, or community centers	P	P	Note j	No parking	
Residential					
Residential Shelter	C	-	-	1 per 4 beds, 2.5 per 1,000 sq. ft.*	
Live/work	P	S		1.5 per unit	Section 20.70.120
Residential multiple dwelling	P	P	-	1 per unit	
Residential Care Facility for 7 or more persons	C	C	-	.75 per employee	
Residential Services Facility for 7 or more persons	C	C	-	.75 per employee	
Single room occupancy living unit	S	S	-	.6 per room	Part 15, Chapter 20.80
Single room occupancy hotel	S	S	-	.6 per room	Park 15, Chapter 20.80
Residential Accessory Uses					
Accessory buildings and structures	P	P	-	No parking	Note 2
Recycling Uses					
Reverse vending	S	S	-	No parking	Note 3
Small collection facility	S	S	-	No parking	Note 3
Transportation and Communication					

Table 20-140 Downtown Districts Land Use Regulations					
Use	Zoning Districts		Applicable Notes & Sections		
	DC	DC-NT1	Additional Use Regulations for the DG Area	Parking	Applicable to All Downtown Districts
Community television antenna systems	C	-	-	No parking	
Off-site and alternating use parking arrangements	P	P	-	N/A	Section 20.90.200
Parking establishment, off-street	P	P	-	N/A	
Private Electrical Power Generation Facility	C	C	-	1 for each vehicle used in the operation of such facility	
Standby Generators that do not exceed noise or air standards	A	A	-	N/A	
Temporary Stand-by/Backup generators	P	P	-	N/A	
Short term parking lot for uses or events other than on-site	S	S		N/A	
Radio & Television Studios	P	-	Note n	No parking	
Wireless communication antenna	S	-	-	No parking	Section 20.80.1900
Wireless communication antenna, building mounted	P	-	-	No parking	Section 20.80.1900
Electrical Power Generation					
Solar Photovoltaic System	P	P	-	No parking	Section 20.100.610(C)(7)
Vehicle Related Uses					
Accessory installation for cars and passenger trucks	P	-	-	No parking	
Car wash, detailing	P	-	-	No parking	
Gas or charge station	P	-	-	No parking	Note 3, Note 8
Gas or charge station with incidental service and repair	P	-	-	No parking	Note 3
Sale and lease, vehicles and equipment (less than one ton)	P	-	-	1.5 per employee	Note 4
Tires, batteries, accessories, lube, oil change, smog check station, air conditioning	P	-	-	2 per bay or .75 per employee	Note 5
Sale, vehicle parts, new	P	-	-	No parking required	
Historic Reuse					
Historic Landmark Structure Reuse	S	S		Section 20.90.220.E	Part 8.5 Chapter 20.80

Notes:

Notes applicable to the DG Area only:

- (a) Excluding second-hand stores not dealing primarily in antiques, artworks, or vintage clothing.
- (b) Only as a use incidental to a retail jewelry store, otherwise, not permitted.
- (c) Only as a use incidental to existing on-site office use, otherwise not permitted.
- (d) Culinary/Art School with public classes and public demonstrations allowed, includes such areas as dance, music, martial arts, and fine arts.
- (e) Allowed only as an incidental use to other allowed recreation uses.
- (f) Only as a use incidental to restaurant, grocery or bakery uses for primarily on site sales, otherwise not permitted.
- (g) Excludes check-cashing services, photography studios, weight loss centers, interior decorating, and bail bond services.
- (h) Only if dedicated primarily to on-site retail customer copy services, otherwise not permitted.
- (i) Exception for travel agencies and real estate agencies which are the only permitted uses.
- (j) Community centers are not allowed.
- (k) Exception for copy shops and mail centers which are the only permitted uses.
- (l) Use of ground floor to be primarily dedicated to customer-related public services.
- (m) Includes financial retail services such as foreign currency exchange, debt card services and related financial services products but excludes check cashing except as an ancillary use.
- (n) In order to be a permitted use, the space to be occupied shall have been vacant on January 1, 2012, the size of the space of such use shall be limited in size to a total maximum area of no greater than 20,000 sq.ft., and the space shall not be located within a corner tenant space that is directly adjacent to the intersection of two public streets. Any use that does not meet all of the criteria specified above in this note may be allowed with a Special Use Permit, and a Special Use Permit is and shall be required.

