



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Planning Commission

**SUBJECT:** SEE BELOW

**DATE:** April 30, 2012

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**SUBJECT: AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING SECTION 20.40.100 OF CHAPTER 20.40 (COMMERCIAL ZONING DISTRICTS), 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 AND 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 OF CHAPTER 20.100 (PART 13, ZONING CODE VERIFICATION CERTIFICATE), ALL OF TITLE 20 OF THE SAN JOSE MUNICIPAL CODE (THE ZONING CODE) TO ESTABLISH LAND USE REGULATIONS PERTAINING TO PAYDAY LENDING ESTABLISHMENTS.**

## **RECOMMENDATION**

The Planning Commission voted 6-0-1 (Commissioner Platten absent) to recommend to the City Council approval of a proposed ordinance to amend Title 20 of the San José Municipal Code to establish land use regulations pertaining to payday lending establishments as recommended by staff with the following modifications:

- 1) Require that new payday loan establishments be separated by at least 1,320 feet (0.25 mile) as measured from property line to property line for the parcels on which the payday loan establishments are located.
- 2) Prohibit new payday establishments from locating on a property in a low income census tract or within 1,320 feet (0.25 mile) of such a census tract, as identified by the Census Bureau's American Community Survey as having a median household income below that defined as low income annually by the US Department of Housing and Urban Development.

As part of the motion, the Planning Commission also recommended that staff provide to the City Council information related to establishing a limit on the number of payday lending establishments for the Council to consider as part of its consideration of the proposed ordinance.

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## **OUTCOME**

The proposed amendments to the Zoning Ordinance (Title 20) would establish zoning and use regulations for new payday lending establishments in San José. These amendments are intended to implement direction provided by the City Council on August 30, 2011, to prepare an ordinance to regulate payday lending as one of the FY 2011-2012 Council Priorities for new ordinances.

## **BACKGROUND**

On April 25, 2012, the Planning Commission conducted a public hearing on the proposed ordinance. See the attached staff report to the Planning Commission for additional background information and analysis of the proposed amendments to Title 20 (the Zoning Ordinance).

## **ANALYSIS**

Staff made a brief presentation summarizing the proposed ordinance. The attached letters and e-mails that had been received subsequent to the preparation of the Planning Commission staff report were distributed to the Planning Commission.

Approximately 40 members of the public spoke during the public hearing. Most of the testimony was in favor of the proposed payday lending regulations. Those speaking in support of City regulation of payday lending were primarily comprised of social service organizations, non-profit agencies, public-interest lawyers, payday lending customers, and an attorney from the Consumer Protection division of the County District Attorney's Office (see attached letter). Those speaking in opposition of regulation consisted primarily of payday lending businesses, employees, and a trade organization.

Many of the speakers expressed concerns with the "predatory" business practices of the payday lending industry, including the imposition of high interest rates and/or fees and the targeting of low-income and minority communities. Speakers stated that the City needs to regulate payday lending because current state regulations are insufficient to address the problems associated with this land use. Speakers stated that most customers become repeat borrowers and can become trapped in a "cycle of debt." Some former customers of payday establishments spoke of the financial difficulty they had encountered as a result of needing to obtain credit from payday lending organizations

Some speakers suggested that the City modify the proposed ordinance to align with similar ordinances in other communities to: include a citywide limit on the total number of payday lending establishments; increase the separation requirement between payday loan establishments; and require obtainment of a Conditional Use Permit. Community members also proposed that the ordinance include a requirement to separate payday lending businesses from schools, churches, residences, bars, liquor stores, and adult uses. They also suggested that the ordinance be expanded to include check cashing businesses as has been done in some other jurisdictions. (Letters in this regard were received prior to the hearing and are attached.)

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Those speaking in opposition to the proposed ordinance included representatives of the payday lending industry. They indicated that their customers were not just low-income people, noting that payday lending customers must be employed and have a bank account. They also commented that there is no impact to the credit records of customers that defaulted on the loans. They requested that the item be continued to allow more time to work with staff to revise the proposed ordinance, expressing concern regarding how the proposed ordinance would effect current establishments. They also expressed opposition to the proposed requirement for a 500 foot separation between facilities. (A letter dated April 24, 2012 from the Community Financial Services Association on this topic was received prior to the hearing is attached.)

After the public hearing was closed, staff reiterated the rationale behind the proposed ordinance, and responded to the issues raised in the testimony:

- The 500-foot standard is used elsewhere in the Zoning Ordinance as a distance separation requirement between incompatible uses and in this case, would help avoid further concentration of payday lending businesses.
- In regards to a potential cap, staff indicated that the number of payday lenders would likely be limited by the market and that the proposed ordinance is aimed at addressing the issue of physical concentration and proximity to low income areas.
- Staff clarified that the new provisions would apply to new and relocated payday loan establishments and that existing businesses that did not meet the new criteria would become legal non-conforming.
- Staff had reviewed the issue of check cashing establishments and decided to recommend that the ordinance not include check cashing establishments given that there are significantly more licensed check cashing establishments (291) than payday lenders (38), and that the use the use is often conducted as an ancillary use to a wide variety of other establishment types, including supermarkets, liquor stores, and department stores.
- Staff's research had not identified any problems resulting from the location of payday lenders in close proximity to schools, churches, residences, bars, liquor store, and adult uses and so separation requirements from these uses was not necessary to include within the proposed ordinance.

After discussion and a couple of motions, the Planning Commission voted 6-0-1 (Commissioner Platten absent) to recommend to the City Council approval of a proposed ordinance to amend Title 20 of the San José Municipal Code to establish land use regulations pertaining to payday lending establishments as recommended by staff with the following modifications:

- 1) Require that new payday loan establishments be separated by at least 1,320 feet (0.25-mile) as measured from property line to property line for the parcels on which the payday loan establishments are located.
- 2) Prohibit new payday establishments from locating on a property in a low income census tract or within 1,320 feet (0.25-mile) of such a census tract, as identified by the Census Bureau's American Community Survey as having a median household income below that defined as low income annually by the US Department of Housing and Urban Development.

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- 3) Conduct additional research on a cap of the number of payday lending establishments after reviewing the caps of other jurisdictions for Council's consideration.

Planning Commission's recommendation to increase the separation requirement to 1,320 feet from 500 feet (staff's recommendation) would increase the amount of commercially zoned property within which payday lending establishments would be prohibited from approximately 900 acres to 1,100 acres.

In response to public testimony, the Commission supported an increase from 500 feet to a quarter of a mile (1,320 feet) as the required amount of separation between payday lending establishments and distance from very low income census tracts. Two previous motions to include a citywide cap on the number of payday lending establishments (2 per Council District and a citywide maximum of 20) and increase the separation requirement between payday lending establishments (from 500 to 1,000 feet) did not pass. Commissioners in opposition to a cap were concerned that there was not a clear rationale supporting a specific maximum number based on the public testimony and lack of consensus amongst Commissioners, and stated that this issue was better addressed by the City Council. Instead the Planning Commission recommended that staff provide to the City Council information related to establishing a limit on the number of payday lending establishments for the Council to consider as part of its consideration of the proposed ordinance.

### CEQA

The environmental impacts of the proposed project are within the scope of the project analyzed under a Program Environmental Impact Report (PEIR) "Envision San Jose 2040 General Plan" that was certified on September 28, 2011 (EIR Resolution No.76041).

/s/

JOSEPH HORWEDEL, SECRETARY  
Planning Commission

For questions, please contact Laurel Prevetti at 408-535-7901.

#### Attachments:

Planning Commission Staff Report.

CAPP Letter 4/22/12

CFSA-CFSP Letter 4/24/12

Letter from Santa Clara District Attorney 4/25/12



# Memorandum

**TO:** PLANNING COMMISSION

**FROM:** Joseph Horwedel

**SUBJECT:** SEE BELOW

**DATE:** April 12, 2012

**COUNCIL DISTRICT:** Citywide

**SUBJECT: AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING SECTION 20.40.100 OF CHAPTER 20.40 (COMMERCIAL ZONING DISTRICTS), 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), ADDING 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 OF CHAPTER 20.100 (PART 13, ZONING CODE VERIFICATION CERTIFICATE), ALL OF TITLE 20 OF THE SAN JOSE MUNICIPAL CODE (THE ZONING CODE) TO ESTABLISH LAND USE REGULATIONS PERTAINING TO PAYDAY LENDING ESTABLISHMENTS.**

## RECOMMENDATION

Planning staff recommends that the Planning Commission recommend to the City Council the approval of the ordinance changes outlined in this memorandum to amend Title 20 of the San José Municipal Code to establish land use regulations pertaining to payday lending establishments.

## OUTCOME

The proposed amendments to the Zoning Ordinance (Title 20) would establish zoning and use regulations for new payday lending establishments in San Jose. These amendments are intended to implement direction provided by the San Jose City Council Rules and Open Government Committee on December 15, 2010 and the City Council on August 30, 2011 establishing an ordinance to address payday lending as one of the FY 2011-2012 Council Priority Ordinances (see attached memoranda).

## **BACKGROUND**

A payday loan establishment is a business that issues a short-term loan (or “deferred deposit transaction”) which is a transaction whereby a person defers depositing a customer’s personal check until a specific date (typically a customer’s next payday), pursuant to a written agreement. These businesses are regulated by California law and must be licensed with the California Department of Corporations.

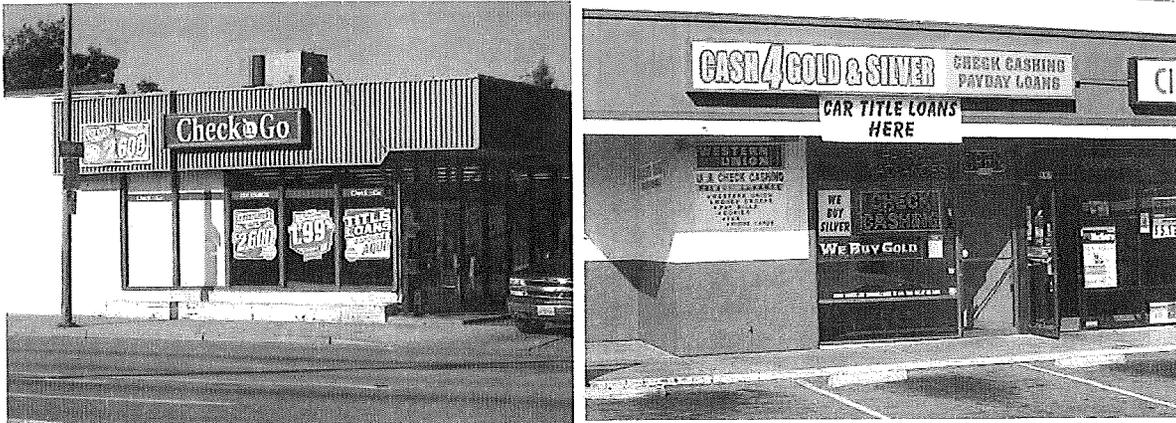
The Table below demonstrates the typical fees that are charged for loans in the amount of \$50.00 and \$255.00 (maximum amount under State law) and the annual percentage rate. Such tables are posted within payday loan establishments. For example, as shown on the table, a borrower who writes a check for \$300 receives a loan of \$255 and pays a fee of \$45.

**Table: Typical Fee Information Provided at a Payday Lending Establishment**

Advance	Fee	Check Amount	14 Day APR
\$50.00	\$8.82	\$58.82	\$459.9%
\$255.00	\$45.00	\$300.00	460.08%

See attached brochure from the California Department of Corporations entitled *What You Need to Know About Payday Loans* for additional information.

### **Photos: Typical Payday Lending Establishments**



A 2006 study entitled *From Poverty to Opportunity*, by the Brookings Institute, a nonprofit public policy organization, found that short term loan providers tend to be much more densely concentrated in lower income areas where residents are less likely to have access to traditional financial services through banks and credit unions:

[http://www.brookings.edu/reports/2006/07poverty\\_fellows.aspx](http://www.brookings.edu/reports/2006/07poverty_fellows.aspx) While payday lending may provide a convenient means of accessing cash on a short-term basis, the fees imposed are equivalent to an interest rate of 460%, much higher than those associated with more conventional sources of credit. Because the need for cash advances is often connected with a low-income population, use of a payday lending service can result in longer-term and/or chronic financial instability for customers of those services.

Regulations exist at the federal, state, and local level attempting to minimize the potential economic impacts associated with payday lending. For example, federal law caps the interest rate for payday lending to military personnel at 36% and State law caps the amount of a payday loan transaction to \$300. Local regulations vary by jurisdiction and tend to focus on land use parameters as discussed later in this report. In February 2012, the Santa Clara County Board of Supervisors passed an urgency ordinance imposing a 45-day moratorium on new payday lending establishments and directed staff to draft an amendment to the County Zoning Ordinance that would permanently prohibit or limit the operation of these businesses.

#### City Council Direction

On December 15, 2010, the Rules and Open Government Committee directed staff to apply for a grant from the Silicon Valley Community Foundation related to the establishment of anti-payday lending policies. Members of the Council expressed concern with the high cost of these loans and their detrimental impact on low-income and minority communities and young people.

The attached memo dated December 9, 2010 from Council members Kalra and Campos states that:

Many local municipalities have already recognized the threat that payday lending poses to the community. Within the last seven years, San Francisco, Oakland, and Sacramento have enacted ordinances that placed limits and controls on the payday lending industry. It is time for San Jose to do the same. The unregulated growth of payday loan businesses is detrimental to the welfare of the citizens of San Jose, as dozens of payday lending businesses are presently operating in San Jose with little or no regulation or oversight. By adopting an ordinance that limits the establishment of new payday loan businesses, the City of San Jose will be furthering its stated goal of encouraging reliance on mainstream financial institutions rather than fringe lending businesses, and will be helping to protect lower-income communities, who are disproportionately impacted by the predatory nature of payday lending.

This memo also raises concern with geographic concentration and neighborhood blight associated with payday lending facilities.

On February 28, 2011, the Silicon Valley Community Foundation awarded the City of San Jose a grant of up to \$50,000 to provide support for research and analysis of payday lending practices in San Jose and other cities, and development of a payday lending ordinance for the City of San Jose (see attached grant award).

On May 18, 2011, the City Council Rules Committee considered a recommendation to draft a resolution, in opposition to pending California Assembly Bill AB 1158 that would have increased the face amount of a check for a deferred deposit transaction from \$300 to \$500 (see attached memorandum). The Committee voted not to prepare a resolution in opposition to the legislation.

On August 30, 2011, the City Council voted to include an ordinance to regulate payday lending business as one of the FY 2011-2012 Council Priority Ordinances (see attached memorandum).

### Current Zoning Code Provisions

Payday lending and check cashing uses are not specifically defined in the Zoning Code. They are considered to be in the category of "Personal Services" and are allowed by right within all commercial zoning districts with the exception of CO Commercial Office. Section 20.200.880 states that "Personal Services" includes establishments, which provide non-medical services of a retail character to patrons, which may involve the sale of goods associated with the service being provided. In the Downtown zoning districts, they fall within the category of Alternative Financial Services which is an enumerated land use applicable to those districts.

### ANALYSIS

Prior to the drafting of the proposed ordinance, City staff conducted research to determine the legal and land use issues associated with payday lending establishments in San Jose. The main conclusions of the analysis are as follows:

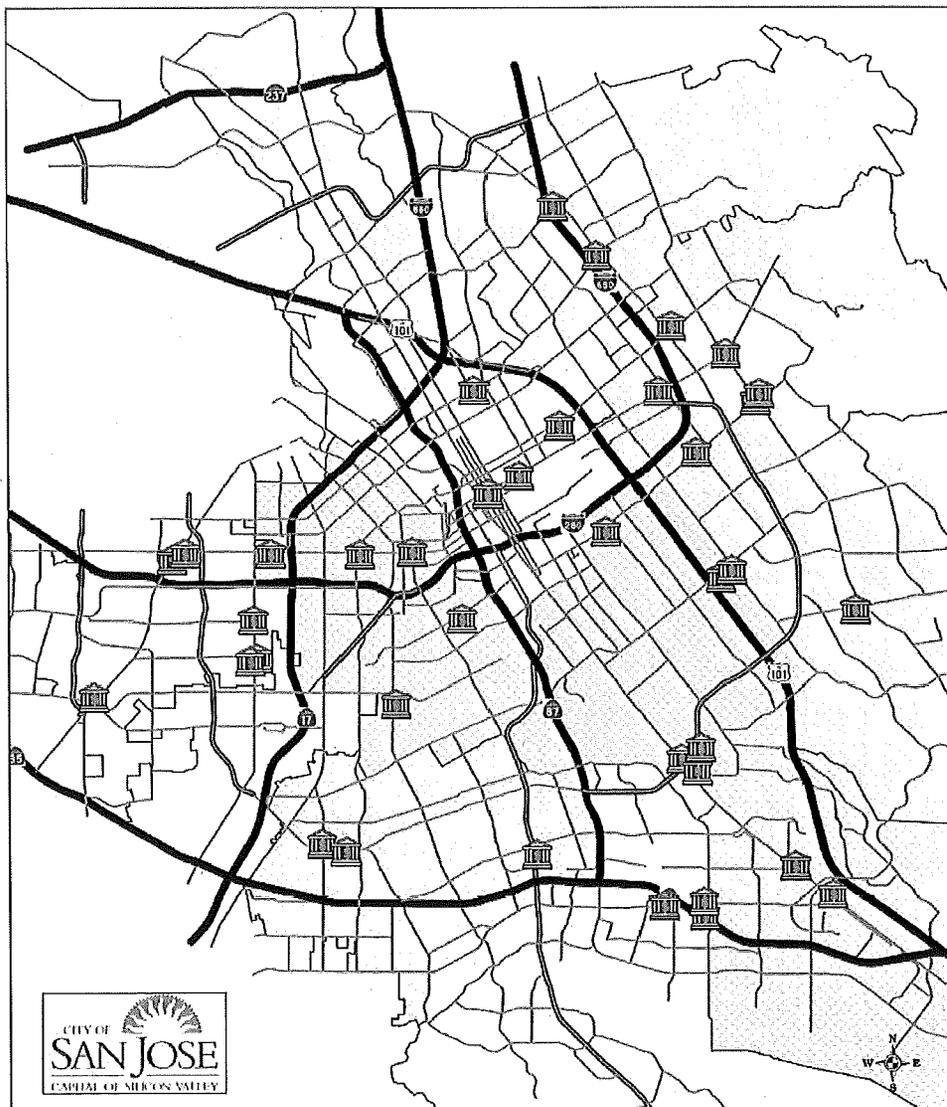
- 1) In California, regulation of payday lending and check cashing businesses is primarily done at the State level. The California Deferred Deposit Transaction Law (California Financial Code §§23000 *et seq.*) imposes a number of operational requirements on payday lending lenders and limits on the payday loan products including a \$300 maximum on the amount of a check for a deferred deposit transaction, a maximum loan fee of 15% of the face value of the check, a requirement that the fee schedule be posted, and a requirement that all payday lenders be licensed by the Department of Corporations.
- 2) Given the scope of State law regulating payday lenders and prior case law regarding local regulation of the financial industry, the City may be preempted from regulating the payday loan products themselves [e.g., imposing a cap on the annual percentage rate (APR)] or imposing other similar consumer protection measures that impact payday lenders' business practices.
- 3) It is possible for local jurisdictions to regulate payday lending establishments through land use regulations and zoning, as has been done by an increasing number of cities in the state and nationwide. A number of local jurisdictions throughout California have also imposed regulations on payday lending businesses. Specific measures instituted by other California communities have included one or more of the following land use related requirements:
  - Distance or separation requirements (e.g., 300 feet or half mile) between payday lending/check cashing businesses to prevent overconcentration in specific areas;
  - Distance requirements separating the businesses from residential areas and/or other sensitive or specified uses (i.e., schools or liquor stores);
  - A numerical cap on the total number of such businesses within the jurisdiction;
  - Limitation to certain zoning districts;
  - Requirement to obtain a conditional use or special use permit;
  - Lighting and/or security requirements;
  - Graffiti clean-up requirements.
- 4) Other avenues for the City to address issues associated with payday lending include:

- Advocacy for increased regulation at the State or Federal level.
- Efforts to support greater access to banking and other financial services, particularly within low-income communities.

### Payday Lending in San Jose

According to the Department of Corporations records, there are currently 38 payday lending establishments in the City of San Jose with a Deferred Deposit Originator license (see attached listing from the California Department of Corporations). Many of these facilities also provide check cashing, auto-title loans, and other alternate financial services. The map below, entitled *Payday Lenders, as of January 2012*, displays the geographic distribution of payday lending establishments in San Jose.

## City of San Jose Payday Lenders, as of January 2012

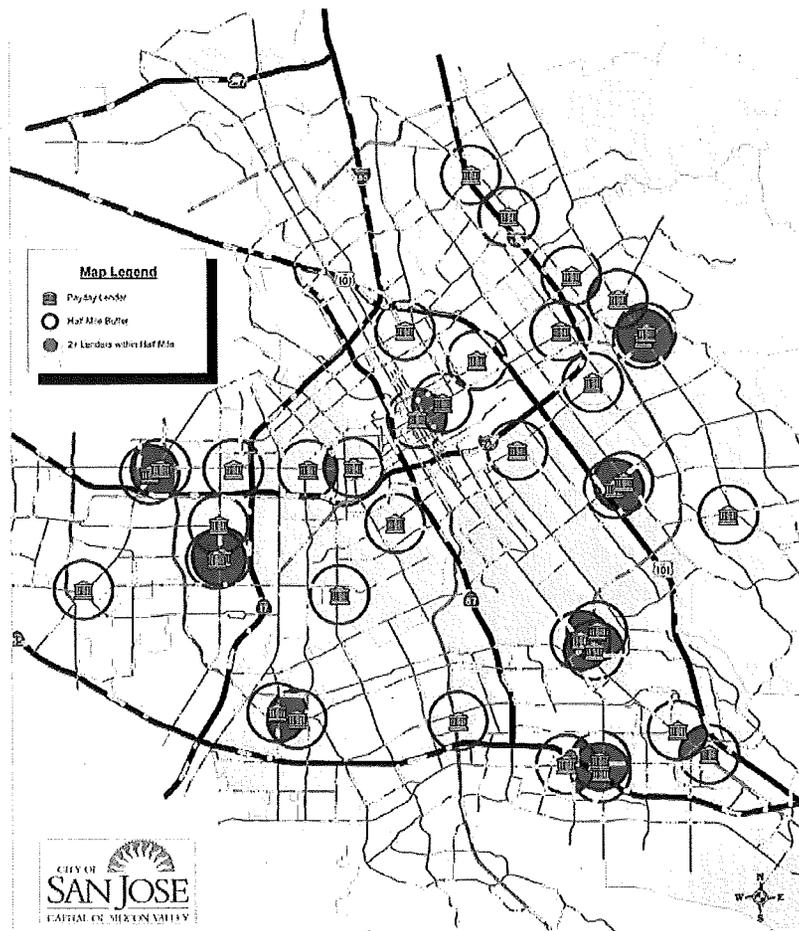


As the map portrays, payday lending facilities are spread throughout the City with Council Districts 1 and 7 having the most (6) and District 8 having the fewest (1). The distribution by Council District is displayed in the table below:

Council District	Number of Lenders	Council District	Number of Lenders
1	6	6	5
2	2	7	6
3	4	8	1
4	2	9	3
5	6	10	3

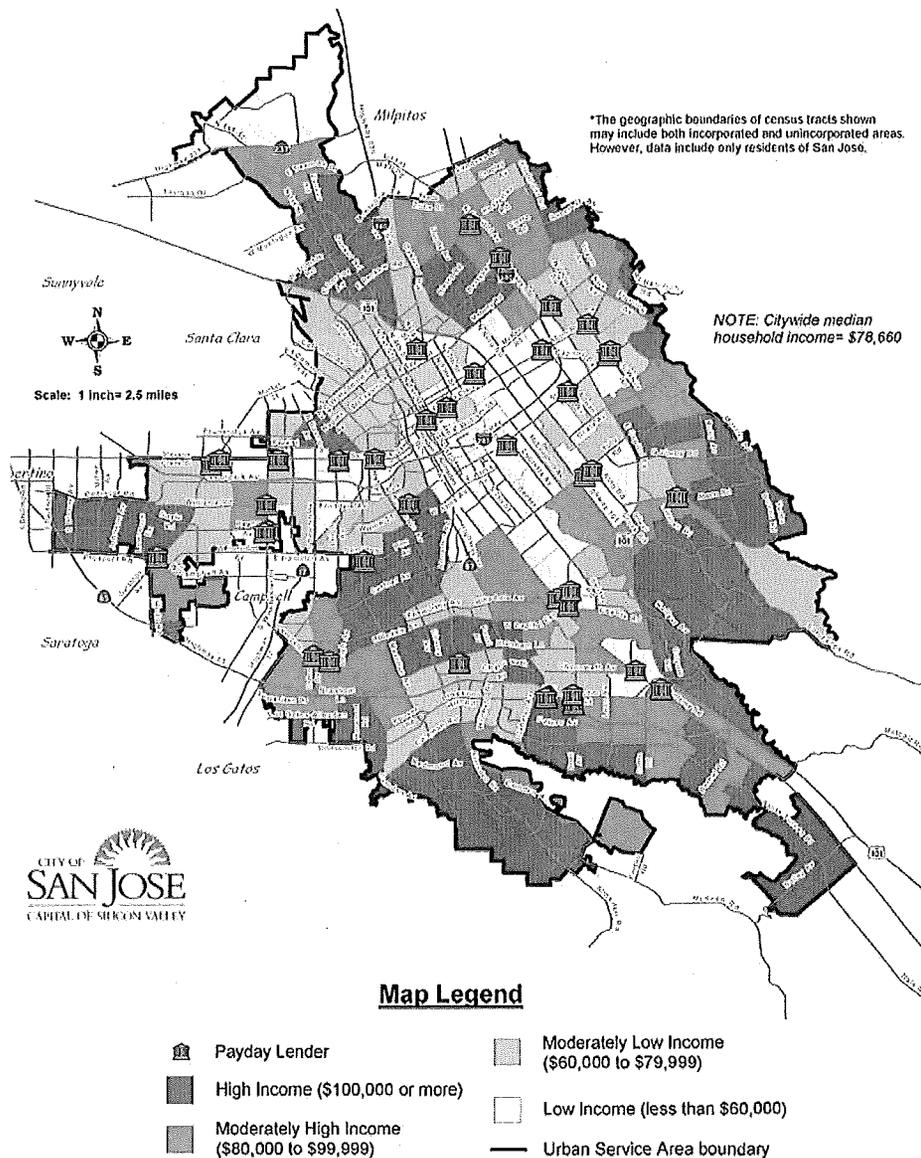
In addition to the physical distribution throughout the City, staff analyzed the proximity of the existing payday lending businesses in relation to other payday lenders. Those areas having more than one payday lending business within a half-mile distance are identified on the map below, entitled *Payday Lender Proximity Analysis*.

### City of San Jose Payday Lender "Proximity Analysis"



As indicated in the map below, entitled *Payday Lenders by Median Household Income by Census Tract*, staff determined that there is a correlation in San Jose between the location of these payday lending facilities and the location of census tracts with lower incomes (per the Census Bureau's American Community Survey, 2009). According to the data, over 75% of lenders are located in a "low" or "moderately low" income census tract in San Jose.

## City of San Jose Payday Lenders by Median Household Income of Census Tract\*



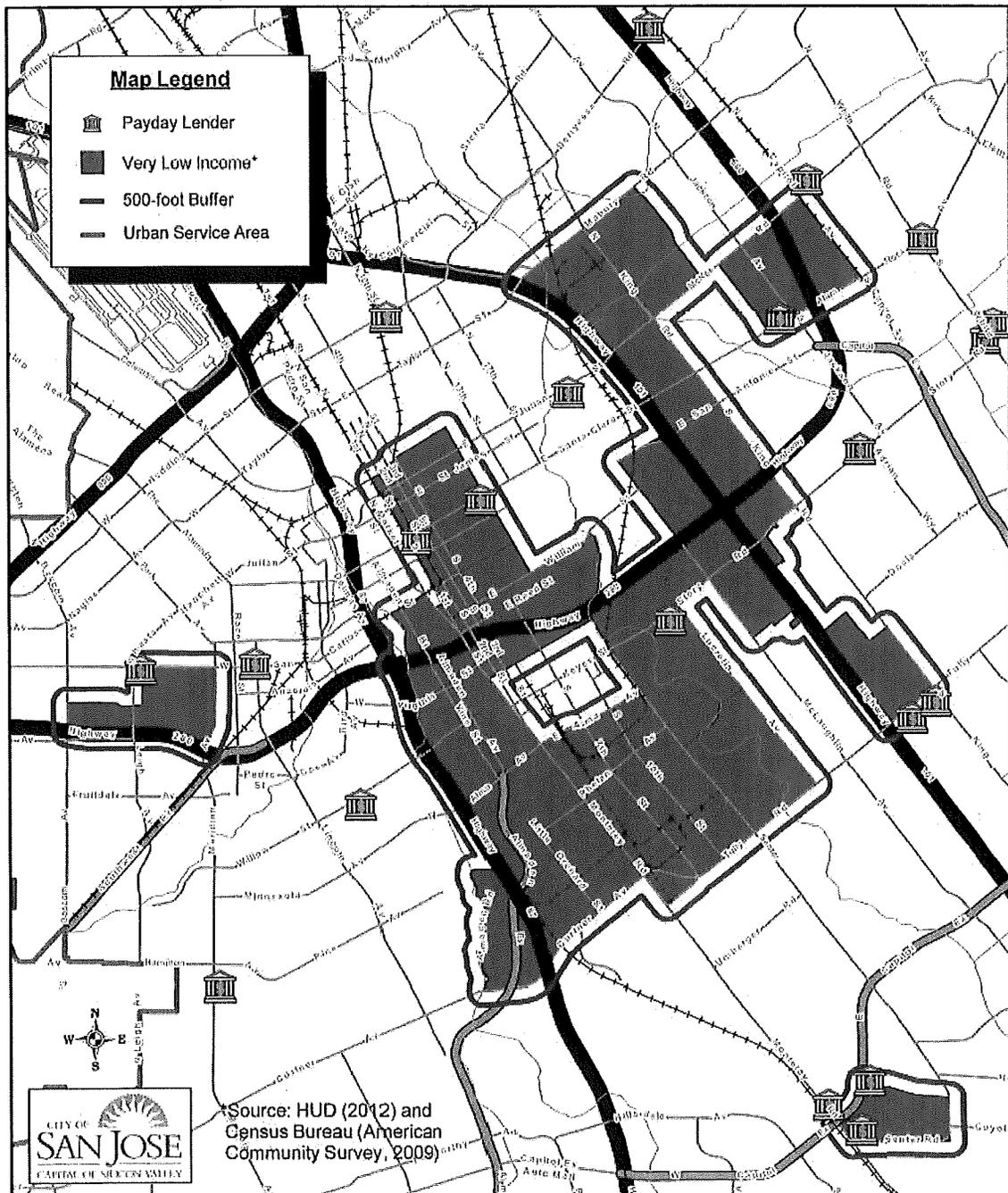
Recommended Ordinance

In response to Council direction and based upon a review of the legal and land use issues related to payday lending, staff is recommending the following three parameters as the most practical and effective ways of addressing the Council's direction:

- 1) Retain the existing zoning districts within which payday lending establishments can locate (Downtown Zoning Districts and all Commercial Districts except CO Commercial Office).
- 2) Require a minimum distance in which new payday lending establishments must be separated from other licensed payday lenders. Specifically, require that new payday loan establishments be separated by at least 500 feet as measured property line to property line for the parcels on which the payday loan establishments are located. This separation will help prevent a future concentration of these uses in close proximity to one another and preserve space for traditional financial institutions and other neighborhood serving uses, such as State or federally chartered banks or credit unions that offer a wide selection of credit and savings options.
- 3) Prohibit new payday lending establishments from locating within the City's lowest income areas. The proposed specific use restrictions prohibit a new payday establishment from locating on a property in a low income census tract or within 500 feet of such a census tract, as identified by the Census Bureau's American Community Survey as having a median household income below that defined annually by US Housing and Community Development (US HUD) as "very low" income for a two-person household (e.g., an income of less than \$42,000 in 2012). This addresses the City Council's concern regarding the detrimental financial impacts on low-income communities by prohibiting new payday lenders from locating in the lowest income areas of the City.

The areas of the City in which new payday lending establishments would be prohibited from locating are shown on the map below.

## City of San Jose Very Low Income Census Tracts\*



No Development Permit would be required for establishments that conform to these proposed use regulations. Instead, a proposed new payday lending business would need to receive from the City a Zoning Code Verification Certificate confirming compliance with the location requirements discussed above and that the business holds a valid state license to conduct a payday lending business. The "Zoning Verification" would be an "over-the-counter" process that is ministerial in nature. Payday lending facilities already in existence could potentially be considered as "legal non-conforming" if they do not meet these new requirements.

The zoning code verification certificate process was originally crafted as part of the development of land use regulations for medical marijuana cooperatives. The City Council suspended the City's ordinance establishing medical marijuana regulations pending greater resolution of several complex issues related to that topic, which included suspension of provisions that established a zoning code verification certificate process. Staff recommends that Council rescind the suspension of only the provisions related to the zoning code verification process so that this process can be utilized to verify zoning code compliance for pay day lending establishments as described above.

Staff is not recommending that payday lenders be required to obtain a Development Permit, given the non-discretionary nature of determining compliance with the proposed use regulations. It is also not evident that there would be a benefit to conducting a public hearing, given the lack of issues that could be addressed through such a process.

### **PUBLIC OUTREACH**

Public outreach for this proposal complies with the City Council's Public Outreach Policy and the Municipal Code. A community meeting was held on March 8, 2012 which was attended by approximately 30 individuals. Staff received testimony both in support of and in opposition to the City land use enacting specific regulations affecting limit payday lending businesses.

The comments of those in support of limits on payday lending businesses are summarized as follows:

- Loans are difficult to payoff and they create a cycle of debt or "debt trap" through repeated use.
- Payday lending should not be located in close proximity to liquor stores, residential areas, and schools.
- Debt creates larger societal problems related to poverty.
- Payday lending establishments result in vacant adjacent tenant spaces.
- Payday lending is a predatory lending practice with interest rates that are unreasonably high.
- Payday lending is clustered in lower-income and minority communities.
- The use of payday loans endangers bank account ownership for families that live on the financial edge in the event of a default.

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**Subject: Payday Lending Ordinance**

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- Money is exported out of the local economy by excessive fees, therefore less money to spend within the local economy.
- The City should require a Conditional Use Permit or other permit involving a public hearing.
- The City should limit the number of payday lending establishments in San Jose.
- Most residents support limits on payday lending.
- State limits ineffectual.

The comments of those in opposition to proposed limits on payday lending businesses are summarized as follows:

- Payday loans are legitimate businesses that provide a quick and convenient source of credit.
- Payday loans provide a valuable and necessary service including in cases of an emergency.
- Payday lending is preferable to other sources of credit and less costly than late fees, overdraft charges, etc.
- Many customers of payday lending businesses do not have other viable financial options.
- Customers are made aware in advance of costs associated with loans.
- Establishments should be located in close proximity to residential areas to serve those that may not have access to a car or are unable to drive.
- Payday lending establishments should not be singled out for regulation.
- Payday lending businesses provide employment for residents.
- Limits on payday lending will discourage competition and increase cost.
- Payday lending limits are not friendly to business and inappropriate given current economic situation.
- The number of payday lending businesses have been decreasing over the last few years and thus no regulations that limit the number are needed.
- This effort is a solution in search of a problem.

A public hearing notice including the Planning Commission and City Council hearing dates was published in the San Jose Mercury News and Post Record and emailed to a list of interested groups and individuals. Staff has posted the hearing notice, staff report and draft ordinance on the Department's website and has been available to discuss the proposal with interested members of the public. Community members have submitted correspondence (attached) in support of the proposed amendment.

### COORDINATION

The preparation of the proposed ordinance and this staff report has been coordinated with the City Attorney's Office and Office of the City Manager.

### CEQA

The environmental impacts of the proposed project are within the scope of the project analyzed under a Program Environmental Impact Report (PEIR) "Envision San Jose 2040 General Plan" that was certified on September 28, 2011 (EIR Resolution No.76041).

  
JOSEPH HORWEDEL, Director  
Department of Planning, Building and Code Enforcement

For more information, please call Laurel Prevetti at (408) 535-7901.