Notes applicable to Downtown Core (DC) Zoning District, including DG Area:

- (1) Excludes manufacturing uses.
- (2) No lot may be used solely for an accessory structure or building.
- (3) Incidental repair includes air conditioning service, carburetor & fuel injection service, electrical service, radiator service, and tune-up, lube, oil change, and smog check, as well as tires, batteries and accessories installation. Does not allow body repair or painting.
- (4) All activity must be conducted indoors.
- (5) Non-engine and exhaust related service and repair allowed as incidental use.
- (6) Limited to instrumental and vocal music and readings. Also, notwithstanding the provisions of Section 20.200.940(2), incidental instrumental and vocal music shall be allowed between the hours of 6:00 a.m. and 12:00 a.m.
- (7) Maximum occupancy load shall be that maximum occupancy load determined by the City Fire Marshall.
- (8) Pedestal charging stations that are incidental to a separate primary use, that do not impact on-site or off-site vehicular circulation, and that serve patrons of the primary use on-site are permitted in all downtown zoning districts.

* Under the Parking Management Plan, October 2001, the Code may be changed to reduce the parking allotments for these uses. The reduction would be to 2.5 spaces per 1,000 square feet when BART is opened.

Fifteen percent (15%) of total parking requirement must be provided off-site.

SECTION 3. Chapter 20.80 of Title 20 of the San José Municipal Code is amended to add a new Part, to be numbered, entitled and to read as follows:

Part 12.5
Payday Lending Establishments

20.80.1050 **Certificate Required**

- A. No person shall operate or suffer or allow the operation of a Payday Lending Establishment until such time as a Zoning Code Verification Certificate has been duly applied for and issued by the Director pursuant to the provisions of Chapter 20.100 of this Title applicable to Zoning Code Verification Certificates, which Zoning Code Verification Certificate confirms full conformance of a proposed Payday Lending Establishment with all of the applicable locational siting and licensing requirements of this Title. The application for such Zoning Code Verification Certificate shall be filed pursuant to the requirements and processes set forth in Chapter 20.100 applicable to Zoning Code Verification Certificates.

- B. A person intending to commence operation of a Payday Lending Establishment at the same location occupied or previously occupied by a legally operating Payday Lending Establishment may be issued a Zoning Code Verification Certificate without full conformance with the locational siting requirements of this Title, so long as the prior Payday Lending Establishment use has not been discontinued or abandoned for a period of six months or more.

20.80.1055 **Restrictions and Conditions**

The location and operation of Payday Lending Establishments shall be subject to and shall comply with all of the restrictions and conditions set forth in this Section, in addition to those restrictions and conditions that may be imposed on a Payday Lending Establishment under or pursuant to other provisions of the San Jose Municipal Code or

other applicable state or local laws, regulations or policies. Anyone operating or allowing or suffering the operation of a Payday Lending Establishment shall comply with, or shall cause the compliance with, all of the restrictions and conditions set forth in this Section, in addition to those restrictions and conditions that may be imposed on a Payday Lending Establishment under or pursuant to other provisions of the San Jose Municipal Code or other applicable state or local laws, regulations or policies.

- A. At the time of issuance of a Zoning Code Verification Certificate, no Payday Lending Establishment shall be located within a census tract identified by the most recently available census data from the U.S. Census Bureau's American Community Survey as having a median household income below that defined by the U.S. Department of Housing and Urban Development as "very low income" for a two-person household ("Very Low Income Census Tract") or closer than a minimum of one thousand three hundred twenty (1,320) feet from the boundary of a Very Low Income Census Tract, measured from the parcel line of the parcel on which the Payday Lending Establishment is located.
- B. At the time of issuance of a Zoning Code Verification Certificate, no Payday Lending Establishment shall be located on a parcel of real property that is closer than a minimum of one thousand three hundred twenty (1,320) feet from any parcel on which another Payday Lending Establishment is located, measured from the closest parcel lines of the respective parcels.
- C. A Payday Lending Establishment shall hold, maintain and be in compliance with a valid license issued by the State of California under the California Deferred Deposit Transaction Law, as amended from time to time.

20.80.1060 **Maximum Number**

No more than a maximum of thirty-nine (39) Payday Lending Establishments shall be sited in the City.

SECTION 4. On November 8, 2011, the City adopted Ordinance No. 28991 to suspend the effectiveness of Ordinance No. 28958 that established land use regulations pertaining to medical marijuana, including provisions establishing a new Part 13 of Chapter 20.100 of Title 20 of the San Jose Municipal Code related to Zoning Code Verification Certificates. The suspension of the effectiveness of Sections 20.100.1500, 20.100.1510, 20.100.1520, 20.100.1525 and 20.100.220 related to Zoning Code Verification Certificates, and only those aforementioned sections, contained in Ordinance No. 28991 is hereby rescinded.

SECTION 5. Chapter 20.200 of Title 20 of the San José Municipal Code is amended to add a new section, to be numbered, entitled and to read as follows:

20.200.875 Payday Lending Establishment

“Payday Lending Establishment” is a person or entity that offers, originates, or makes a deferred deposit transaction, whereby a person or entity defers depositing a customer’s personal check until a specific date, pursuant to a written agreement. Payday Lending Establishment is equivalent to a “deferred deposit originator” as defined in Section 23001(f) of the California Financial Code, as amended from time to time. Payday Lending Establishment does not include a state or federally chartered bank, thrift, savings association, industrial loan company, or credit union.

PASSED FOR PUBLICATION of title this 15th day of May, 2012, by the following vote:

AYES: CAMPOS, CHU, HERRERA, KALRA, LICCARDO,
OLIVERIO, PYLE, ROCHA; REED.

NOES: CONSTANT.

ABSENT: NGUYEN.

DISQUALIFIED: NONE.



CHUCK REED
Mayor

ATTEST



DENNIS D. HAWKINS, CMC
City Clerk

ORDINANCE NO. 2009-017

Adopted by the Sacramento City Council

March 31, 2009

AMENDING SECTIONS 17.16.010, 17.24.030, 17.24.050, 17.94.030, 17.98.030, 17.100.030, 17.108.020, 17.108.030, AND 17.124.040 OF TITLE 17 OF THE SACRAMENTO CITY CODE (THE ZONING CODE) RELATING TO CHECK CASHING CENTERS AND REPEALING ORDINANCE NO. 2007- 080, AS EXTENDED BY ORDINANCE NO. 2007-089 AND ORDINANCE NO. 2008-048 (M07-070)

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

BACKGROUND

SECTION 1. Section 17.16.010 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

- A. The definition for "check cashing center" set forth in Section 17.16.010 is amended to read as follows:

"Check cashing center" means:

1. An establishment that, for compensation, engages in the business of cashing checks, warrants, drafts, money orders or other commercial paper serving a similar purpose, and includes an establishment primarily engaged in cashing payroll or personal checks for a fee or advancing funds on future checks.
2. An establishment that offers, originates, or makes a deferred deposit transaction, also known as a payday lender business. A "deferred deposit transaction" is a transaction whereby a person defers depositing a customer's personal check until a specific date, pursuant to a written agreement.

A check cashing center does not include a state or federally chartered bank, savings association, credit union, or similar financial institution, or retail stores or other establishments selling consumer goods, including consumables, that incidentally charge a fee not exceeding \$2.00 to cash checks or money orders as a service to customers.

- B. The definition for "check cashing facility" set forth in Section 17.16.010 is deleted.
- C. Except as specifically amended as set forth in subsections A. and B., above,

section 17.16.010 shall remain unchanged and in full force and effect.

SECTION 2. Section 17.24.030 (Commercial Land Use Chart) of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

- A. The matrix set forth in Table 17.24.030 A is amended to add "Check cashing center" to read as follows:

Uses Allowed	RE	R-1	R-1A	R-1B	R-2	R-2A	R-2B	R-3	R-3A	R-4	R-5	RMX	RO	OB
Check cashing center*											7/84	69/84		18/84

- B. The matrix set forth in Table 17.24.030 B is amended to add "Check cashing center" to read as follows:

Uses Allowed	EC	HC	SC	C-1	C-2	C-3	C-4	M-1	M-1(S)	M-2	M-2(S)	MIP	MRD	H	SPX	TC	A	AOS	F
Check cashing center*			15/84	84	84	84	84	84	20/84	84	20/84	14/53/84	14/53/84						

- C. Except as specifically amended for the uses indicated, section 17.24.030 and Tables 17.24.030 A and 17.24.030 B shall remain unchanged and in full force and effect.

SECTION 3. Section 17.24.050 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

- A. Footnote 84 is added to section 17.24.050 to read as follows:

84. Check Cashing Centers.

- a. A special permit shall be required to establish a check cashing center in this zone pursuant to and subject to the findings required by Chapter 17.212.
- b. Locational Requirements. In addition to the other requirements for approval of a special permit, no special permit shall be issued or approved for a check cashing center unless the proposed location satisfies all of the following locational requirements:
 - i. Proximity to Other Specified Establishments.