#### Attachments:

- Draft Ordinance
- Department of Corporations Brochure
- Department of Corporations Listing of San Jose Deferred Deposit Originators
- December 9, 2010 Rules Committee Memorandum
- February 28, 2011 Silicon Valley Community Foundation Letter
- August 25, 2011 City Council Memorandum from Councilmembers Kalra, Liccardo, Rocha, Campos.
- Letters and email from the Community

**DRAFT**

**ORDINANCE NO.**

**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. \_\_\_\_\_, 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 \_\_\_\_\_, 2011 ("Final Program EIR") and for which the City Council of the City of San José adopted its Resolution No. \_\_\_\_\_, and the City Council has considered said Final Program EIR and Resolution prior to taking any approval actions on this Ordinance; 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
	C O	CP	C N	C G	
<b>General Retail</b>					

<b>Table 20-90 Commercial Districts Land Use Regulations</b>					
Use	Zoning District				Notes & Sections
	C O	CP	C N	C G	
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
<b>Education and Training</b>					
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	
<b>Entertainment and Recreation Related</b>					
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	
<b>Food Services</b>					
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	

Table 20-90 Commercial Districts Land Use Regulations					
Use	Zoning District				Notes & Sections
	C O	CP	C N	C G	
<b>Health and Veterinary Services</b>					
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	
<b>General Services</b>					
Bail Bond Establishment – Outside Main Jail Area		P	P	P	Part 1.5, Chapter 20.80
Bail Bond Establishment – Within Main 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	
<b>Offices and Financial Services</b>					
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	R	Part 12.5, Chapter 20.80; Section 20.200.875
<b>Public, Quasi-Public and Assembly Uses</b>					
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	
<b>Residential</b>					
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

<b>Table 20-90 Commercial Districts Land Use Regulations</b>					
Use	Zoning District				Notes & Sections
	C O	CP	C N	C G	
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
Single Room Occupancy Living Unit	-	C	C	C	Part 15, Chapter 20.80
<b>Drive-Through Uses</b>					
Drive-through in conjunction with any use	-	-	C	C	
<b>Recycling Uses</b>					
Reverse vending	A	A	A	A	
Small collection facility	A	A	A	A	
<b>Transportation and Utilities</b>					
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
<b>Electrical Power Generation</b>					
Private Electrical Power Generation Facility	C	C	C	C	Note 2
Co-Generation Facility	S	S	S	S	
<b>Stand-by/Backup</b>					
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)
<b>Vehicle Related Uses</b>					
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

<b>Table 20-90 Commercial Districts Land Use Regulations</b>					
Use	Zoning District				Notes & Sections
	C O	CP	C N	C G	
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
Tires, batteries, lube, oil change, smog check station, air conditioning servicing of passenger vehicles and pick-up trucks	-	-	C	P	Note 10, Note 13
<b>Historic Reuse</b>					
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
<b>Offices and Financial Services</b>					
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
<b>General Retail</b>					
Alcohol, off-site sales – beer and/or wine only	C	C		No parking	Section 20.80.900

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
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
<b>Education and Training</b>					
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	
<b>Entertainment and Recreation Related</b>					
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.	
<b>Food Services</b>					
Banquet facility	P	P	Note f	No parking required	
Caterer	P	P	C, Note f	No parking	
Drinking establishments	C	C		No parking	

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
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	
<b>Health and Veterinary Services</b>					
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	
<b>General Services</b>					
Bed and breakfast	P	P	S, Note l	.35 per room	Part 2, Chapter 20.80
Hotel/motel	P	P	-, 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	
<b>Public, Quasi-Public and Assembly Uses</b>					
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	
<b>Residential</b>					

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
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
<b>Residential Accessory Uses</b>					
Accessory buildings and structures	P	P	-	No parking	Note 2
<b>Recycling Uses</b>					
Reverse vending	S	S	-	No parking	Note 3
Small collection facility	S	S	-	No parking	Note 3
<b>Transportation and Communication</b>					
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

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
<b>Electrical Power Generation</b>					
Solar Photovoltaic System	P	P	-	No parking	Section 20.100.610(C)(7)
<b>Vehicle Related Uses</b>					
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	
<b>Historic Reuse</b>					
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**

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, which Zoning Code Verification Certificate confirms full conformance of a proposed Payday Lending Establishment with all of the applicable locational siting 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.

**20.80.1055            Location 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, or closer than a minimum of five hundred (500) feet from the boundary of, 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.
- 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 five hundred (500) feet from any parcel on which another Payday Lending Establishment is located, measured from the closest parcel lines of the respective parcels.

**SECTION 4.** On November 8, 2011, the City adopted Ordinance No. \_\_\_\_\_ 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. \_\_\_\_\_ 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. 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                    day of                    , 2012, by the following vote:

AYES:

RD:SSL:ERD  
3/26/2012

NOES:

ABSENT:

DISQUALIFIED:

---

CHUCK REED  
Mayor

ATTEST:

---

DENNIS D. HAWKINS, CMC  
City Clerk

## Facts & Figures:

In 2007, 1.6 million Californians took out 11 million payday loans, totaling over \$2.9 billion.

## Avoid Future Financial Problems:

Paying bills and living paycheck to paycheck is never easy. Job loss, unexpected expenses or medical emergencies can be financially devastating. If you worry about debt:

- Create a budget (list all sources of income and all expenses, including total owed and monthly minimum payments).
- Cut all unnecessary expenses; prioritize your debts (pay most expensive interest rates first).
- Set aside even a small amount per paycheck to build up an emergency fund.

CALIFORNIA  
DEPARTMENT OF CORPORATIONS

## DEPARTMENT OF CORPORATIONS

State of California  
Business, Transportation and Housing Agency

## What You Need to Know About Payday Loans



Contact the California Department of Corporations to check the status of a payday lender or to file a complaint. For additional copies of this publication, please e-mail your request to [forms@corp.ca.gov](mailto:forms@corp.ca.gov)



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Business, Transportation and Housing Agency

TOLL-FREE 1-866-ASK-CORP (1-866-275-2677)

CDP11-001 (REV/09)

## What is a Payday Loan?

Payday loans are also called "cash advances" or "deferred deposits." In a payday loan, a borrower writes a check to a lender in exchange for a short-term cash loan. For example, a borrower writes a \$300 check, pays the \$45 fee, and receives \$255 in cash. The lender does not cash the check until the borrower's next payday, up to 31 days.

## Fees for Payday Loans:

Under California law, the maximum loan amount a consumer can borrow in a payday loan is \$300. The maximum fee a payday lender can charge is 15% of the face amount of the check (up to a maximum of \$45). Additional fee restrictions apply for military servicemembers and their dependents.

The fee is equivalent to an annual percentage rate (APR) of 460% for a two-week loan. The actual APR may vary, depending on the term of the loan.

APR is the total annual interest rate that a borrower pays on a loan, including all fees and charges. APR is used to reveal the total cost of borrowing money. By comparison, a loan for a new car may have an APR of 4-7%.

## If You Take Out a Payday Loan:

Borrow only as much as you can afford to pay back in full on your next payday. On the loan due date, some borrowers find they cannot afford to pay back the loan. Borrowers are encouraged **not** to take out a second loan from another payday lender to repay the first, as this can lead to a cycle of debt from which it will be expensive and difficult to recover.

## Loans to Military Members and their Dependents:

Because of recent changes in federal and California law that restrict payday loan fees for military servicemembers and their dependents, some payday lenders may choose not to make loans to servicemembers and their dependents.

## California Payday Lending Laws

### Protect You:

- In California, **all** payday lenders must be licensed by the Department of Corporations. Use the Department's website or call Toll-Free to verify a lender's license or to file a complaint.
- A payday lender may only make you **one** loan (which cannot exceed \$300), and may only charge a **maximum fee** of 15% of the total amount of the check (up to \$45). Additional fee restrictions apply for military servicemembers.
- Payday lenders are required to visibly post their CA license and a fee schedule at every location.
- A payday lender **cannot** make you a new loan to pay off an existing loan.
- A payday lender **cannot** make you a new loan while an existing loan with the same lender is outstanding, even if the combined balance of the existing loan and the new loan does not exceed \$300.
- If your check bounces, the payday lender may charge only **one** bounced check fee (up to \$15). (Be careful — your bank may charge you additional fees for insufficient funds.)
- Additional fees **cannot** be charged if you request an extension of time or payment plan. However, the payday lender is not legally required to grant your request.
- By law, the contract for a payday loan **must** be provided to you in the language you primarily used to negotiate with the lender.
- A payday lender **cannot** threaten to prosecute you in criminal court for insufficient funds.
- You may also have other legal protection under California law. If you need help or suspect violations of the law, please contact the Department of Corporations.

## If You Have Credit Problems:

Call your creditors and ask to waive late fees, reduce the interest rate, and/or work with you to establish a re-payment schedule that will work for you.

If you have missed bill payments or have other credit troubles, you may benefit from the services of a financial counselor. Counselors help review your entire financial situation and help you develop a personalized money management plan. Be careful — just because a debt management agency claims to be "non-profit" doesn't guarantee the services are legitimate or affordable.

A reputable agency should send you free information without requiring you to provide any personal details. Look for a range of services, including budget counseling and savings and debt management classes. Avoid any that push a debt management plan as your only option before they analyze your financial situation.

Visit the **National Foundation for Credit Counseling (NFCC)** website [www.nfcc.org](http://www.nfcc.org) or call Toll-Free **1-800-388-2227** for assistance with credit problems and creditors.

## If You Are Facing Bankruptcy:

Recent Federal law requires mandatory credit counseling before you can declare bankruptcy. Go to: <http://www.ftc.gov/bcp/menus/consumer/credit/debt.shtml> to download the publication "Before You File for Personal Bankruptcy: Information about Credit Counseling and Debtor Education" and other useful publications.

The U.S. Department of Justice Trustee Program approves organizations to provide mandatory counseling *before* you can declare bankruptcy and mandatory debtor education *after* you declare bankruptcy. Go to: [www.usdoj.gov/ust/eo/bapcpa/ccde/index.htm](http://www.usdoj.gov/ust/eo/bapcpa/ccde/index.htm)



California Department of  
**Corporations**

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## Financial Services Licensee Address Listing

### PLEASE NOTE:

- This search includes records for the following Department of Corporations licensees:
  - Mortgage bankers and servicers
  - Finance lenders and brokers
  - Deferred deposit originators also called payday lenders
  - Escrow agents, and
  - Check sellers, bill payers and proraters
- Individual Mortgage Loan Originator (MLO) licenses should be checked through NMLS Consumer Access
- For other Department of Corporations licenses and registrations, please visit our Online Tools page.
- The following companies are licensed to provide online escrow services:
  - www.escrow.com
  - Elance Escrow Corporation

The Department of Corporations, the Department of Real Estate, the Office of Real Estate Appraisers, and the Department of Financial Institutions regulate mortgage real estate financial services in California. To check the license records of all four departments at once visit California Real Estate and Financial Services Licensee Information. The name must contain at least 2 letters.

Your search for ( *Deferred Deposit Originator San Jose* ) found the following ( 38 ) results:

<b>Lic. Status:</b>	Active License	<b>Lic. Date:</b>	Dec 31 2004
<b>Lic. Number:</b>	1000021	<b>Lic. Type:</b>	Deferred Deposit Originator
<b>Name:</b>	CASH COVE (GEORGE F. OLSON, DBA)		
<b>Address:</b>	820 WILLOW ST #100 SAN JOSE, CA 95126		
<b>Lic. Status:</b>	Active License	<b>Lic. Date:</b>	Dec 31 2004
<b>Lic. Number:</b>	1000316	<b>Lic. Type:</b>	Deferred Deposit Originator
<b>Name:</b>	AMERICAN CHECK CASHING & TOBACCO (ALAN JOSEPH COTE, DBA)		
<b>Address:</b>	3888 MONTEREY RD. SAN JOSE, CA 95111		
<b>Lic. Status:</b>	Active License	<b>Lic. Date:</b>	Dec 31 2004
<b>Lic. Number:</b>	1001124	<b>Lic. Type:</b>	Deferred Deposit Originator
<b>Name:</b>	CALIFORNIA BUDGET FINANCE (QC FINANCIAL SERVICES OF CALIFORNIA, INC., DBA)		
<b>Address:</b>	611 BLOSSOM HILL RD SAN JOSE, CA 95123		
<b>Lic. Status:</b>	Active License	<b>Lic. Date:</b>	Dec 31 2004
<b>Lic. Number:</b>	1001142	<b>Lic. Type:</b>	Deferred Deposit Originator
<b>Name:</b>	CALIFORNIA BUDGET FINANCE (QC FINANCIAL SERVICES OF CALIFORNIA, INC., DBA)		
<b>Address:</b>	3111 ALUM ROCK SAN JOSE, CA 95127		
<b>Lic. Status:</b>	Active License	<b>Lic. Date:</b>	Dec 31 2004
<b>Lic. Number:</b>	1001207	<b>Lic. Type:</b>	Deferred Deposit Originator
<b>Name:</b>	ADVANCE AMERICA, CASH ADVANCE CENTERS ADVANCE (ADVANCE AMERICA, CASH ADVANCE CENTERS OF CALIFORNIA, LLC, D)		
<b>Address:</b>	5568 MONTEREY ROAD SAN JOSE, CA 95138		
<b>Lic. Status:</b>	Active License	<b>Lic. Date:</b>	Dec 31 2004
<b>Lic. Number:</b>	1001322	<b>Lic. Type:</b>	Deferred Deposit Originator
<b>Name:</b>	ADVANCE AMERICA, CASH ADVANCE CENTERS ADVANCE (ADVANCE AMERICA, CASH ADVANCE CENTERS OF CALIFORNIA, LLC, D)		
<b>Address:</b>	2011 CAMDEN AVENUE		



## Department of Corporations - Financial Services Licensee Listing

Address:	1304 SOUTH WINCHESTER BOULEVARD SAN JOSE, CA 95128	Lic. Status:	Active License	Lic. Date:	Mar 28 2007
Lic. Number:	1003433	Lic. Type:			Deferred Deposit Originator
Name:	CASH 1 (BUCKEYE CHECK CASHING OF CALIFORNIA, LLC, DBA)				
Address:	1101 WEST SAN CARLOS STREET SAN JOSE, CA 95126				
Lic. Status:	Active License	Lic. Date:	Jul 26 2007		
Lic. Number:	1003578	Lic. Type:			Deferred Deposit Originator
Name:	CALIFORNIA CHECK CASHING STORES, LLC				
Address:	2151 STORY ROAD SAN JOSE, CA 95122				
Lic. Status:	Active License	Lic. Date:	Aug 29 2007		
Lic. Number:	1003666	Lic. Type:			Deferred Deposit Originator
Name:	CALIFORNIA CHECK CASHING STORES, LLC				
Address:	375 SARATOGA AVE SAN JOSE, CA 95129				
Lic. Status:	Active License	Lic. Date:	Aug 29 2007		
Lic. Number:	1003668	Lic. Type:			Deferred Deposit Originator
Name:	CALIFORNIA CHECK CASHING STORES, LLC				
Address:	2715 MCKEE RD SAN JOSE, CA 95127				
Lic. Status:	Active License	Lic. Date:	Sep 24 2007		
Lic. Number:	1003695	Lic. Type:			Deferred Deposit Originator
Name:	CALIFORNIA CHECK CASHING STORES, LLC				
Address:	4110 MONTEREY HWY SAN JOSE, CA 95111				
Lic. Status:	Active License	Lic. Date:	Oct 05 2007		
Lic. Number:	1003697	Lic. Type:			Deferred Deposit Originator
Name:	CALIFORNIA CHECK CASHING STORES, LLC				
Address:	2417 ALVIN AVE. SAN JOSE, CA 95121				
Lic. Status:	Active License	Lic. Date:	Oct 05 2007		
Lic. Number:	1003701	Lic. Type:			Deferred Deposit Originator
Name:	CALIFORNIA CHECK CASHING STORES, LLC				
Address:	14708 CAMDEN AVE. SAN JOSE, CA 95124				
Lic. Status:	Active License	Lic. Date:	Oct 05 2007		
Lic. Number:	1003702	Lic. Type:			Deferred Deposit Originator
Name:	CALIFORNIA CHECK CASHING STORES, LLC				
Address:	3826 SEVEN TREES BLVD SUITE 100 SAN JOSE, CA 95111				
Lic. Status:	Active License	Lic. Date:	Oct 05 2007		
Lic. Number:	1003704	Lic. Type:			Deferred Deposit Originator
Name:	CALIFORNIA CHECK CASHING STORES, LLC				
Address:	2471 BERRYESSARD SUITE 5 SAN JOSE, CA 95133				
Lic. Status:	Active License	Lic. Date:	Oct 05 2007		
Lic. Number:	1003710	Lic. Type:			Deferred Deposit Originator
Name:	CALIFORNIA CHECK CASHING STORES, LLC				
Address:	5304-A MONTEREY HWY SAN JOSE, CA 95111				
Lic. Status:	Active License	Lic. Date:	Oct 06 2007		
Lic. Number:	1003711	Lic. Type:			Deferred Deposit Originator
Name:	CALIFORNIA CHECK CASHING STORES, LLC				
Address:	1075 S. WHITE ROAD, SUITE 90 SAN JOSE, CA 95127				
Lic. Status:	Active License	Lic. Date:	Nov 08 2007		
Lic. Number:	1003712	Lic. Type:			Deferred Deposit Originator
Name:	FRIENDLYBANKER.COM (NICHELLE B RUSSIEN, DBA)				





# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Councilmember Ash Kalra  
Councilmember Xavier Campos

**SUBJECT:** SEE BELOW

**DATE:** December 9, 2010

Approved

*Ash Kalra*  
A.K.

*Xavier Campos*  
X.C.

Date

*December 9, 2010*

**SUBJECT: REGULATION OF PAYDAY LENDING**

## RECOMMENDATION

1. Direct Staff to apply for a grant in the amount of \$50,000 to \$200,000 being offered by the Silicon Valley Community Foundation related to the establishment of anti-payday lending policies, and to report to the Community and Economic Development Committee on the status of the grant application on the earliest date possible following the announcement of the grant awards in February 2011.
2. If funding is awarded, direct Staff to:
  - a. draft an ordinance establishing a temporary citywide moratorium prohibiting the acceptance or processing of any permits or licenses, including building permits, related to the establishment of a new payday loan business, and prohibiting the establishment of any new payday loan business for which no permit would otherwise be required;
  - b. draft an ordinance that would:
    - i. require the issuance of a special use permit prior to the establishment of a new payday loan business;
    - ii. enact distance, density, and zoning restrictions for payday loan businesses so that such businesses are a reasonable distance away from other payday loan businesses, residential zones, schools, liquor stores, card rooms, medical marijuana dispensaries, adult book/video stores, adult movie theaters, adult entertainment establishments, and massage parlors; and
    - iii. require greater disclosure of the terms of a payday loan, minimal security measures for payday businesses, performance standards to prevent visual blight, and restrict the hours of operation for payday loan businesses; and
  - c. coordinate and conduct an appropriate stakeholder outreach process.

## **BACKGROUND**

A payday loan is a short-term cash loan that is guaranteed by a personal check given by the borrower to the lender. In exchange for the loan, borrowers will either write a personal check to the lender for the loan amount plus the finance charge or will sign over electronic access to their bank accounts for the agreed-upon repayment amount. The lender will hold the check for the loan period (usually until the borrower's next payday), and if the borrower is unable to repay the loan amount plus the finance charge on the due date, the lender will deposit the borrower's check. Recent studies show that nearly half of California payday borrowers take out payday loans at least once a month, and more than a third of borrowers have taken out loans from multiple payday lending companies at the same time.

A recent study by the Consumer Federation of America (CFA) is very critical of the payday loan industry. The study noted that payday loans are commonly issued with an annual interest rate (APR) of 400% or more, and that some payday loans can result in interest rates as high as 780% APR. The average annual percentage rate (APR) in 2006 for such loans was a staggering 429%, according to the California Department of Corporations. Other studies state that interest rates for payday loans can ultimately reach 900%. The CFA also noted that payday loans are extremely expensive even when compared against a cash advance from a credit card. According to Consumers Union, the "fees for payday loans are extremely high: up to \$17.50 for every \$100 borrowed." Another study indicated that payday loan borrowers ultimately end up paying a total of \$800 on an original loan of \$325.

Although payday loans are often promoted as a solution for people in unexpected financial straits, studies have shown that if a borrower is facing financial hardship, a payday loan can actually worsen the situation. This is because the payday lender, by virtue of having the borrower's personal check or electronic access to the borrower's checking account, will have de facto priority over the borrower's other creditors and therefore will be paid before basic living expenses such as rent and utilities can be paid. In essence, the payday lender ends up having a priority lien on the borrower's bank account. Since most borrowers take out payday loans to cover a chronic shortage of income over expenses, rather than to cover emergencies, many cash-strapped borrowers experience another shortfall after their first loan.

Equally troubling are the many studies that demonstrate that payday loans tend to proliferate in lower-economic communities, and often tend to target low-wage workers, military personnel and young people. These studies conclude that since payday lending businesses charge such high interest rates and do nothing to encourage saving money or using traditional financial institutions, they have the effect of depleting the assets of low-income communities and young people. Payday lending has drained an estimated \$247 million in fees from African-American and Latino households in California. The harm to military personnel and their families was so severe that in 2007, the federal government capped the APR of payday loans offered to service members or their dependents at 36%.

Lastly, payday lending businesses, especially when many are concentrated within a particular geographic area, are commonly associated with neighborhood blight and often become inviting targets for crime, due to the likelihood of such businesses having large amounts of cash on the premises. In fact, in mid-August, a robbery occurred at a check cashing store located in South San José during which two employees were held at gunpoint and one was shot.

Addressing the harmful impacts of payday lending now would be consistent with opinions and policy statements previously expressed by the City of San José and its residents. In December of

2008, Mayor Reed announced his support for the "Bank On San José" program, a local offshoot of a statewide initiative designed to encourage low and middle income residents to become more financially stable by taking advantage of mainstream financial institutions, rather than relying on institutions such as check cashing and payday loan business. In addition, San José's Human Rights Commission, in recommending that the City provide support for the Bank On San José program, specifically suggested that the City require check cashing and payday loan businesses to provide information about the "Bank On" program. Lastly, residents participating in workshops held by the San José Redevelopment Agency in 2008 and 2009 identified check cashing businesses as a specific type of business that the residents wanted to discourage.

### ANALYSIS

The Silicon Valley Community Foundation (SCVF) recently issued a Request for Proposals (RFP) for "city ordinances that restrict payday lending." The RFP (attached) states that grants ranging from \$50,000 to \$200,000 will be awarded for policies aimed at limiting the harmful impact of payday lending. Application for this funding are due on January 5, 2011 and the grant awards will be announced in February of 2001. Given the fast-approaching deadline, we will have to move quickly to take advantage of this opportunity to address the predatory lending practices that target San José's lower-income residents.

Many local municipalities have already recognized the threat that payday lending poses to the community. Within the last seven years, San Francisco, Oakland, and Sacramento have enacted ordinances that placed limits and controls on the payday lending industry. It is time for San José to do the same. The unregulated growth of payday loan businesses is detrimental to the welfare of the citizens of San José, as dozens of payday lending businesses are presently operating in San José with little or no regulation or oversight. By adopting an ordinance that limits the establishment of new payday loan businesses, the City of San José will be furthering its stated goal of encouraging reliance on mainstream financial institutions rather than fringe lending businesses, and will be helping to protect lower-income communities, who are disproportionately impacted by the predatory nature of payday lending.

The Center for Responsible Lending asked Goodwin Simon Strategic Research to conduct a telephone survey of San José voters to explore issues related to efforts to limit or restrict payday loan stores in San José. Only 17 percent of San José voters have a favorable opinion of payday stores, while 52 percent have an unfavorable opinion of them. This 3 to 1 ratio demonstrates that payday loan stores do not start with a significant base of support among the electorate in San José. Voters were also asked their views on a proposed two-year moratorium on new payday loan stores in San José, and a resounding 63 percent would favor a moratorium, with just 22 percent opposed and only 15 percent not sure. Various land-use regulations polled even more favorably.

We recognize that the timeframe for this application is brief, but this opportunity to obtain substantial assistance in developing a policy that will protect the financial health of San José's lower-income communities is worth the effort

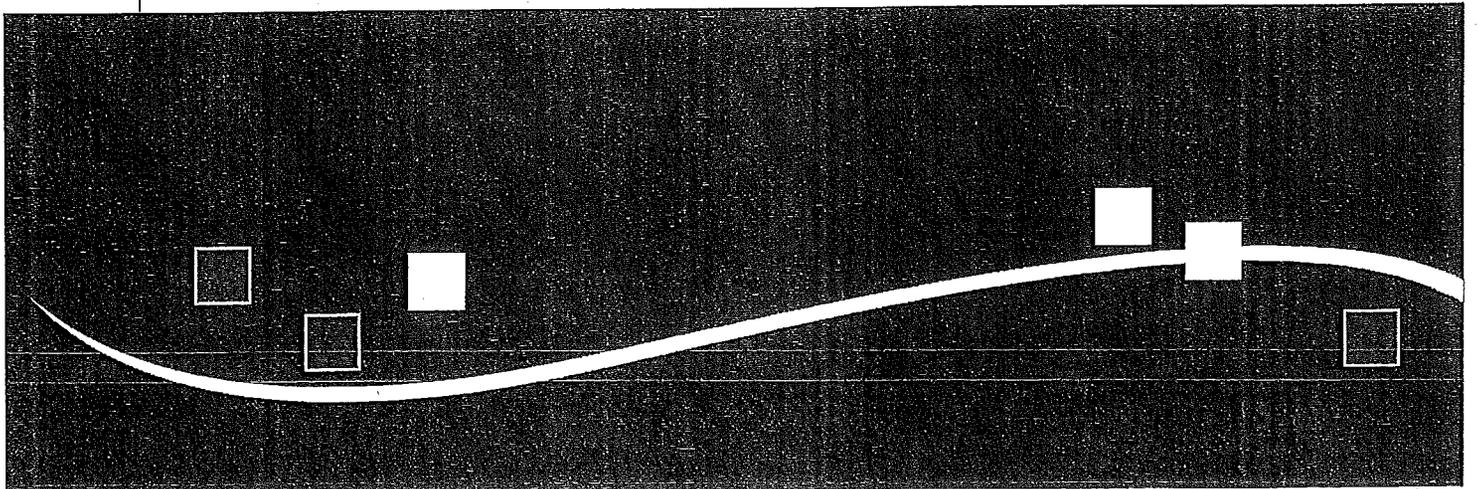
### Attachment:

Silicon Valley Community Foundation Request for Proposals—"Economic Security Strategy: Anti-Payday Lending Policy Advocacy"



■ Request for Proposals

Economic Security Strategy:  
Anti-Payday Lending Policy Advocacy



## Introduction

Silicon Valley Community Foundation is a catalyst and leader for innovative solutions to our region's most challenging problems. One of these problems – predatory payday lending – is addressed through our economic security strategy. To better understand our goals and objectives for this strategy, we encourage you to read the community foundation's research paper on the topic at <http://www.siliconvalleycf.org/grantmaking-strategies/pdf/research-paper-asset-building.pdf>.

*Responses to this RFP are due by 5 p.m. on Wednesday, January 5, 2011. In order to be fair to all applicants, there will be no exceptions to the deadline for late proposals.*

## Problem Statement

Silicon Valley has not been immune from the home mortgage crisis and economic downturn that have affected the nation since late 2007. As the housing crisis and general economic conditions in our region worsened during 2008, the community foundation determined that support for financial education and asset-building activities would fill a critical need and constitute an effective intervention by the community foundation. Asset building requires financial education, the availability of affordable financial products and services, protective public policies and public awareness of the availability and value of these products and services. All of these elements are key, particularly for low-income families who are cash-strapped and have little cushion for emergencies such as a health crisis or job loss. Building and preserving assets enable families to have more options in life and to pass on opportunities to future generations.

During the past decade, an increasingly complex financial landscape (e.g., "exotic" home mortgage loans and proliferating credit card offerings and savings products) has grown up alongside a slightly older check cashing/ payday loan industry that has targeted low-income communities of color whose residents have lacked access to small amounts of credit, bank check cashing and other affordable financial services. Starting in the 1990s, payday lending began in California as an extension of the burgeoning check cashing industry. The result has been an enormous drain on the available income of individuals who pay an average annual percentage rate, also known as APR, of more than 400%<sup>1</sup> for a 14-day loan. It also has led many to become trapped in a circle of debt—individuals take out successive payday loans they are unable to pay back because of a chronic shortage of cash to cover basic living expenses. This situation is likely being exacerbated by cutbacks in the work hours of low-wage earners who are the primary consumers of payday loans and who have been hit hard by the economic recession. The situation is even more worrisome in the context of this nation's high consumer debt and low personal savings indices—even with the recent uptick in the latter.

In our two-county region, there are wide disparities between those who enjoy financial well-being and those who do not. Specifically, one in five San Mateo and Santa Clara County residents is asset poor—they do not have enough cash reserves or equity in their home or business to meet basic needs for three months during a period of joblessness, health emergency, divorce or other unexpected financial hardship. Low-skilled communities of color, particularly first- and second-generation immigrants, are likely to be disproportionately represented in this category. These same individuals are often targeted by payday loan lending establishments and they can not afford to see their earnings depleted by predatory lending practices that include excessive interest rates, high bounced check fees and other negative features.

Alternatives to payday loans do exist, but these products are not as abundant, convenient or well-known to the public. We hope that by informing the general public and public officials at all levels of government we will build greater understanding of the corrosive economic effects of payday lending and support for public policies to curb the practice. We expect these efforts will also help mitigate the abuses and lay a stronger foundation for economic well-being here in Silicon Valley.

1. As noted in Leslie Cook, Kyro Kazantzis and Melissa Morris's Report on the Status of Payday Lending in California, Public Interest Law Firm, a program of Law Foundation of Silicon Valley (page 2). Original citation from California Department of Corporations, "Report to the Governor and the Legislature: California Deferred Deposit Transaction Law" (December 2007).

## Program Goal

The goal of the community foundation for this strategy is to curb the predatory lending practices of payday lenders in order to improve the economic well-being of households in the two-county region. We hope to support local efforts that seek to restrict the establishment of payday lending stores and inhibit the financing of payday loans and lending operations. In the long-term we seek to contribute to state level reform by supporting advocacy efforts aimed at passage of a cap on payday loan interest or other measures to reduce predatory consumer lending practices. We also want to foster dialogue on how to increase responsible small dollar loan options for low-income consumers that could serve as alternatives to payday loans.

Under this RFP the community foundation will support two strategies. The first strategy seeks to raise the awareness of key stakeholders and the public concerning the negative effects of predatory payday lending on household financial health and mobilize public support around the issue. It also seeks to provide educational opportunities for residents, particularly in neighborhoods with high concentrations of payday lending stores, regarding how to avoid falling into the payday loan debt trap and what alternatives exist to meet consumer credit needs. The second strategy will provide support for efforts to advocate changes in municipal laws and regulations that allow for excessive interest and service fees. It will also provide support for activities that promote the development and implementation of socially responsible investment policies by local jurisdictions that specifically target divestment from banks that finance predatory payday lenders.

With regard to public and other stakeholder outreach, education and mobilization activities under the first strategy, the community foundation encourages RFP respondents to focus proposals on cities/neighborhoods with high concentrations of payday lending establishments, such as in San Jose and Campbell, where together they number 45<sup>2</sup>. While significantly fewer payday lenders are situated in Sunnyvale and Gilroy (seven and four payday lending establishments respectively), the community foundation also will consider proposals focusing on those cities and specific populations that may be disproportionately targeted and affected by payday lenders, such as Latinos in Gilroy. The community foundation also will consider proposals that focus on cities that have a high number of payday lenders relative to the number of mainstream banks, such as in Pacifica, San Bruno, or on a per capita basis, such as Redwood City.

The community foundation expects RFP respondents to describe specific efforts they would undertake at the municipal level to create local awareness and knowledge about the negative effects of predatory payday lending and how they would connect their work to efforts around the Bay Area and state. In particular, the RFP should state the specific stakeholder groups and geographies to be targeted and the outreach approaches and tools to be used to conduct the work. The community foundation is especially interested in supporting outreach and public education activities that are culturally and language-appropriate for the target populations being served and that include the use of media such as radio, neighborhood newspapers, texting and other social media communication channels to effectively disseminate key messages to community members.

With respect to changing local laws, one focus will be on city ordinances that restrict payday lending or help mitigate the harmful effects of predatory lending on low-income communities of color. RFP respondents are encouraged to focus proposals on the cities and neighborhoods noted above. Respondents also are encouraged to consider local ordinance experiences in Sacramento, Oakland and San Francisco—as well as those of other cities around the country (e.g., permanent moratorium, special zoning, special permits, limits on density and/or distance)—in order to propose lessons that could be applied to Silicon Valley localities. Respondents are also encouraged to describe how their policy advocacy efforts are expected to lead to meaningful reform at the local level and build a constituency for state level reform in the future. The proposal should include a clear description of how the various activities would be coordinated and implemented, including key anticipated milestones and the timeframe for completion.

2. These areas include: the Alum Rock and Slary Road Corridors; the Seven Trees neighborhood and Monterey Highway; the San Carlos Corridor and greater Burbank neighborhood; Winchester Boulevard; the Horace Mann and North Campus areas; and the Blossom Hill Road area.

### Proposal Eligibility Criteria

- San Mateo and/or Santa Clara County-serving organizations. Organizations headquartered outside the two county region must demonstrate significant service to the area.
- Organizations with a 501(c)(3) designation, those that have a fiscal sponsor with a 501(c)(3) designation, public agencies, collaborations of nonprofit and public agencies, or other entities that have a designated charitable purpose.
- Organizations that do not discriminate based on race, color, national origin, citizenship status, creed, religion, religious affiliation, age, gender, marital status, sexual orientation, gender identity, disability, veteran status or any other protected status under applicable law. If an organization only serves a specific population, e.g., women or specific ethnic populations, the community foundation will consider the proposal on a case-by-case basis.
- Organizations with religious affiliations will be considered for funding only if the project for which they seek support attempts to address the needs of the wider community without regard to religious beliefs.

### Project Proposal Characteristics

We are receptive to concrete, practical and impactful project proposals that:

- Include both well-tested models that can be scaled up or expanded regionally while maintaining local relevance, and new pilots that, if successful, can be grown and replicated.
- Benefit from collaborative work and bring public and private partners together with nonprofit organizations.
- Demonstrate knowledge of the sector and its trends.
- Identify target population to be reached and justification for that focus.
- Provide clear benchmarks for measuring progress.

### Eligible Projects

This RFP focuses on Anti-Payday Lending Policy Advocacy. The community foundation is receptive to implementation proposals on this topic that focus on *one or both* strategies as described above in the Program Goal section. If a proposal includes both strategies, please include a separate and clearly delineated budget for each strategy. Collaborative efforts carried out by more than one entity are encouraged; however the community foundation asks that one lead agency serve as applicant in response to this RFP, with signed Memoranda of Understanding from the other partner agencies. Examples of the types of project activities that may be supported are: legal research to identify the specific type of ordinance to be promoted; public outreach and education to inform municipal residents about the predatory nature of payday lending and help them make informed decisions about consumer borrowing and the various options that are available to them; dissemination of public education information through media outlets; preparation of advocacy materials and holding of briefings for public officials; and mobilization of community members in support of proposed legal remedy. Successful applicants/collaborative partner entities could include: advocacy organizations, public policy research institutions, neighborhood/community-based organizations, marketing and communications firms, and legal services organizations.

While we expect that most of the proposals funded will focus on program implementation, we also may consider requests for planning grants as stand-alone endeavors where a compelling case can be made for them. Planning grants from Silicon Valley Community Foundation are intended to assist organizations to explore the feasibility of a new project that will respond to the community foundation's RFP grantmaking strategies. Some examples may include: collaborative undertakings, consideration of innovative new programs and service areas, and other promising opportunities that require additional exploration or research.

The community foundation will make a limited number of planning grants that correspond to the RFP strategies. For these types of grants, the community foundation is interested in projects that have potential for significant impact in the RFP priority areas and where planning activities are a necessary component for moving an issue forward. The community foundation will consider funding planning projects that:

- Are collaborative in nature and bring new public and private partners together to address the RFP strategies.
- Focus on planning that seeks to improve program service delivery.
- Will lead to projects that are concrete, practical and impactful.
- Propose to replicate a model that requires adaptation, but lacks the financial resources, skill sets or expertise to undertake a planning process without outside assistance.

The community foundation will not fund planning that is part of an organization's or program's ongoing activities. The community foundation recognizes that planning grant monies may be needed to retain outside professional assistance where multi-agency collaboration will be undertaken.

Note that successful planning grant recipients are not guaranteed to receive an additional grant for project or program implementation, but such support may be awarded.

### Application Process

#### 1) Review of reference materials.

- Key Dates (<http://www.siliconvalleycf.org/grants/key-dates.html>)
- Grant Applicant FAQ sheet (<http://www.siliconvalleycf.org/grants/FAQ.html>)
- Research paper (<http://www.siliconvalleycf.org/grantmaking-strategies/pdf/research-paper-asset-building.pdf>)
- RFP for Economic Security: Anti-Payday Lending Policy Advocacy
- Report on the Status of Payday Lending in California and more resources about predatory payday lending (<http://www.siliconvalleycf.org/video/predatory-payday-lending.html>)

#### 2) Participation in one information session is highly encouraged for those interested in responding to this RFP.

To reserve your seat, please visit our website at [www.siliconvalleycf.org](http://www.siliconvalleycf.org) and register online. For planning purposes, we ask that you complete your online registration no later than two days prior to the date of the information session. Only those organizations considering a response to a RFP should attend an information session.

Follow-up phone consultations and in-person meetings will be available with community foundation staff as time permits.

#### 3) Submission of proposal. Although we prefer proposals in electronic form, hard copies will be accepted.

*All proposals must be received by email or postmarked no later than 5 p.m. on Wednesday, January 5, 2011. In order to be fair to all applicants, there will be no exceptions to the deadline for late proposals.*

#### Key Dates

- |                              |  |
|------------------------------|--|
| <b>Dec. 1, 2010:</b>         | Information session (Please visit our website to register) |
| <b>Jan. 5, 2011, 5 p.m.:</b> | Proposal submission deadline                               |
| <b>February 2011:</b>        | Announcement of grant awards                               |

### **Proposal Evaluation Criteria**

Proposals for implementation grants should include a narrative that responds to the questions posed at the end of this document and include any other information necessary to explain the proposed project. The narrative should be a maximum of eight typed pages, use 12-point font and no less than one-inch margins. Implementation grant proposals will be evaluated, on a competitive basis, using the following criteria:

- Clarity of project description and project activities regarding steps to be taken to achieve desired outcomes.
- Achievable timeline that corresponds to the key activities.
- Meaningful benchmarks and indicators of success.
- Innovative and effective strategy with potential for systems change.
- Organizational capacity to implement project—including staffing and leadership, operational and fiscal management.
- Established track record in specific program content area or potential to achieve needed content expertise.
- Ability to leverage financial, human and technical resources leading to greater impact.
- Ability to contribute content area knowledge to the field.

The community foundation may consider modest-sized planning grant requests (\$50,000 or less) that would enable possible collaborators to come together and explore public and other stakeholder outreach, education and mobilization activities under the first strategy. Narrative proposals for planning grants should be a maximum of eight typed pages, 12-point font and no less than one inch margins. Planning grant proposals will be evaluated using the following criteria:

- A rationale for why a planning grant is needed as a first step to meeting the objectives of the RFP.
- The principal focus and objectives of the proposed planning grant.
- Responsible planning grant personnel.
- Estimated timetable.
- Other sources of support for the proposal, if applicable.