No check cashing center shall be established or located within one thousand (1,000) feet, measured from the nearest property lines of each of the affected parcels, of any other check cashing center, church/faith congregation, school, or financial institution including a state or federally chartered bank, savings association, or credit union.

ii. Proximity to Residential Zones.

No check cashing center shall be established or located within five hundred (500) feet, measured from the nearest property lines of each of the affected parcels, of any existing residential zone or residential use.

iii. Definitions.

For purposes of the locational requirement, the following definitions shall apply:

“Church/faith congregation” means a structure or place which is used primarily for religious worship and related religious activities.

“School” means any child or day care facility; or an institution of learning for minors, whether public or private, offering instruction in those courses of study required by the California Education Code and maintained pursuant to standards set by the State Board of Education. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher education, including a community or junior college, college or university.

iv. Relevant Date for Determining Compliance with Locational Requirements.

Only those uses lawfully established as of the date that the application for a check cashing center special permit is determined or deemed to be complete shall be considered for purposes of determining whether the locational requirements are met.

c. Hours of Operation.

Operation of the check cashing center shall be restricted to between the hours of seven a.m. and seven p.m. unless different hours of operation are approved by condition of the special permit.

d. Operational Considerations.

The application for a special permit for a check cashing center shall include a security plan, sign program, lighting plan, and good neighbor policy. In its review of the special permit, the planning commission shall consider the proposed security plan, sign program, lighting plan, and good neighbor policy and, if it determines to approve the special permit, shall impose conditions as it finds necessary or appropriate to ensure that the check cashing center is operated in a manner that will not be detrimental to the public health, safety or welfare, or result in the creation of a nuisance.

e. Discontinuance.

Notwithstanding the provisions of section 17.212.100(G), a special permit for a check cashing center, the exercise of which is voluntarily or involuntarily interrupted for a period in excess of one year, shall be deemed automatically revoked.

B. Except as specifically amended by adding footnote 84, section 17.24.050 shall remain unchanged and in full force and effect.

SECTION 4. Section 17.94.030 (Broadway/Stockton Special Planning District) of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. Subsection (C) of Section 17.94.030 is amended to read as follows:

C. Prohibited Uses.

In addition to other uses prohibited by this title in the underlying zones, the following uses are prohibited in all zones within the Broadway/Stockton SPD.

1. Auto sales;
2. Auto storage;
3. Bar;
4. Bus and other transit vehicle maintenance storage;
5. Check cashing center;
6. Liquor store—Fifteen thousand (15,000) feet or less of gross floor area;
7. Towing service;
8. Used tire sales.

- B. Except as specifically amended by the amendments to subsection (C), section 17.94.030 shall remain unchanged and in full force and effect.

SECTION 5. Section 17.98.030 (McClellan Heights and Parker Homes Special Planning District) of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

- A. Subsection (D)(2) of Section 17.98.030 is amended to read as follows:
2. Notwithstanding any provision in this Chapter 17.98 to the contrary, and in addition to all other uses prohibited in the C-2 zone under this title, the following uses in the C-2 zone are prohibited in the McClellan Heights and Parker Homes SPD:
 - a. Adult entertainment business;
 - b. Adult related establishment;
 - c. Auto sales (new or used), service, repair, storage, or rental;
 - d. Check cashing center;
 - e. Cleaning plant;
 - f. Equipment rental/sales yard;
 - g. Laundry, commercial plant;
 - h. Mini-storage/locker building;
 - i. Money lender;
 - j. Pawnshop;
 - k. Reclamation operation;
 - l. Recycling facilities, except convenience recycling;
 - m. RV /mobilehome sales yard;
 - n. RV storage (commercial);
 - o. Tire shop; and
 - p. Towing service and vehicle storage yard.

B. Subsection (E)(2) of Section 17.98.030 is amended to read as follows:

2. Notwithstanding any provision in this Chapter 17.98 to the contrary, and in addition to all other uses prohibited in the M-1 zone under this title, the following uses in the M-1 zone are prohibited in the McClellan Heights and Parker Homes SPD:

a. Adult entertainment business;

b. Adult related establishment;

c. Animal slaughter;

d. Auto dismantler;

e. Auto sales (new or used), service, repair, storage, or rental;

f. Check cashing center;

g. Concrete batch plant;

h. Hazardous waste facility;

i. Junkyard;

j. Livestock sales yard;

k. Mini-storage/locker building;

l. Money lender;

m. Pawnshop;

n. Planing mill

o. Solid waste landfill; and

p. Solid waste transfer station.