### **Total Awards**

Successful applicants are expected to receive grants in the range of \$50,000 to \$200,000 for a minimum of one year, depending on the type of grant awarded (i.e., planning or implementation) and scope of proposed activities. Please think carefully about all the aspects of the proposed project that require support, prioritize what you need, and budget for those items. Budget requests will be closely analyzed and applicants should include a budget narrative that makes clear the necessity of the project's specific line-items. Planning grant requests will be considered as noted above and should not exceed \$50,000 for a minimum of one year.

Please note that project proposal narratives may be posted publicly on our website to reflect our value of transparency and encourage learning among grantees and future applicants as well as members of the community at large.

### **Review and Selection Process**

An advisory committee with issue expertise for this strategy will help staff to review all proposals recommended for funding to the community foundation's board of directors. Applicants may receive a site visit, telephone call and/or other type of communication from community foundation staff as part of the proposal review process. *Successful applicants will be informed of selection in February 2011.*

### Evaluation, Monitoring and Grantee Learning Activities

- Grantees will be expected to meet the community foundation's requirements for the submission of financial and narrative reports, including an interim progress report and/or presentation to community foundation staff and donors, and a final report.
- In an effort to further the overall program goals of this RFP, inform future RFPs related to this topic and contribute to larger field-building objectives, grantees will be asked to participate in periodic meetings to share information on project activities and best practices, as well as participate in research-based evaluations.

*Thank you very much for your interest in responding to this RFP and in making our region a better place. We look forward to reviewing your proposal.*

## Grant Application Checklist

**Cover Sheet**

**RFP Proposal Narrative** addressing proposal information requirement questions.

- A maximum of eight pages, 12-point font, margins no less than one inch

**Attachments: All attachments are required.**

**Attachment A:** A detailed line-item budget for the project (that includes details on how the community foundation's funding would be used)

**Attachment B:** A budget narrative for the project

**Attachment C:** A copy of your organization's current overall operating budget

**Attachment D:** Most recent audit, if available

**Attachment E:** Board of Directors list that includes members' professional affiliations

**Attachment F:** Evidence of tax-exempt status

**Attachment G:** Memoranda of Understanding from collaborative partners (if appropriate)

Send to [grantproposals@siliconvalleycf.org](mailto:grantproposals@siliconvalleycf.org) OR mail one hardcopy to Silicon Valley Community Foundation's headquarters

**Silicon Valley Community Foundation**

*Attn. Grantmaking Department*

2440 West El Camino Real, Suite 300

Mountain View, CA 94040

**Submissions must be received by email or postmarked no later than 5 p.m. on Wednesday, January 5, 2011. In order to be fair to all applicants, no exceptions will be made for late proposals.**

*Thank you for your application.*

If you have any questions, please call 650.450.5400 or email us at [grants@siliconvalleycf.org](mailto:grants@siliconvalleycf.org)

# Application Cover Sheet

## Economic Security: Anti-Payday Lending Policy Advocacy

Submit one electronic copy to:  
grantproposals@siliconvalleycf.org

or

Submit one hard copy to:  
Silicon Valley Community Foundation  
Attn: Grantmaking Department  
2440 West El Camino Real, Suite 300  
Mountain View, CA 94040  
Telephone: 650.450.5400 Fax: 650.450.5453

*We prefer electronic submissions. If you have questions, please contact us at grants@siliconvalleycf.org*

### General Information

Date: \_\_\_\_\_

Amount Requested: \$ \_\_\_\_\_ Duration of project: \_\_\_\_\_

Name of Institution/Organization: \_\_\_\_\_

Project Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Website Address: \_\_\_\_\_

Name and title of primary contact for proposal: \_\_\_\_\_

PHONE: \_\_\_\_\_

FAX: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

Executive Director of organization (if other than above): \_\_\_\_\_

PHONE: \_\_\_\_\_

FAX: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

Please describe in one sentence the project and the purpose for which funding is being sought:

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## Proposal Information Requirements

1. What is the mission of the organization?
2. What is the project for which funding is being sought and what is the primary purpose of the project?
3. What is the geographic region(s) served by the proposed project (county and specific cities/communities)?
4. What is the demographic population that will be served by your project? *(Please provide specifics, e.g. percentage of low-income or people of color, etc. as available.)*
5. What are the key project activities and time line?
6. What impact do you hope to achieve? How will you know if you achieve it? *(Please provide specific outcomes, identified benchmarks and indicators of success that are meaningful and can be captured using qualitative and/or quantitative evaluation approaches— e.g. identify and train X# of community leaders to participate in outreach activities.)*
7. What are the unique aspects and features of your project?
8. What experience does your organization or collaborative have working in this area? *(Please provide specific achievements that describe your organization's capacity.)*
9. Describe your organizational capacity to implement the project. *(Please include staffing and board leadership as well as operational and fiscal health and management.)*
10. What is the most difficult aspect of this project that could affect your success?
11. Why is this the right time for this project?
12. What can your organization contribute to the field in terms of knowledge-building?
13. If the proposal were to receive funding from the community foundation, how will your organization sustain the project after the funding period ends?
14. Collaborative Partners/Agencies (if any) and their contact information.

## ABOUT SILICON VALLEY COMMUNITY FOUNDATION

The **vision** of Silicon Valley Community Foundation is to be a comprehensive center for philanthropy that inspires greater civic participation throughout San Mateo and Santa Clara counties.

The **mission** of Silicon Valley Community Foundation is to strengthen the common good, improve quality of life and address the most challenging problems. We do this through visionary community leadership, world-class donor services and effective grantmaking.

### We value:

Collaboration	Integrity
Diversity	Public Accountability
Inclusiveness	Respect
Innovation	Responsiveness

### At a Glance

Silicon Valley Community Foundation is a catalyst and leader for innovative solutions to our region's most challenging problems. Serving all of San Mateo and Santa Clara counties, the community foundation has \$1.7 billion in assets under management and 1,500 philanthropic funds. The community foundation provides grants through donor advised and corporate funds in addition to its own endowment funds. The community foundation serves as a regional center for philanthropy, providing donors simple and effective ways to give locally and around the world. Find out more at [www.siliconvalleycf.org](http://www.siliconvalleycf.org).

### MORE INFORMATION

If you have questions,  
please contact us at  
[grants@siliconvalleycf.org](mailto:grants@siliconvalleycf.org)  
or call 650.450.5400

**SILICON | community®**  
**VALLEY | foundation**  
SERVING SAN MATEO AND SANTA CLARA COUNTIES

2440 West El Camino Real, Suite 300  
Mountain View, California 94040

tel: 650.450.5400  
fax: 650.450.5401

To read more about Silicon Valley Community Foundation  
visit [www.siliconvalleycf.org](http://www.siliconvalleycf.org)  
release date 11.17.2010

February 28, 2011

Debra Figoni  
City Manager  
City of San Jose  
777 North First Street, Suite 300  
San Jose, CA 95112-6351

Grant #: 2011-01730

Dear Ms. Figoni:

On behalf of Silicon Valley Community Foundation, I am pleased to inform you that the community foundation has awarded a grant of up to \$50,000 (please see grant agreement's special conditions section) to City of San Jose to provide support for research and analysis of payday lending practices in San Jose and other cities and development of an ordinance for the City of San Jose. The community foundation, a leading voice and catalyst for innovative solutions to the region's most challenging issues, is delighted to support City of San Jose with this grant.

Please sign, date and return the attached grant agreement to the community foundation as soon as possible. Once we receive the signed agreement, we will forward payment to you. Please note that the community foundation intends to convene learning cohorts and may post illustrative proposal narratives on its website to encourage peer learning. By signing the grant agreement you have agreed to participate and have authorized us to post the proposal narrative.

The enclosed grant agreement is City of San Jose's contract with Silicon Valley Community Foundation detailing how the funds will be spent. You may not use the funds in any way other than as described in the grant proposal and agreement unless you receive written permission from the community foundation. Please inform Silicon Valley Community Foundation if there are changes in agency personnel who are important to the administration of the grant, or if the grant funds cannot be expended for the purposes or in the time period described in the grant agreement.

The community foundation will require a written report about the grant's impact on participants and the community. A report form is enclosed. Please include the grant number noted above in any report or correspondence. Please acknowledge Silicon Valley Community Foundation's support of your program in publications such as newsletters, program activity announcements and in all media coverage. We suggest you use the following wording: "This project has been made possible in part by a grant from Silicon Valley Community Foundation."

Silicon Valley Community Foundation is pleased to support the work of City of San Jose. We wish you success and look forward to hearing from you about your progress.

Sincerely,

Ellen Clear  
Vice President, Grantmaking

Enclosure: Grant Agreement  
Report Form

**Silicon Valley Community Foundation  
Grant Agreement**

**Grant Number:** 2011-01730

**Amount:** Up to \$50,000

**Date:** February 28, 2011

**Grantee Name:**

City of San Jose

**Grantee Contact:**

Debra Figoni  
City Manager  
City of San Jose  
777 North First Street, Suite 300  
San Jose, CA 95112-6351  
Phone: 408.277.4111  
Email: figoni.debra@sanjoseca.gov

**Foundation Staff:**

Pat Krackov  
Program Officer  
Silicon Valley Community Foundation  
2440 West El Camino Real, Suite 300  
Mountain View, CA 94040  
Phone: 650.450.5400 Fax: 650.450.5453  
Email: pkrackov@siliconvalleycf.org

**Grant Purpose:**

Support for research and analysis of payday lending practices in San Jose and other cities and development of an ordinance for the City of San Jose.

**Grant Period:**

July 1, 2011 to December 31, 2011

**Projected Grant Outcomes:**

- Completion of research and analysis of current regulations applicable to payday lending establishments and determination of the City's legal jurisdiction to regulate same
- Stakeholder outreach conducted to solicit feedback on a potential payday lending ordinance
- Review of ordinance options and completion of a report to San Jose City Council that includes recommendations and options for City Council consideration
- If directed by the San Jose City Council, development of a draft ordinance and holding of public hearings before appropriate Commissions and the Council prior to final adoption of ordinance

**Special Conditions:**

This is a six month grant to start in July 2011. The community foundation will disburse \$33,966 of the \$50,000 award, with the balance to be released as per the following Special Condition statement:

The undisbursed award amount of \$16,034, or any part thereof, will be disbursed only in response to a demonstrated need for additional staff time to refine the ordinance scope and/or conduct further research and analysis in order to achieve anticipated project outcomes. If such a need arises, City of San Jose project staff should contact the community foundation's program officer to discuss the request.

**Reporting Requirements**

Silicon Valley Community Foundation requires progress reports at specified dates. Please note that future grant requests will not be considered if a grantee has failed to submit a required report. A grant report form is enclosed.

According to your grant period, your final report is due by December 31, 2011. However, if grant funds are fully expended earlier in the grant period, we ask that you complete your grant report(s) no more than 45 days after the funds have been expended.

**Hold Harmless**

Grantee hereby irrevocably and unconditionally agrees, to the fullest extent permitted by law, to defend, indemnify and hold harmless the community foundation, its officers, directors, trustees, employees, and agents from and against any and all claims, liabilities, losses and expenses (including reasonable attorney's fees) directly, indirectly, wholly or partially arising from or in connection with the Grant, the application of funds furnished pursuant to the Grant, the program or project funded or financed by the Grant or in any way relating to the subject of this Agreement. This paragraph shall survive the termination of this Agreement.

**Payment Schedule:** This grant will be paid in two installments (see condition) upon receipt of signed grant agreement.

**Second payment:** The second payment will only be disbursed in response to a demonstrated need for additional staff time to refine the ordinance scope and/or conduct further research and analysis in order to achieve anticipated project outcomes. If such a need arises, City of San Jose project staff should contact the community foundation's program officer to discuss the request.

**Acknowledgement of Grant Support:**

Please acknowledge Silicon Valley Community Foundation's support of your program in publications such as newsletters, program activity announcements and in all media coverage. We suggest you use the following wording: "This project has been made possible in part by a grant from Silicon Valley Community Foundation."

By signing below, City of San Jose acknowledges that the proposal submitted and this grant agreement are now the contract with Silicon Valley Community Foundation detailing the purpose(s) of the grant, including what activities are supported by this grant. Your signature indicates your intention to participate in a peer learning cohort and evaluation activities, and authorizes the community foundation to post your proposal narrative on its website. Please inform the community foundation if there are changes in agency personnel who are important to the administration of the grant, or if the grant funds cannot be expended for the purpose or in the time period described in the proposal. Grantee may not use the funds in any way other than as described in the proposal unless the grantee receives written permission from the community foundation. Grantee shall repay to Silicon Valley Community Foundation any portion of the amount granted that is not used for the purpose of this grant. If funds remain at the end of the grant period, grantee must contact the community foundation staff person noted above.

Accepted on behalf of City of San Jose by:

\_\_\_\_\_  
Signature  
(Must be signed by Executive Director,  
President or Board President)

\_\_\_\_\_  
Printed or Typed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

Please sign and return all pages of the original grant agreement to the address above.



COUNCIL AGENDA: 08-30-11  
ITEM: 3.4

# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Councilmember Ash Kalra  
Councilmember Sam Liccardo  
Councilmember Don Rocha  
Councilmember Xavier Campos

**SUBJECT:** SEE BELOW

**DATE:** August 25, 2011

Approved

Date

*Ash Kalra*  
A.K.

*Don Rocha*  
D.R.

8.25.11

**SUBJECT:** FY 2011-2012 COUNCIL PRIORITY ORDINANCES

## RECOMMENDATION

Direct staff to add Payday Lending and Smoking in Outdoor Areas to the list of approved 2011-2012 workplan items.

## BACKGROUND

There is no question that we are in a fiscally difficult time, and that staff resources have diminished. However, being fiscally responsible, while extremely important, is not our only responsibility. We also have to find ways to provide for and protect the health and well-being of our residents, and when given the opportunity to do so at a significantly reduced cost due to grant funding and partnerships with other organizations, we must take advantage of the opportunity.

Furthermore, as noted in Mayor Reed's Rules Committee memo dated August 22, 2011, one ordinance in the "Top 10" list is already complete, and two others have not yet begun, giving us a chance to "replace these three with other referrals from the 'Pending Ordinances on Hold' or 'Potential New Ordinances' lists." If the council decides to follow the approach suggested by the Mayor, we believe that payday lending and outdoor smoking should be two of these three referrals. Ultimately, regardless of whether the council follows the process suggested by the Mayor, we believe that staff should be directed to add these two projects to its list of active 2011-2012 workplan projects, as they are the only two projects on the list of Other Significant Ordinances (attachment B to staff's August 19, 2011 memo) that not only include significant grant funding but also significant workload assistance from local organizations.

With respect to payday lending, the Silicon Valley Community Foundation has already approved a grant of \$50,000 for the City to study the land use issues presented by payday lending in San Jose, and several organizations have offered their significant assistance with respect to the legal research and outreach efforts needed to complete this project. As noted in the City's grant

application, this project would first entail conducting stakeholder outreach and studying existing regulations regarding payday lending establishments. Development of an ordinance "and alternate options" is listed in the application as the third step in the process; thus, staff resources would be allocated to drafting an ordinance only after the outreach is completed and identifies the land use implications of payday lending in San Jose.

With respect to the outdoor smoking project, the City is eligible for up to \$196,730 of grant funding to develop a policy that addresses exposure to second-hand smoke. In addition, the County has indicated that they can provide significant assistance with the necessary outreach. Further assistance in the areas of outreach, signage, and other aspects of the potential ordinance has been offered by organizations such as Breathe California and the California Apartment Association, Tri-County Division. However, these grant funds expire in March 2012, so we must move quickly to take advantage of this opportunity.

In short, for both projects, we have an opportunity to study potentially beneficial policies at a significantly reduced cost and with substantial assistance from partner organizations. In this time of fiscal constraints, it is incumbent upon us to take advantage of the funding and partnership opportunities to implement policies that protect the health and financial well-being of our residents.

NEIGHBORHOOD  
HOUSING  
SERVICES



**NeighborWorks®**  
CHARTERED MEMBER

March 30, 2012

San Jose City Council  
Honorable Mayor and Council Members  
San Jose City Hall  
200 E. Santa Clara Street  
San Jose, CA 95113

Dear Mayor Reed and Members of the City Council:

I'm writing on behalf of Neighborhood Housing Services Silicon Valley, we are a local non-profit providing home ownership opportunities and neighborhood services to low and moderate income families as a way to stabilize and revitalize our communities.

We fully support the proposed "Payday Lending Ordinance" tentatively scheduled for public hearing on Tuesday, April 17. We stand with the Coalition Against Payday Predators (CAPP), in urging you to adopt an ordinance that would put a cap on the number of payday loan outlets in the City, and set forth permitting and distance requirements for any new payday loan or check cashing storefronts. We believe it is in the interest of San Jose communities for the Council to adopt these strong yet reasonable policies to control the growth of the payday loan industry in the region.

We understand that payday lenders charge approximately 459%APR for their loans. This is appalling and does a great disservice to consumers they portend to support. The City must adopt a strong permitting process and zoning restriction for these businesses. This would allow for communities to weigh in on any future proposals for new payday lenders.

NHSSV is a HUD Approved Counseling Agency providing homebuyer education and foreclosure intervention counseling. At our monthly workshops we caution our clients to beware of payday lenders and use expense savings strategies or alternative sources. Some homebuyers unfortunately use these short term cash loans to pay bills, mortgage, rent and other expenses and before they realize it get even deeper into financial ruin. We urge the City to intervene and create a system to prevent proliferation of additional payday lending operations.

We respectfully ask the Council to approve the ordinance when it comes before you in April.

Thank you for your time and consideration,

Matt Huerta  
Executive Director

Cc: Rich Buikema, City Planning Department  
San Jose Planning Commission

**Bulkema, Rich**

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**From:** Ivonne Montes de Oca [jmo@thepinnacle.com]  
**Sent:** Monday, April 02, 2012 9:52 AM  
**To:** The Office of Mayor Chuck Reed; District1; District2; District3; District4; District5; Oliverio, Pierluigi; District7; Herrera, Rose; District9; Office of Councilmember Nancy Pyle  
**Cc:** hopecahan@mac.com; edesab@yahoo.com; Ed@Abelite.com; mkamkar7@gmail.com; kline@libraryworld.com; Bulkema, Rich  
**Subject:** Support for Payday Lending Ordinance  
San Jose, CA., April 2, 2012

Dear Mayor Reed, Members of the City Council, Planning Commission and City Planning staff:

I'm writing to voice my support for the proposed "Payday Lending Ordinance."

I think it's important for the City to take steps to protect our families and neighborhoods from any more payday lenders and check cashers because this industry's usurious rates of up to 450% levied on the most economically vulnerable represent - in fact - a systematic creation of poverty. All this at the time when governmental institutions are the least capable of providing a safety net. At a time when budgetary constraints are doing away with social services, we don't need Payday lenders exploiting people's vulnerabilities and driving them deeper into crushing debt. There are better, more helpful alternatives.

Payday lenders aren't helping people—they're ripping people off with their predatory loans. By limiting the number of payday lenders, the City would be sending a strong message that we do not condone predatory lending practices.

Please adopt a strong local policy that will let our communities have a say in whether we want these businesses in our neighborhood.

Thank you,

**Ivonne Montes de Oca**  
1179 Kolenberg Ave.,  
San Jose, CA 95125  
Tel. (408) 288-2227 x 14

**Bulkema, Rich**

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**From:** perrysandy@aol.com  
**Sent:** Thursday, March 29, 2012 2:40 PM  
**To:** The Office of Mayor Chuck Reed; District1; District2; District3; District4; District5; Oliverlo, Pierluigi; District7; Herrera, Rose; District9; Office of Councilmember Nancy Pyle  
**Cc:** hopecahan@mac.com; edesab@yahoo.com; mkamkar7@gmail.com; klne@libraryworld.com; Ed@Abelife.com; dyob@hopkinscarley.com; Bulkema, Rich  
**Subject:** Payday Lending

# CHAM DELIVERANCE MINISTRY

949 E. San Fernando St.  
San Jose, California 95116  
[www.cham-ministry.org](http://www.cham-ministry.org)  
408-295-4463

San Jose City Council  
Honorable Mayor and Council Members  
San Jose City Hall  
200 E. Santa Clara Street  
San Jose, CA 95113

March 29, 2012

Dear Mayor Reed and Members of the City Council:

CHAM Deliverance Ministry is a front-line ministry, tackling the issues of homelessness, gangs, mental illness, drug addition, broken families, hopelessness, anxiety and other issues that cripple many communities in our city and our entire society.

We support the proposed "Payday Lending Ordinance" that is scheduled to come to the Council at a public hearing on Tuesday, April 17. We are part of the Coalition Against Payday Predators (CAPP) and urge you to adopt an ordinance that would put a limit on the number of payday loan outlets in the City, and establish permitting and distance requirements for any new payday loan or check cashing storefronts.

Occupy Wall Street and others have appropriately shone a light on the wicked practices of Wall Street banks. Regulating payday lenders is an immediate step that San Jose City Council can take against predatory banking practices right here in our own community. Payday lenders frequently charge APR interest rates as high as 459% and can create an inescapable cycle of debt for consumers that pushes them into poverty and even homelessness. Adopting a permitting process and zoning restrictions for these businesses would help limit these damages and allow for communities to weigh in on any future proposals for new payday lenders.

As a Christian ministry, we unequivocally reject and abhor all forms of exploitation of the poor.

3/29/2012

Scripture admonishes us:

"If you lend money to one of my people among you who is needy, do not be like a moneylender; charge him no interest. If you take your neighbor's cloak as a pledge, return it to him by sunset, because his cloak is the only covering he has for his body. What else will he sleep in? When he cries out to me, I will hear, for I am compassionate." – Exodus: 22: 25-27.

Payday lending is an immoral and destructive practice that should be eliminated or at least curtailed in our city. The City Council should investigate and consider promoting other, non-profit, non-exploitative methods for meeting people's needs for short-term financing.

Thank you for your time and consideration.

Sincerely,

Sandy Perry  
Outreach Minister  
408-691-6153

Cc: Rich Bulkema, City Planning Department  
San Jose Planning Commission

3/29/2012

March 30, 2012

Ms. Laurel Prevetti  
Assistant Director Planning, Building and Code Enforcement  
Department of Planning, Building and Code Enforcement  
City of San Jose  
200 E. Santa Clara St., Tower 3  
San Jose, California 95113

Dear Ms. Prevetti:

I write this letter on behalf of Silicon Valley Community Foundation to recommend the Department of Planning, Building and Code Enforcement support an ordinance that would put a cap on the number of payday loan outlets in the City of San Jose, and set forth permitting and distance requirements for any new payday loan or check cashing storefronts.

Our staff was pleased to attend the March 7 community meeting that you and your staff held at Mayfair Community Center to discuss the City of San Jose's Payday Lending Ordinance. Thank you for holding that meeting and sharing information on the analysis your office has conducted to understand the prevalence of payday lending establishments and the pattern of their location in San Jose, especially with regard to how they are clustered in communities of color and in low- to moderate-income communities.

In addition to expressing our appreciation for the meeting, I wanted to reiterate that the community foundation is committed to combating predatory lending practices and believes communities need to use every tool at their disposal to put some common-sense boundaries around businesses that trap working people in a cycle of debt. San Jose voters agree according to results from a telephone survey conducted by Goodwin Simon Strategic Research on behalf of the Center for Responsible Lending.

These results provide very strong evidence that voters have unfavorable attitudes about payday loan stores and strongly support efforts to impose a moratorium on new payday loan stores in San Jose. For example, over half of those surveyed (52 percent) have an unfavorable opinion of these stores, and among those who know someone who has visited a store, seventy percent have an unfavorable opinion, indicating that familiarity breeds even more unfavorable attitudes. The survey results also show overwhelming support (86 percent) for enactment of a range of permanent restrictions on payday lending, including adherence to Good Neighbor Policies, greater disclosure of loan terms, hours of operation and store location.

It bears noting that land use ordinances have been enacted all over the Bay Area as well as in other parts of the state and nationally. The City of San Francisco passed one of the first Bay Area ordinances in late 2007, with East Palo Alto becoming the most recent municipality to pass an ordinance in late 2011.

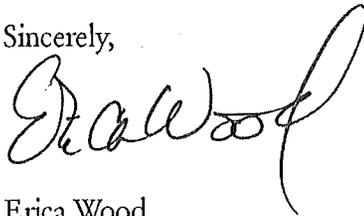
The City of Pacifica passed a permanent moratorium in late 2010 and advocates in that city expect an ordinance to follow shortly. Additionally, the Santa Clara County Board of Supervisors voted unanimously to enact a temporary moratorium earlier this month, and County Counsel will be presenting a recommendation to the Planning Commission in early April for a permanent ban that would prevent payday loan and check cashing stores from establishing themselves in the unincorporated areas of the County. The San Mateo County Board of Supervisors is poised to consider similar land use restrictions as well. These actions demonstrate the strong momentum for regulation that exists in our region, which we hope will continue in San Jose as a result of your recommended ordinance. Moreover, recommendation of strong, yet reasonable policies in San Jose would ensure some measure of consistency with the process underway in Santa Clara County to regulate payday loan and check cashing establishments in its unincorporated areas.

Additionally, in response to comments made at the San Jose planning department's Community Meeting that no alternatives exist for cash-strapped residents apart from payday loans, a number of alternatives are currently in the marketplace and that number is growing by the day. Small dollar loans are available for consumers through credit unions and other non-profit and for-profit providers, including employers. A number of effective programs are also offered by San Jose-based social service agencies and community development finance providers.

We understand that the April 11 Planning Commission meeting is the next step in the City process to recommend a strong local ordinance and we look forward to continuing to inform that process as it moves forward.

Please do not hesitate to be in touch with me if you have any questions. My phone number is 650-450-5536 and my e-mail address is [ekwood@siliconvalleycf.org](mailto:ekwood@siliconvalleycf.org).

Sincerely,

A handwritten signature in black ink, appearing to read "Erica Wood". The signature is fluid and cursive, with a large loop at the end of the last name.

Erica Wood  
Vice President, Community Leadership and Grantmaking

April 2, 2012



1381 SOUTH FIRST STREET  
SAN JOSÉ , CA . 95110  
408.278.2160 [PH]  
408.885.9071 [FX]  
www.sacredheartcs.org

San Jose City Council  
Honorable Mayor and Council Members  
San Jose City Hall  
200 E. Santa Clara Street  
San Jose, CA 95113

Dear Mayor Reed and Members of the City Council:

I'm writing on behalf of Sacred Heart Community Service (SHCS). A grassroots anti-poverty organization founded 48 years ago in San Jose, SHCS serves 20,000 unduplicated customers per month from throughout Santa Clara County through a mix of essential services, self-sufficiency programs, and opportunities for community advocacy and engagement.

We are writing to demonstrate our support for the proposed "Payday Lending Ordinance" tentatively scheduled for public hearing on Tuesday, April 17. We stand with the Coalition Against Payday Predators (CAPP) in encouraging you to adopt an ordinance that caps the number of payday loan outlets in San Jose, and instates permitting and distance requirements for new payday loan or check cashing storefronts.

Every day we assist families who are caught in debt traps as a result of these loans. With 459% APR interest rates, payday loans strip already low-income, vulnerable individuals of much needed cash. Once families get to Sacred Heart, their credit has already been damaged. They already have had a series of bad experiences with financial institutions and feel burned. Based on this common experience we ask that the City use its leadership to do what it can to protect more low-income families. The City of San José take a key step by adopting a permitting process and zoning restrictions, and require payday outlets to translate their contracts into the languages that match the demographics of those they serve.

Sacred Heart Community Service combats poverty in a number of ways, and we assure you that you can continue to count on us. At the same time, we ask for your support. Please partner with us to condemn predatory practices and also protect families to the extent possible from lifetimes of debt and poverty. In that spirit, we reiterate our support for this policy and respectfully ask the Council to approve the ordinance when it comes before you in April.

Thank you for your time and consideration,

Poncho Guevara  
Executive Director

Cc: Rich Buikema, City Planning Department  
San Jose Planning Commission

# WORKING PARTNERSHIPS USA

March 29, 2012

Honorable Mayor Reed  
Members of the City Council  
San Jose City Hall  
200 E. Santa Clara Street  
San Jose, CA 95113

Dear Mayor Reed and Members of the City Council:

I'm writing on behalf of Working Partnerships USA. Our organization works to compel government to act for the common good by making it more open, accessible and accountable and to achieve policy changes in a number of areas including jobs, health care, and housing to improve families' lives. We have worked for almost two decades in San Jose and are deeply concerned about the on-going problems with payday lending in our communities.

**We strongly support the proposed "Payday Lending Ordinance" tentatively scheduled for public hearing on Tuesday, April 17.** We stand with the Coalition Against Payday Predators (CAPP), in urging you to adopt an ordinance that would put a cap on the number of payday loan outlets in the City, and set forth permitting and distance requirements for any new payday loan or check cashing storefronts. We believe it is in the interest of San Jose communities for the Council to adopt these strong yet reasonable policies to control the growth of the payday loan industry in the region.

We're concerned about the predatory practices of this industry, particularly as working people in our country and state face huge hardships due to the irresponsibility of predatory lenders. We are especially concerned about the 459% APR interest rates on payday loans and the inescapable cycle of debt the loans create for consumers, which create an asset-stripping effect that impacts both the individual and the entire community. We also condemn the fact that these businesses target low and moderate-income workers and communities of color. Adopting a permitting process and zoning restrictions for these businesses would help address the latter issue, and would allow for communities to weigh in on any future proposals for new payday lenders.

We work everyday with low-income families and workers who, in trying to make ends meet for their family get taken advantage of by the unscrupulous payday companies which saturate their neighborhoods. In that spirit, we reiterate our support for this policy and respectfully ask the Council to approve the ordinance when it comes before you in April.

Thank you for your time and consideration,

A handwritten signature in cursive script, appearing to read "Cindy Chavez".

Cindy Chavez  
Executive Director

Cc: Rich Buikema, City Planning Department  
San Jose Planning Commission

Date: 2/2/2012

Dear Mayor Reed, Members of the City Council, Planning Commission and City Planning staff:

I'm writing to voice my support for the proposed "Payday Lending Ordinance."

I think it's important for the City to take steps to protect our families and neighborhoods from any more payday lenders and check cashers because:

*Taking a payday loan caused me an extra expense because @ exactly midnight on the loan due date the money was withdrawn from my account, needless to say my check had not been deposited yet, because I am asleep during that hour of the night. I was expecting to be able to complete my workday and then deposit my check in the bank, this caused me an overdraw fee. These payday lenders aren't helping people—they're ripping people off with their predatory loans. By limiting the number of payday lenders, the City would be sending a strong message that we do not condone predatory lending practices. There are better alternatives.*

Please adopt a strong local policy that will let our communities have a say in whether we want these businesses in our neighborhood. *These companies are sneaky they are like thieves in the night.*

Thank you,

Name: Charmayne Thompson

Address: \_\_\_\_\_

Date: 3/29/12

Dear Mayor Reed, Members of the City Council, Planning Commission and City Planning staff:

I'm writing to voice my support for the proposed "Payday Lending Ordinance."

I think it's important for the City to take steps to protect our families and neighborhoods from any more payday lenders and check cashers because:

We want more grocery stores, not payday lenders and liquor stores. Please help us. Our neighborhood does not need this.

Payday lenders aren't helping people—they're ripping people off with their predatory loans. By limiting the number of payday lenders, the City would be sending a strong message that we do not condone predatory lending practices. There are better alternatives.

Please adopt a strong local policy that will let our communities have a say in whether we want these businesses in our neighborhood.

Thank you,

Name: Rita Adame

Address:

Date: 3/29/12

Dear Mayor Reed, Members of the City Council, Planning Commission and City Planning staff:

I'm writing to voice my support for the proposed "Payday Lending Ordinance."

I think it's important for the City to take steps to protect our families and neighborhoods from any more payday lenders and check cashers because:

These payday lenders are ruining our community and impoverishing our people. We need them out!

Payday lenders aren't helping people—they're ripping people off with their predatory loans. By limiting the number of payday lenders, the City would be sending a strong message that we do not condone predatory lending practices. There are better alternatives.

Please adopt a strong local policy that will let our communities have a say in whether we want these businesses in our neighborhood.

Thank you,

Name: Anh Cao

Address

Date: 3/19/12

Dear Mayor Reed, Members of the City Council, Planning Commission and City Planning staff:

I'm writing to voice my support for the proposed "Payday Lending Ordinance."

I think it's important for the City to take steps to protect our families and neighborhoods from any more payday lenders and check cashers because:

*my experience with them has been very expensive. Our financial situation has forced us to use them as a last resort, but the high interest they charge defeats the purpose.*

Payday lenders aren't helping people—they're ripping people off with their predatory loans. By limiting the number of payday lenders, the City would be sending a strong message that we do not condone predatory lending practices. There are better alternatives.

Please adopt a strong local policy that will let our communities have a say in whether we want these businesses in our neighborhood.

Thank you,

*Mariela Sanchez*

Name:

Address:

Maurice Davis

He is a young adult who recently moved to San Jose from Richmond. He grew up at risk in Richmond and has transformed himself mentally since a troubled youth. He now knows what he wants out of life – a good-paying job doing what he loves and long-term financial security. He is earnestly and eagerly looking for work. In his quest to be self-sufficient, a job is the first thing on his mind. But as a young man, previously an "at-risk" youth in Richmond, his feet are firmly planted on the ground now and he knows what his long-term dreams are. He wants to go to San Jose State University or another local school and get a degree in Mechanical or Computer Engineering. His passion is building things -- and as our country works to create new jobs and re-invigorate our manufacturing sector, he hopes to contribute to that growth. However, he needs to become financial stable first so he can save the money needed to go back to school or simply to survive (food, rent, etc.) while he takes out student loans. He got some experience with the San Jose Conservation Corps and has been working on his resume and job readiness with SHCS in the JobLink program. While unemployed, he got behind on paying his bills and decided to turn to payday loans. He got one loan to cover some bills he needed to pay and then realized that the repayment term was nearly impossible to comply with and had to take out a second loan to cover the first. This game of whack-a-mole induced lots of stress and made his hopes of finding work (or ideally going back to school to study for his dream) nearly impossible. Between chasing down the payday loan to pay his bills and then chasing down more payday loans to cover the first one (and trying to survive day to day), he had very little time left to focus on his job search, much less prepare himself for his long-term goal of going back to school to study Mechanical or Computer Engineering.

When he was finally able to secure a few hours of work, the payday shops went into his bank account, without notifying him and took all the money to pay back the loan he owed. Instead of offering him a reasonable payment plan with incremental payments, they raided his account when he was finally getting back up on his feet. He was broke all over again and this made it extremely difficult to support himself with the necessities like food. He came to Sacred Heart for food assistance due to the one-time raiding of his bank account to pay back the loan. He believes that regulations are necessary to rein in an industry that is looking out for its own profits, but definitely not for the people who use its product. He would like to see a longer repayment term for the loans and increment-based payment plans. But mostly, he just wants the industry to be more responsible, stop targeting the most vulnerable people, and have strong regulations in place so other people are not subjected to what he suffered.

Date: 4/2/12

Dear Mayor Reed, Members of the City Council, Planning Commission and City Planning staff:

I'm writing to voice my support for the proposed "Payday Lending Ordinance."

I think it's important for the City to take steps to protect our families and neighborhoods from any more payday lenders and check cashers because: *Instead of helping the community they are charging us really high interest rates. They are taking advantage of low income people.*

Payday lenders aren't helping people—they're ripping people off with their predatory loans. By limiting the number of payday lenders, the City would be sending a strong message that we do not condone predatory lending practices. There are better alternatives.

Please adopt a strong local policy that will let our communities have a say in whether we want these businesses in our neighborhood.

Thank you,

Name: *Blanca Carbajal*

Address:

Date:

4-2-2012

Dear Mayor Reed, Members of the City Council, Planning Commission and City Planning staff:

I'm writing to voice my support for the proposed "Payday Lending Ordinance."

I think it's important for the City to take steps to protect our families and neighborhoods from any more payday lenders and check cashers because:

*They violate me! The check cashers like California Checking who take such a huge percentage of my earnings are criminal - I have to use them because I can't open a checking account, they should not be allowed to act as the MDC, MAFIA, organized crime by forcing me to pay them or else... I go hungry, I become homeless, then jobless. You allow them to be criminal - Stop allowing these criminal payday lenders aren't helping people—they're ripping people off with their predatory loans. By businesses limiting the number of payday lenders, the City would be sending a strong message that we do to remain, not condone predatory lending practices. There are better alternatives.*

Please adopt a strong local policy that will let our communities have a say in whether we want these businesses in our neighborhood.

Thank you,

Name: N. Sharee Wight - Livingston

Address:

[Redacted address box]

Date: 4.2.2012

Dear Mayor Reed, Members of the City Council, Planning Commission and City Planning staff:

I'm writing to voice my support for the proposed "Payday Lending Ordinance."

I think it's important for the City to take steps to protect our families and neighborhoods from any more payday lenders and check cashers because: *the Raped me for my money And now I'm SO far IN debt that I can barley feed my family*

Payday lenders aren't helping people—they're ripping people off with their predatory loans. By limiting the number of payday lenders, the City would be sending a strong message that we do not condone predatory lending practices. There are better alternatives.

Please adopt a strong local policy that will let our communities have a say in whether we want these businesses in our neighborhood.

Thank you,

Name: *SOBE LOPEZ*

Address:

Date: 03/20/12

Dear Mayor Reed, Members of the City Council, Planning Commission and City Planning staff:

I'm writing to voice my support for the proposed "Payday Lending Ordinance."

I think it's important for the City to take steps to protect our families and neighborhoods from any more payday lenders and check cashers because: I desperately sought the services of a payday lender because it came down to me having to choose between paying my rent or becoming homeless. They were shady business dealers and as a result of getting that payday loan, I subsequently needed another and another until I overdrafted my bank account and now I have horrible credit.