C. Except as specifically amended by the amendments to subsections (D)(2) and (E)(2), section 17.98.030 shall remain unchanged and in full force and effect.

SECTION 6. Section 17.100.030 (Northgate Boulevard Special Planning District) of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

- A. Subsection (C) of Section 17.100.030 is amended to read as follows:
- C. Prohibited Uses. Notwithstanding the provisions of subsections (A) and (B) of this section, and in addition to all other uses prohibited in the RMX and C-2 zones under this title, the following uses are prohibited in the RMX zone and the C-2 zone in the Northgate SPD.
1. Drive-through service facility;
 2. Mini-storage/locker building;
 3. Auto sales (new or used), service, repair, storage, or rental; except that vehicle storage is permitted if incidental to a use that is otherwise permitted;
 4. Towing service and vehicle storage yard;
 5. RV mobile home sales yard;
 6. RV storage (commercial);
 7. Check cashing center;
 8. Pawn shops; and
 9. Money lenders.
- B. Except as specifically amended by the amendments to subsection (C), section 17.100.030 shall remain unchanged and in full force and effect.

SECTION 7. Section 17.108.020 (Del Paso Boulevard Special Planning District) of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

- A. Subsection (A) of Section 17.108.020 is amended to read as follows:
- A. Prohibited Uses. In addition to other uses prohibited in the underlying zone, the following additional uses are prohibited for properties with C-2 zoning in the Del Paso Boulevard SPD:
1. Adult entertainment business;
 2. Adult related establishment;
 3. Astrology and related practices;
 4. Tattoo and/or body piercing parlors;

5. Used appliance sales;
6. Auto sales (new and used), storage;
7. RV/mobilehome sales yard;
8. RV storage;
9. RV repair;
10. Mini storage/surface storage;
11. Used tire storage and sales;
12. Check cashing center;
13. Money lender;
14. Mortuary;
15. Card room;
16. Bingo activities licensed under Chapter 5.24 of this code;
17. Retail tobacco store;
18. Laundromat.

B. Except as specifically amended by the amendments to subsection (A), section 17.108.020 shall remain unchanged and in full force and effect.

SECTION 8. Section 17.108.030 (Del Paso Boulevard Special Planning District) of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. Subsection (A) of Section 17.108.030 is amended to read as follows:

A. *Prohibited Uses.* In addition to other uses prohibited in the underlying zone, the following additional uses are prohibited for properties with M-1 zoning in the Del Paso Boulevard SPD:

1. Adult entertainment business;
2. Adult related establishment;
3. Astrology and related practices;

4. Tattoo and/or body piercing parlors;
5. Used appliance sales;
6. Auto sales (new and used), storage;
7. RV/mobilehome sales yard;
8. RV storage;
9. RV repair;
10. Recycling facilities;
11. Auto dismantler;
12. Used tire storage and sales;
13. Check cashing center;
14. Money lender;
15. Pawn shop;
16. Mortuary;
17. Card room;
18. Bingo activities licensed under Chapter 5.24 of this code;
19. Retail tobacco stores;
20. Laundromat.

- B. Except as specifically amended by the amendments to subsection (A), section 17.108.030 shall remain unchanged and in full force and effect.

SECTION 9. Section 17.124.040 (Sacramento Railyards Special Planning District) of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

- A. Subsection (E) of Section 17.124.040 is amended to read as follows:

E. Prohibited Uses. The following uses are prohibited in the Sacramento Railyards SPD:

1. All uses, unless otherwise specified above, listed in the Industrial and Agricultural land use tables in sections 17.24.040(A) and 17.24.040(B);
 2. Mobile home park;
 3. Penal institution;
 4. Check cashing center.
- B. Except as specifically amended by the amendments to subsection (E), section 17.124.040 shall remain unchanged and in full force and effect.

SECTION 10. Ordinance No. 2007-080, as extended by Ordinance No. 2007-089 and Ordinance No. 2008-048, establishing a moratorium on check cashing centers, is repealed.

Adopted by the City of Sacramento City Council on March 31, 2009 by the following vote:

Ayes: Councilmembers Cohn, Fong, Hammond, McCarty, Pannell, Sheedy, Tretheway, Waters.

Noes: None.

Abstain: None.

Absent: Mayor Johnson.


Lauren Hammond, Vice-Mayor

Attest:


Shirley Concolino, City Clerk

Passed for Publication: March 24, 2009

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