*Stop Them*  
Payday lenders aren't helping people—they're ripping people off with their predatory loans. By limiting the number of payday lenders, the City would be sending a strong message that we do not condone predatory lending practices. There are better alternatives.

Please adopt a strong local policy that will let our communities have a say in whether we want these businesses in our neighborhood.

Thank you,

Name: *Sdwantha Scherschel*

Address:

[Redacted address box]

Date: 4.2.2012

Dear Mayor Reed, Members of the City Council, Planning Commission and City Planning staff:

I'm writing to voice my support for the proposed "Payday Lending Ordinance."

I think it's important for the City to take steps to protect our families and neighborhoods from any more payday lenders and check cashers because:

Since having taken out a payday loan, I have been stuck in a vicious cycle of debt. The interest that they charge is unrealistic and to this day, I am still in debt because of a loan that I took out a year ago.

Payday lenders aren't helping people—they're ripping people off with their predatory loans. By limiting the number of payday lenders, the City would be sending a strong message that we do not condone predatory lending practices. There are better alternatives.

Please adopt a strong local policy that will let our communities have a say in whether we want these businesses in our neighborhood.

Thank you,

Name: Heather De-Almeida

Address:

\_\_\_\_\_

**Buikema, Rich**

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**From:** Richard Alexander [richarda@sacredheartcs.org]  
**Sent:** Monday, April 02, 2012 8:59 PM  
**To:** The Office of Mayor Chuck Reed; District1; District2; District3; District4; District5; Oliverio, Pierluigi; District7; Herrera, Rose; District9; Office of Councilmember Nancy Pyle  
**Cc:** hopecahan@mac.com; edesab@yahoo.com; mkamkar7@gmail.com; kline@libraryworld.com; Ed@Abellite.com; dyob@hopkinscarley.com; Buikema, Rich  
**Subject:** Story of a Borrower of Payday Loans  
**Attachments:** Melissa Lowe - Story Regarding Payday Loans.docx

Dear Mayor Reed, Members of the City Council, Planning Commission and City Planning staff:

Attached, and in the body of this e-mail below, please find the story of Melissa Lowe regarding her experience as a borrower of payday loans.

Thank you for your attention to this critical issue.

**Melissa Lowe**

She lives on a fixed income and struggles to survive month to month, week to week, and sometimes day to day. She is on Supplemental Security Income (SSI) from the Social Security Administration and often finds it difficult just to make ends meet. Between paying for all her basic necessities, her meager monthly income just wasn't enough to cover all her expenses one month. After paying her rent and groceries, she had a cell phone bill, including her phone and her daughter's phone, which she couldn't afford to pay. She got behind on the bill and in order to pay it, she didn't know where to turn. She asked around for help and no one could personally loan her the money she needed. However, a relative of hers told her about a local payday lending shop in San Jose where she could get cash quickly. Without knowing much about it, it sounded appealing and she went to take out a payday loan. She did not realize how high the interest rate was and how it would compound quickly over time. Because she was unable to pay off the payday loan within the 2 week repayment period, she went to a second payday shop to cover the first one. Subsequently, the cycle of debt she fell into severely damaged her credit. She knows how badly people can need fast cash to pay regular monthly expenses like rent or a cell phone bill, but was outraged by the debt she was trapped in as a result of getting the payday loans. She feels that payday lending shops are strategically located in areas with low-income people who may need fast cash. She believes that this benefits the business by targeting repeat borrowers who are in the most vulnerable of financial circumstances and locking them into a cycle of debt from which it is very difficult to escape. Particularly on a fixed

income, she knows first-hand how tough it can be just to survive. When rent takes up most of one's income, any quick money to alleviate other expenses seems welcome, but she is intent on letting others know not to fall into the sinister trap that the payday shops use to attract customers. She also believes that the City has a responsibility to put some limits on this industry, including where they can be located throughout San Jose.

--

Richard C. Alexander  
Community Organizer  
Sacred Heart Community Service  
1381 South First Street  
San Jose, CA 95110  
408.813.7594  
[Richarda@sacredheartcs.org](mailto:Richarda@sacredheartcs.org)



April 4, 2012

San Jose City Council  
Honorable Mayor and Council Members  
San Jose City Hall  
200 E. Santa Clara Street  
San Jose, CA 95113

Dear Mayor Reed and Members of the City Council:

Along with the Coalition Against Payday Predators (CAPP), the Center for Responsible Lending stands in strong support of the proposed San Jose City "Payday Lending Ordinance" that would cap the number of payday loan outlets in the City, and set forth permitting and distance requirements for any new payday loan or check cashing storefronts. We believe it is in the best interest of San Jose communities for the Council to adopt these strong yet reasonable policies to control the imbalanced spread of the payday loan industry throughout the region.

We are concerned about predatory payday loan practices especially as working people in our state struggle to overcome huge economic hardships created by irresponsible lenders in the first place. The extraordinarily high annual interest rate (459%) charged for payday loans coupled with the inescapable cycle of debt (general two-week repayment period) has not only stripped assets from the entire community but additionally imperiled individual borrower ability to retain existing bank accounts, garner future credit opportunities and create generational wealth moving forward. Additionally, we have consistently condemned the fact that these businesses primarily target low, moderate-income workers and communities of color and believe that the proposed ordinance would help address these concerns.

**The Center for Responsible Lending** and our parent organization (**Self-Help**) has been in the business of "*creating and protecting ownership and economic opportunity for people of color, women, rural residents and low-wealth families and communities*" for over thirty years. As a community investor, credit union operator and research / policy advocate we have witnessed the many harmful side effects of payday lending over the years; We are pleased that the city of San Jose is considering the important first step of adopting permitting processes and zoning restrictions for these businesses that would allow communities to weigh in on any future proposals for new payday lenders.

Accordingly, we reiterate our support for this proposed policy and respectfully ask the Council to approve the ordinance when it comes before you in April.

Thank you for your time and consideration,

Paul Leonard, Executive Director  
Center for Responsible Lending

Cc: Rich Buikema, City Planning Department  
San Jose Planning Commission

LEGAL *Aid* SOCIETY  
OF SANTA CLARA COUNTY

W. ROBERT MORGAN LEGAL SERVICES CENTER  
480 NORTH FIRST STREET • P.O. BOX 103  
SAN JOSÉ, CALIFORNIA 95103-0103  
408.998.5200 FAX 408.298.3782  
WWW.LEGALAIDSOCIETY.ORG

San Jose City Council  
Honorable Mayor and Council Members  
San Jose City Hall  
200 E. Santa Clara Street  
San Jose, CA 95113

April 9, 2012

Dear Mayor Reed and Members of the City Council:

I'm writing on behalf of Legal Aid Society of Santa Clara County. As you know, our organization is dedicated to providing no cost legal services to our local indigent community.

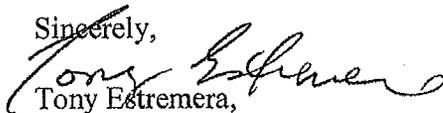
We fully support the proposed "Payday Lending Ordinance" tentatively scheduled for public hearing on Tuesday, May 15. We stand with the Coalition Against Payday Predators (CAPP), in urging you to adopt an ordinance that would put a cap on the number of payday loan outlets in the City, and set forth permitting and distance requirements for any new payday loan or check cashing storefronts. We believe it is in the interest of San Jose communities for the Council to adopt these strong yet reasonable policies to control the growth of the payday loan industry in the region.

We're concerned about the predatory practices of this industry, particularly as working people in our country and state face huge hardships due to the irresponsibility of predatory lenders. We are especially concerned about the 459% APR interest rates on payday loans and the inescapable cycle of debt the loans create for consumers, which create an asset-stripping effect that impacts both the individual and the entire community. We also condemn the fact that these businesses target low and moderate-income workers and communities of color. Adopting a permitting process and zoning restrictions for these businesses would help address the latter issue, and would allow for communities to weigh in on any future proposals for new payday lenders.

For over 55 years our organization has been dedicated to advocate for the needs and interests of the working poor in Santa Clara County. In that spirit, we reiterate our support for this policy and respectfully ask the Council to approve the ordinance when it comes before you in April.

Thank you for your time and consideration

Sincerely,

  
Tony Estremera,

Directing Attorney

Cc: Rich Buikema, City Planning Department  
San Jose Planning Commission

**Buikema, Rich**

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**From:** Richard Alexander [richarda@sacredheartcs.org]  
**Sent:** Wednesday, April 11, 2012 11:30 AM  
**To:** The Office of Mayor Chuck Reed; District1; District2; District3; District4; District5; Oliverio, Pierluigi; District7; Herrera, Rose; District9; Office of Councilmember Nancy Pyle  
**Cc:** hopecahan@mac.com; edesab@yahoo.com; mkamkar7@gmail.com; kline@libraryworld.com; Ed@Abelite.com; dyob@hopkinscarley.com; Buikema, Rich  
**Subject:** Personal Story -- Eileen's Experience with Payday Loans  
**Attachments:** Eileen Baker -- Story Regarding Payday Loans.docx

Dear Mayor Reed, Members of the City Council, Planning Commission and City Planning staff:

Attached, and in the body of this e-mail below, please find the story of Eileen Baker regarding her personal experience with payday loans and her desire to see changes in how this industry operates.

Thank you for your attention to this critical issue.

\*\*

**Eileen Baker**

Eileen, a client who uses services at Sacred Heart Community Service, has had a variety of personal struggles over a period of several years that have made life a matter of survival for her. She was in and out of homeless shelters and half-way homes when money was short and an abusive relationship forced her to leave the housing she once counted on. She made the courageous decision to leave the abusive relationship and try to survive on her own, but without a stable income, a lack of education and few job skills, and no family or close friends to serve as a support system in her time of need, life became a desperate struggle for survival, physically and emotionally. First, housing became a very real challenge for her. This struggle to find a roof to put over her head was a daily source of anxiety. She was forced to stay with friends for short periods and then move in and out of motels when friends weren't around or couldn't assist. She remembers one particularly devastating night when she no longer had the money to pay for another night at her motel, had no friends that could help her, and was literally out of options. She faced the possibility of being homeless that night for the first time in her life. Tears in her eyes, she asked the motel receptionist what to do and was dismissively told to get on a bus and ride it around all night or just sleep

on the street or under a bridge. This experience and her overall struggle with homelessness, housing and looking for work to no avail led Evelyn to severe mental health issues including chronic depression and anxiety. She often wondered what there was to live for and who was out there looking out for her, or even if anyone cared about her as a human being.

Related to her struggle to find housing and work was her parallel struggle to pay off a variety of debts she owed. Her financial woes, combined with her need to find somewhere to live, put her in a situation which she hates to recall. In one of her most desperate hours, she decided to go to a local payday loan shop. She knew they would charge her an astronomical interest rate and, in the long run, only make her financial problems worse, but she went in and took out the loan due to momentary need. The two-week repayment term was not feasible for her and the compounding interest only further walled her into a prison of debt. The payday loan did not help her escape nor survive -- it simply exacerbated the financial woes and personal burdens she bore. She fell even more deeply into a cycle of debt than ever before. She scrambled to try to make payments with what money she could scrap together, but the collection calls just kept bombarding her and the interest just kept piling up.

Recently, Eileen has been accepted into a vocational and life skills class and has begun working to turn her life around. After finding some short-term sources of income including the great kindness and generosity of one of her teachers, she was finally able to pay off her debt from the payday loan. But she wants to ensure that no one else has to go through the same trauma and be brought down by debt in their hours of greatest need and desperation.

That is why she has decided to be a community leader and advocate on behalf of herself and the thousands of others who have been similarly trapped in a cycle of debt by the predatory payday lending industry. She wants to see reasonable regulations placed on this industry so they cannot take advantage of others like they took advantage of her.

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--

Richard C. Alexander  
Community Organizer

Sacred Heart Community Service  
1381 South First Street  
San Jose, CA 95110  
408.813.7594  
[Richarda@sacredheartcs.org](mailto:Richarda@sacredheartcs.org)

**Buikema, Rich**

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**From:** Richard Alexander [richarda@sacredheartcs.org]  
**Sent:** Wednesday, April 11, 2012 12:10 PM  
**To:** The Office of Mayor Chuck Reed; District1; District2; District3; District4; District5; Oliverio, Pierluigi; District7; Herrera, Rose; District9; Office of Councilmember Nancy Pyle  
**Cc:** hopecahan@mac.com; edesab@yahoo.com; mkamkar7@gmail.com; kline@libraryworld.com; Ed@abelite.com; dyob@hopkinscarley.com; Buikema, Rich  
**Subject:** Re: Personal Story of Willy Luna -- Another Victim of Payday Lending's Financial Trap  
**Attachments:** Willy Luna -- His Story Regarding Payday Loans.docx

Here is the attachment with Willy's story. Sorry it was not included in the original e-mail.

On Wed, Apr 11, 2012 at 11:48 AM, Richard Alexander <[richarda@sacredheartcs.org](mailto:richarda@sacredheartcs.org)> wrote:

Dear Mayor Reed, Members of the City Council, Planning Commission and City Planning staff:

Attached, and in the body of this e-mail below, please find the story of Willy Luna. His story demonstrates the need for more transparency in the payday industry so consumers are not taken advantage of.

Thank you for your attention to this critical issue.

\*\*

Willy Luna

Willy was just trying to survive economically and make ends meet when payday loans through his life into a downward spiral. He has been looking for work and actively participating in Sacred Heart's JobLink program in his effort to secure employment. His hope is to be financially stable and be able to pay down his debts and get on his feet once again.

Right as he was struggling to find work and was in the midst of his worst unemployment spell, as he says, "I hit rock bottom with payday loans." He took out so many payday loans - the first one in order to cover basic expenses, but then had to take out subsequent loans to pay back the original one. Once he got behind on several loans and the interest kept compounding, he began to be harassed numerous times each day by debt collectors. He did not have the money to pay back all the debt he owed, so he kept changing phone numbers and address to try to evade the harassing phone calls and letters that wouldn't stop coming. Willy was not informed from the outset how much the interest rate would

actually be. He did not realize the financial trap that he was falling into because of the friendly faces at the payday shops and seemingly easy terms of obtaining the loans, time and again. By the time he had taken out a bunch of payday loans he was confined by the escalating debt. The interest had compounded so much and Willy was at the payday lenders' mercy because he was struggling just to survive, much less to make all the loan payments with the extraordinarily high interest attached.

He wishes that there was more transparency regarding the long-term financial consequences of taking out payday loans. He thinks that reasonable regulations should be applied to this industry so people are more informed of their choices as consumers and so there is less predatory abuse of low-income people in our financial institutions. He wants to help change the payday industry so other people do not fall into the same debt trap that consumed his finances and made his life a living hell.

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Richard C. Alexander  
Community Organizer  
Sacred Heart Community Service  
1381 South First Street  
San Jose, CA 95110  
408.813.7594  
Richarda@sacredheartes.org

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Richard C. Alexander  
Community Organizer  
Sacred Heart Community Service  
1381 South First Street  
San Jose, CA 95110  
408.813.7594  
Richarda@sacredheartcs.org

**Buikema, Rich**

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**From:** Jethroe Moore [moore2]@att.net]  
**Sent:** Friday, March 23, 2012 8:47 AM  
**To:** The Office of Mayor Chuck Reed; District1; District2; District3; District4; District5; Oliverio, Pierluigi; District7; Herrera, Rose; District9; Office of Councilmember Nancy Pyle; Buikema, Rich  
**Cc:** hopecahan@mac.com; edesab@yahoo.com; mkamkar7@gmail.com; kline@libraryworld.com; Ed@Abelite.com; dyob@hopkinscarley.com  
**Subject:** Pay Day Lending Ordinance  
March 23, 2012

Dear Mayor Reed, Members of the City Council, Planning Commission and City Planning staff:

Fr: Pastor Jethroe Moore II

Re: "Payday Lending Ordinance"

I'm writing to voice my support for the proposed "Payday Lending Ordinance." Predatory lenders strip cash from the earnings of working people at astounding rates. Predatory loans, including high-cost lending such as payday loans, car title loans and refund anticipation loans cost American families nearly \$5 billion in fees per year. They trap people in debt and make it impossible for individuals or families to save money, build nest eggs, or sometimes even to simply survive. Nearly 12 million Americans are caught in a cycle of five or more high-cost payday loans per year.

"Payday loans" are perhaps the most common predatory loan. Payday lenders offer small, short-term loans while charging annual interest rates of up to 400%. One of the biggest problems with payday loans is that consumers who use payday lenders are often in desperate debt, and the high interest rate makes it so hard to pay back the loan that they quickly find themselves on the perpetual debt treadmill. When they cannot pay back the original loan, they extend it, often paying the fees and interest several times over. The end result is that many consumers end up paying far more in fees than what they originally borrowed.

The sad truth is that many payday lenders locate themselves in low-and moderate income neighborhoods as well as communities with large concentrations of racial or ethnic minorities. In too many cases, payday lenders are the only financial institutions in a community of color.

To help alleviate some of the pressure that these predatory lenders are putting on our communities, the NAACP supports "Payday Lending Ordinance".

The San Jose/Silicon Valley NAACP is thus calling on the City of San Jose to take steps to restrict payday lenders from charging exorbitant fees or demanding unrealistic payment terms. By limiting the number of payday lenders, the City would be sending a strong message that we do not condone predatory lending practices. There are better alternatives. The NAACP would also like to see the City of San Jose offer increased incentives for traditional financial institutions to open branches in currently underserved communities.

Please adopt a strong local policy that will let our communities have a say in whether we want these businesses in our neighborhood.

In His Service

Pastor Jethroe Moore II

3/28/2012



March 26, 2012

San Jose City Council  
Honorable Mayor and Council Members  
San Jose City Hall  
200 E. Santa Clara Street  
San Jose, CA 95113

Dear Mayor Reed and Members of the City Council:

Services, Immigrant Rights and Education Network (SIREN) is a leading non-profit organization in Santa Clara county, dedicated to empower diverse immigrant communities, which believes everyone has the right to live in a safe community that encourages trust and protects low income families, as such we fully **SUPPORT** the proposed "Payday Lending Ordinance" tentatively scheduled for public hearing on Tuesday, April 17.

We stand with the Coalition Against Payday Predators (CAPP), in urging you to adopt an ordinance that would put a cap on the number of payday loan outlets in the City, and set forth permitting and distance requirements for any new payday loan or check cashing storefronts. We believe it is in the interest of San Jose communities for the Council to adopt these strong yet reasonable policies to control the growth of the payday loan industry in the region.

We're concerned about the predatory practices of this industry, particularly as working people in our country and state face huge hardships due to the irresponsibility of predatory lenders. We are especially concerned about the 459% APR interest rates on payday loans and the inescapable cycle of debt the loans create for consumers, which create an asset-stripping effect that impacts both the individual and the entire community. We also condemn the fact that these businesses target low and moderate-income workers and communities of color. Adopting a permitting process and zoning restrictions for these businesses would help address the latter issue, and would allow for communities to weigh in on any future proposals for new payday lenders.

Especially in these tough economic times, we look to our elected officials to do the right thing and protect the communities that most need it.

For more information, please contact me at [Zelica@siren-bayarea.org](mailto:Zelica@siren-bayarea.org).

Thank you,

Zelica Rodriguez  
Policy Advocacy Program Director

CC: Planning Staff

1425 Koll Circle, Suite 109  
San Jose, CA 95112

Ph: (408) 453-3003  
Fx: (408) 453-3019  
[www.siren-bayarea.org](http://www.siren-bayarea.org)

**Immigrant Q & A Line Numbers**

Spanish/English  
(408) 453-3017

Vietnamese/English  
(408) 453-3013



SAN JOSÉ



48 South 7th St, San Jose, CA 95112 (408) 287-2299

PEACE & JUSTICE CENTER

Since 1957

03-26-12

San Jose City Council  
Honorable Mayor and Council Members  
San Jose City Hall  
200 E. Santa Clara Street  
San Jose, CA 95113

Dear Mayor Reed and Members of the City Council:

I'm writing on behalf of the **San Jose Peace and Justice Center**. Our organization has continued to educate and engage the South Bay community around critical issues of peace and justice for over fifty years.

We fully support the proposed "Payday Lending Ordinance" tentatively scheduled for public hearing on Tuesday, April 17. We stand with the Coalition Against Payday Predators (CAPP), in urging you to adopt an ordinance that would put a cap on the number of payday loan outlets in the City, and set forth permitting and distance requirements for any new payday loan or check cashing storefronts. We believe it is in the interest of San Jose communities for the Council to adopt these strong yet reasonable policies to control the growth of the payday loan industry in the region.

We're concerned about the predatory practices of this industry, particularly as working people in our country and state face huge hardships due to the irresponsibility of predatory lenders. We are especially concerned about the 459% APR interest rates on payday loans and the inescapable cycle of debt the loans create for consumers, which create an asset-stripping effect that impacts both the individual and the entire community. We also condemn the fact that these businesses target low and moderate-income workers and communities of color. Adopting a permitting process and zoning restrictions for these businesses would help address the latter issue, and would allow for communities to weigh in on any future proposals for new payday lenders.

The San Jose Peace and Justice Center advocates for economic justice in various ways and would like to see our community members able to support themselves and not be tricked into schemes such as payday lending. In that spirit, we reiterate our support for this policy and respectfully ask the Council to approve the ordinance when it comes before you in April.

Thank you for your time and consideration,

Shelby Minister, Coordinator  
San Jose Peace and Justice Center

Cc: Rich Buikema, City Planning Department  
San Jose Planning Commission

**Buikema, Rich**

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**From:** Andres Riofrio [arlorio@cs.ucsb.edu]

**Sent:** Tuesday, March 27, 2012 3:15 PM

**To:** The Office of Mayor Chuck Reed; District1; District2; District3; District4; District5; Oliverio, Pierlulgi; District7; Herrera, Rose; District9; Office of Councilmember Nancy Pyle; allisonl@sacredheartcs.org; hopecahan@mac.com; edesab@yahoo.com; mkamkar7@gmail.com; kline@libraryworld.com; Ed@Abelite.com; dyob@hopkinscarley.com; Buikema, Rich

**Subject:** I Support the Payday Lending Ordinance

**Dear City Council and city Planning team:**

I am writing to express my full support for curbing the impact of payday lenders on San Jose residents. The proposed Payday Lending Ordinance will help this desired outcome.

I urge you to adopt an ordinance that would put a cap on the number of payday loan outlets in the City, and set forth permitting and distance requirements for any new payday loan or check cashing storefronts. I believe it is in the interest of San Jose communities for the Council to adopt these strong yet reasonable policies to control the growth of the payday loan industry in the region.

**These lenders only make things worse.**

I am concerned about the predatory practices of this industry. Sacred Heart Community Service is an organization that helps residents' repair their finances after they are caught in payday debt traps. Sacred Heart knows first-hand the negative effects of paydays on low income families struggling to stay afloat in this difficult economy. We all need City Hall's support. I am especially concerned about the 459% APR interest rates on payday loans and the inescapable cycle of debt the loans create for consumers. I also condemn the fact that these businesses target low and moderate-income workers and communities of color. Adopting a permitting process and zoning restrictions, as well as requiring bilingual loan contracts for non-English speakers for these businesses, would allow for communities to weigh in on any future proposals for new payday lenders and allow borrowers to know exactly what payday loans entail.

In that spirit, I reiterate my support for this policy and respectfully ask the Council to approve the ordinance when it comes before you in April.

Thank you for your time and consideration.

Sincerely,

Andres Riofrio

3/28/2012

**Buikema, Rich**

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**From:** Famili, Venus [Venus.Famili@nsc.com]

**Sent:** Tuesday, March 27, 2012 3:05 PM

**To:** The Office of Mayor Chuck Reed; District1; District2; District3; District4; District5; Olliverio, Pierluigi; District7; Herrera, Rose; District9; Office of Councilmember Nancy Pyle; hopecahan@mac.com; edesab@yahoo.com; mkamkar7@gmail.com; kilne@libraryworld.com; Ed@Abelite.com; dyob@hopkinscarley.com; Buikema, Rich

**Subject:** Please Pass the Payday Lending Ordinance

Dear City Council and city Planning team:

I am writing to express my full support for curbing the impact of payday lenders on San Jose residents. The proposed Payday Lending Ordinance, tentatively scheduled for public hearing on Tuesday, April 17th, will help this desired outcome.

I urge you to adopt an ordinance that would put a cap on the number of payday loan outlets in the City, and set forth permitting and distance requirements for any new payday loan or check cashing storefronts. I believe it is in the interest of San Jose communities for the Council to adopt these strong yet reasonable policies to control the growth of the payday loan industry in the region.

I respectfully ask the Council to approve the ordinance when it comes before you in April.

Sincerely,

Venus Famili

P.C. Agenda: 04-25-11  
Item No. 3.c.  
*Attachments*

Letters in Opposition to Proposed Ordinance:

Staff received ninety-two (92) letters in opposition to the proposed ordinance limiting payday lending establishments. These letters raise similar issues. Three of those letters are attached; the remainders are available online at:

<http://www.sanjoseca.gov/planning/hearings/PC/2012/Reports/0425/OpLtrs.pdf>

Note: The Planning Commissioners received all [ninety-two (92)] letters of opposition regarding the Proposed Ordinance of Limiting Payday Establishments.

To whom it may concern:

I am a resident of the Silicon Valley and I have used small, short-term loans in the past because it was the right choice for. I oppose any ordinances that would take this choice away from me or limit my access to short-term credit.

Taking this choice away from me will force me into a worse situation, like bouncing checks or paying bills late and incurring a late fee.

Sincerely,

~~Chris Walters~~

Chris Walters

3/30/12

To whom it may concern:

I am a San Jose Resident, and I have been using pay day advances for the past year. My husband and I both depend on the cash advances because we both work part time. Due to the economy we have been forced to use this option.

Other wise we would not have enough money for bills, groceries, gas etc.... until our following pay day.



Patricia Garza

3/30/12

To whom it may concern

I am a resident of the Silicon Valley and I have used small short term loans in the past because it was the right choice for me. I oppose any ordinances that would take this choice away from me or limit my access to short term credit.

It is a convenient way to get an advance to pay some unexpected bills until my next paycheck.

Sincerely,

Maria T. Guzman

Maria T. Guzman



**From:** Kyra Kazantzis [KyraK@lawfoundation.org]  
**Sent:** Sunday, April 22, 2012 1:00 PM  
**To:** Kyra Kazantzis  
**Subject:** Payday Lending Ordinance--Support with Amendments

**Attachments:** CAPP\_payday\_factsheet\_2011.pdf

April 22, 2012

**SENT VIA E-MAIL AND FIRST CLASS MAIL**

Planning Commission  
City of San José  
200 East Santa Clara Street  
San José, CA 95113

**Re: Proposed Payday Lending Ordinance—Support with Amendments**

Dear Planning Commission members:

I write to you representing the Coalition Against Payday Predators (CAPP). As you may know, CAPP is a large coalition of community organizations committed to combating the negative impacts of payday lending in San José and Santa Clara County more broadly. CAPP believes that sensible regulation of payday lending will lead to greater economic security and prosperity.

We have reviewed the April 28, Memorandum from the Planning Department recommending that certain regulations be adopted with respect to restricting new payday lending establishments in the City of San José. We are supportive of the proposed ordinance language, and think it goes in the right direction, but not far enough.

CAPP would like to see the proposed ordinance strengthened and improved to:

- 1) include check cashing establishments in the ordinance,
- 2) require a distance separation between payday lenders of 1000, rather than 500 feet,
- 3) require distance separations between payday lenders and bars and liquor and adult stores,
- 4) provide a numerical cap of payday lending stores, and
- 5) require a conditional or special use permit for new payday lending establishments.

First, many of these requirements would be in line with similar ordinances in other California cities (and those in other states). Specifically, most cities require a 1000 distance separation between payday lenders and require a distance separation from payday lending and other sensitive or similar uses. Most California cities also regulate check cashing along with payday lending since it is a similar land use—a fringe financial business—as payday lending and presents similar land use issues.

Second, with respect to the numerical cap on payday lending stores—CAPP believes that 38 payday lenders in the City of San José is plenty. Putting a cap on the number of stores so that they are not so readily “convenient” would encourage potential borrowers to look more closely at the many more affordable alternatives to payday lending that currently exist and to provide needed breathing room for the development of additional fairly-priced alternatives to payday borrowing.

Third, new payday lenders should be required to obtain a conditional use permit. Conditional use permits are required for uses that may cause significant impacts on the community; currently, in considering a conditional use permit request, the Planning Commission seeks to maintain the health and safety of the community and ensures that the proposed use be compatible with the existing uses in the area. These protections would be particularly appropriate for payday lending establishments, given the harm that they can do to families, our neighborhoods and the City.

As further described in the attached information sheet, "The Facts About Payday Lending," payday lenders hurt neighborhoods by engaging in unfair and reckless business practices that drain assets from families. The payday lending business model is to profit from dragging consumers deeper and deeper into a debt trap. Payday lending costs Californians over \$700 million annually in unreasonable finance charges, money that is not being spent on important family needs.

Payday lending doesn't help our City or its families. San José families deserve responsible lenders in our neighborhoods that charge their customers fair interest rates and fees. An ordinance setting some common-sense boundaries around businesses that trap working people in a cycle of debt is an easy step we can take to promote economic prosperity in our neighborhoods.

Thank you very much for your attention to this matter. We will be contacting you to answer any questions you might have about payday lending and this request; please contact me if you have questions. I can be reached at (408) 280-2401. We look forward to speaking with you soon.

Sincerely,

S/

Kyra Kazantzis

Public Interest Law Firm, Law Foundation of Silicon Valley

For the Coalition Against Payday Predators (CAPP)<sup>[1]</sup>

CC: Members of the City Council

Rich Buikema

Laurel Prevetti

Sandra Lee

CAPP Members

Encls: The Facts About Payday Lending

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<sup>[1]</sup>CAPP's core members and endorsers are the Alliance of Californians for Community Empowerment; Asian Law Alliance; California Reinvestment Coalition; Catholic Charities of Santa Clara County; Neighborhood Housing Services Silicon Valley; Public Interest Law Firm of the Law Foundation of Silicon Valley; Sacred Heart Community Service; AARP; Asian Americans for Community Involvement (AACI); Asian Pacific Islander Justice Coalition of Silicon Valley\* (APIJC); Catholic Charities of Santa Clara County; Center for Employment and Training (CET); Center for Responsible Lending; Center for Training and Careers (CTC); Community Homeless Alliance Ministry (CHAM); Council of Churches Santa Clara County; Council on Aging Silicon Valley; El Comité; La Raza Roundtable; Latina Coalition of Silicon Valley (LCSV); Latino Business Student Association of San José State; Low Income Self Help Center; Mexican American Community Services Agency (MACSA); Micro Branch, Community Trust Credit Union; Momentum for Mental Health; Most Holy Trinity Church (PACT LOC); Native American Voice; Project Sentinel; Sacred Heart Community Services; San José Peace and Justice Center; San José/Silicon Valley Chapter, National Association for the Advancement of Colored People (NAACP); Santa Clara County Democratic Party; Santa Clara County Older Women's League (OWL); SEIU 521; Silicon Valley Community Foundation; Somos Mayfair; South Bay Labor Council; Step Up Silicon Valley; The Opportunity Fund; UNITE HERE Local 19; United Way Silicon Valley (UWSV); Silicon Valley Council of Nonprofits; and the Latino Democratic Forum.



April 24, 2012

San Jose City Council  
City of San Jose  
200 East Santa Clara Street  
San Jose, CA 95113

Dear Honorable City Council Members and Planning Commissioners:

This letter is in response to the recently released ordinance staff is recommending to the San Jose City Planning Commission on April 25, 2012. First, a brief description of who we are.

*The Community Financial Services Association of America (CFSA)* is the only national payday lending association solely dedicated to promoting responsible regulation of the payday lending industry. Both CFSA and our state association, the *California Financial Service Providers Association (CFSP)*, have always worked with legislators and local government officials to create laws and regulations that allow this regulated credit option to best serve the needs of California residents.

First and foremost, we want to work with the Planning Commission and the City Council, and be a part of the discussions. We believe both business and industry can offer valuable perspective in helping craft reasonable regulations.

According to the staff recommendations released on April 18, 2012, the proposed ordinance concerns three main action items:

- 1) Retain existing zoning districts within which payday lending establishments can locate (allowed within all downtown zoning districts and all commercial districts except commercial office);
- 2) Require a minimum distance of 500 feet (from property line to property line) between payday lending establishments; and
- 3) Prohibit payday lending establishments from locating within the city's lowest income areas. The proposed specific use restrictions prohibit a new payday establishment from locating on a property in a low income census tract or within 500 feet of such a census tract, as identified by the Census Bureau's American Community Survey as having a median household income below that defined annually by US HUD as "very low" income for a two-person household (e.g. an income of less than \$42,000 in 2012).

It is our understanding that new payday lenders would be required to obtain a Zoning Code Verification Certificate (rather than a development permit) to ensure they have the required state license and meet the above requirements. We do not object to this process, but we are concerned about our members that are currently operating in San Jose.

It is not clear to us whether payday lenders currently operating in San Jose would be grandfathered in such that they would not be required to meet these criteria. We did not see this issue addressed in the ordinance, and we strongly urge the Planning Commission to specifically include grandfather language in this ordinance such that existing businesses would not be harmed by this proposed change and their status under this ordinance would be certain. This approach is consistent with ordinances that we have seen throughout the country and is the legally sound approach. Payday lenders currently operating in locations less than 500 feet from another payday lender or within the identified low income areas should be granted an exemption and issued a Zoning Code Verification Certificate at that location upon the effective date of the ordinance.

We also recommend the ordinance address the following issues concerning existing businesses:

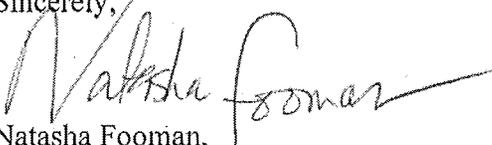
- In order to prevent a landlord from using these requirements as an unfair bargaining advantage, the exemption from the ordinance should be transferable one time to another location.
- In the event ownership of the payday lender is sold or otherwise transferred to another person, and the person continues to operate a payday lending business from that same location, the exemption should remain in effect as long as the location is used to conduct a payday lending business.
- If a payday lender is granted an exemption, and is later required to move its business to a new location through no fault of its own, including but not limited to a relocation due to natural disaster, fire, loss of lease through no fault of the business, or exercise of a governmental entity's power of eminent domain, the payday lender should continue to be entitled to exemption.

The other main concern for our members is item 3 above. To our knowledge, this is an unprecedented approach to this issue. This approach unfairly singles out these areas and denies citizens living in those areas access to services that they may want and need on occasion. Our members' stores are typically located in high-density retail areas for the shopping convenience of their customers, who cannot be reasonably grouped by demographic characteristics such as income. Any increase in store growth simply indicates a strong demand for reliable, highly regulated short-term credit by consumers in a broad range of income levels. For these reasons, we would recommend removal of item 3 from the proposed ordinance.

As to item 1 above, we support the proposal to retain the current zoning restrictions. We believe that they are appropriate as written and that no change is needed. As to item 2 above, we are not opposed to the distance limitation of 500 feet between stores. The current proposal suggests that it be measured from the property line of one store to the property line of another. We would suggest an alternative approach of measuring the shortest direct line between the principal public entrance of one payday lender and the principal public entrance of another.

We appreciate your consideration of our position regarding the issues discussed in this letter and appreciate the opportunity to submit comments. Please let us know if you have any questions concerning the matters outlined in this letter. To that end, I respectfully request an opportunity to work with you in understanding who our customers are, why they use our businesses, and discuss how we as an industry can address your concerns without damaging existing businesses and depriving San Jose residents of a legal and regulated source of short term credit.

Sincerely,



Natasha Fooman,  
State Director, Community Financial Services Association of America (CFSA)  
President, California Financial Service Providers Association (CFSP)

Cc: Laurel Prevetti, Deputy Director of Planning Services  
Rich Buikema, Senior Planner

# County of Santa Clara

Office of the District Attorney

County Government Center, West Wing  
70 West Hedding Street  
San Jose, California 95110  
(408) 299-7400  
www.santaclara-da.org



Jeffrey F. Rosen  
District Attorney

April 25, 2012

Via email and facsimile

Hope Cahan, Chair  
San Jose Planning Commission  
200 East Santa Clara Street, 3<sup>rd</sup> Floor Tower  
San Jose, CA 95113

Re: Payday Loans

Dear Chair Cahan and Commissioners:

The District Attorney's Office supports the proposed "Payday Lending Ordinance." We urge you to adopt an ordinance that would put a cap on the number of payday loan outlets in the City, and set forth permitting and distance requirements for any new payday loan or check cashing storefronts. We believe it is in the interest of San Jose communities for the Council to adopt these strong yet reasonable policies to control the growth of the payday loan industry in the region.

Current payday lending institutions are predatory and harmful to consumers for the following reasons:

- Triple digit interest rates (459%) result in a downward spiraling cycle of debt
- Clustered in lower-income and minority communities
- Lack of written notice being disseminated to borrowers to adequately inform them about terms, conditions, interest rates (the "actual" cost of a payday loan)
- Lack of written information in languages other than English
- Loans are not used as a one-time emergency loan as the industry portrays it. The average number of loans per borrower is ten per year.
- Payday lending institutions have been found to engage in unlawful business practices including:
  1. unlicensed activity
  2. collections of unauthorized fees
  3. schemes to collect on multiple unauthorized number of loans

4. circumventing the \$300 cap on payday loans in violation of the California Deferred Deposit Transaction Law

Our county's (including the City of San Jose) consumers would benefit from more options available to them through mainstream banks and credit unions. Any steps the San Jose City Council takes to ban, cap, or otherwise limit payday lending institutions is a step in the right direction for the economically disadvantaged in our city and county.

I look forward to expressing the views of the District Attorney on May 15.

Sincerely,

A handwritten signature in black ink, appearing to read 'K-T', with a long horizontal flourish extending to the right.

**KARYN SINUNU-TOWERY**  
Assistant District Attorney

KS-T/dp