

**CITY OF OAKLAND
COUNCIL AGENDA REPORT**

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2003 DEC -4 PM 6:11

TO: Office of the City Manager
ATTN: Deborah Edgerly
FROM: Community and Economic Development Agency
DATE: December 16, 2003

RE: AN EMERGENCY ORDINANCE, PURSUANT TO CHARTER SECTION 213, ESTABLISHING INTERIM CONTROLS FOR CHECK CASHIERS AND OR CHECK CASHING BUSINESSES WITHIN ALL ZONING DISTRICTS WHERE CONSULTATIVE AND FINANCIAL SERVICES ARE EITHER ALLOWED BY RIGHT OR CONDITIONALLY PERMITTED (WHICH INCLUDES COMMERCIAL ZONES C-5, C-10, C-20, C-25, C-27, C-30, C-31, C-40, C-45, C-51, C-55, AND C-60, ALL INDUSTRIAL ZONES, SPECIAL ZONES S-1, S-2, S-3, S-16, AND S-19), AND SUSPENDING CONFLICTING PROVISIONS, TO TAKE EFFECT IMMEDIATELY UPON INTRODUCTION AND ADOPTION

SUMMARY

On November 18, 2003, the Oakland City Council adopted Ordinance No. 12558 C. M. S. imposing a 45-day moratorium prohibiting the permitting or approval of any new, modified, or expanded check cashier or check cashing businesses. Due to the time necessary for the City Planning Commission and City Council to study the issues, permanent regulations can not be adopted within the 45-day moratorium period. Therefore, staff has prepared an emergency ordinance to establish interim controls to regulate check cashier and or check cashing businesses that are not conducted by a state or federally chartered bank or as an accessory activity of a retail seller engaged in selling consumer goods. The interim controls propose permitting check cashier and/or check cashing businesses only upon the granting of a Conditional Use Permit. The interim controls are proposed for a one-year period to allow development and adoption of appropriate zoning text changes. Staff recommends adopting the proposed interim controls.

FISCAL IMPACTS

No direct fiscal impacts. Applicants applying for a Minor Conditional Use Permit to conduct a Check Cashier and Check Cashing activity will pay the application fees to offset staff time for review and processing.

BACKGROUND

Due to a growing concern regarding the impacts of check cashier and/or check cashing activities, the Oakland City Council gathered facts and information regarding such activities and passed ordinance No. 12558 C. M. S. imposing a moratorium on all new Check Cashier and Check Cashing Commercial activities for a period of 45 days. The City Council requested the Planning Commission to initiate a review of the regulatory mechanisms available to regulate check cashiers and/or check cashing businesses with the goal of adopting needed changes to the current regulations, including

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changes to the Planning Code to protect the public health, safety, or welfare from negative effects of check cashier or check cashing businesses.

As defined in the ordinance, the moratorium applies to "Check cashier or check cashing business", meaning (1) A person or entity that, for compensation, engages in whole or in part in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. A "check cashier" also includes the business of deferred deposits whereby the check cashier refrains from depositing a personal check written by a customer until a specific date pursuant to a written agreement as provided in Civil Code sec. 1789.33.

(2) "Check cashier" or "check cashing business" does not include a state or federally chartered bank, savings association, credit union, or industrial loan company. "Check cashier" or "check cashing business" also does not include a retail seller engaged primarily in the business of selling consumer goods to retail buyers, that cashes checks or issues money orders for a minimum flat fee, not exceeding \$2.00, as a service to its customers that is incidental to its main purpose or business.

KEY ISSUES AND IMPACTS

The Oakland City Planning Commission and the City Council will not be able to conduct a thorough review of the issue prior to the expiration of the moratorium. As a result, the Oakland City Council will not be able to adopt permanent regulations prior to the expiration of the moratorium. It is in the interest of the community that a thorough review of the issues be made and appropriate land use regulations formulated.

Adverse Effects

Currently, check cashiers and or check cashing businesses are not specifically regulated by the Planning Code. Continued establishment of check cashier or check cashing businesses in any and all locations where Consultative and Financial Commercial Service uses are permitted may result in displacement and availability of full service banking institutions, and create a cycle of indebtedness and financial vulnerability for low-income citizens. In addition, the issuance or approval of any building, planning, or other permit for such check cashier and or check cashing business (newly instituted, modified, or expanded) without any land use review and the imposition of appropriate conditions of approval would result in a current and immediate threat to the public health, safety, or welfare.

Such businesses may potentially conflict with some of the polices and objectives of the Land Use and transportation Element of the General Plan. Specifically the following goals, objectives, and policies: maintaining and enhancing the vitality of existing neighborhood and commercial areas- Objective I/C1.1 Attracting New Businesses; Policy N1.6 Reviewing Potential Nuisance Activities; and Policy 5.1 Environmental Justice. In general, the establishment of check cashiers and or check cashing businesses without City review could adversely affect the health, safety, and welfare enjoyed by persons in the commercial areas and neighborhoods. These uses would cause visual blight and allow a potential nuisance activity that would negatively effect the quality of life of the surrounding residents, and would disrupt the orderly development of the surrounding neighborhood. The failure of the City to properly regulate check cashing businesses can undermine the City's efforts to improve the urban design and function of the areas at issue.

The City of Oakland has recently received a request to establish such activities. This request creates an urgent need to impose restrictions to avoid a direct threat to the health, safety and welfare of the surrounding community.

Conditional Use Permit

The adoption of a Conditional Use Permit process for check cashiers and/or check cashing businesses above would provide a process to allow the needed regulatory review of applications for check cashiers and or check cashing businesses. Staff recommends that applications for such activities be reviewed through the Minor Conditional Use Permit process in the C-5, C-10, C-20, C-25, C-27, C-30, C-31, C-40, C-45, C-51, C-55, and C-60, all Industrial zones, Special zones S-1, S-2, S-3, S-16, and S-19 zones.

In general, the Major Conditional Use Permit process is reserved for major nuisance causing activities that generally have the potential for creating major adverse impacts such as loitering and drug dealing. Certain large-scale projects are also subject to the Major Conditional Use Permit process. However, applications for check cashing are unlikely to meet this threshold. Any such application that does meet the size criteria would be reviewed by the Major Conditional Use Permit process pursuant to existing regulations under Section 17.134.020 based on the size of the project rather than the activity type. The Minor Conditional Use Permit process is appropriate for land use activities with the potential for minor adverse impacts. Staff feels most adverse impacts that can be regulated by land use controls can be mitigated through standard conditions of approval discussed below. Both processes allow for public input and are appealable. Minor Conditional Use Permits may be appealed to the Oakland Planning Commission and Major Conditional Use Permits may be appealed to the Oakland City Council.

Performance Standards

The Conditional Use Permit process would allow staff to evaluate the impacts of each specific application and to impose specific conditions designed to mitigate adverse impacts as outlined below. Under this proposal staff could only approve such activities if the required Conditional Use Permit findings of Section 17.134.050 can be made. In approving any application staff may impose standard conditions of approval to mitigate adverse impacts including, but not limited to:

- Requiring an exterior lighting plan
- Keeping windows free of advertising and unobstructed
- Installation of no loitering signage
- Posting at least one licensed uniformed security guard on duty at all times the business is open.
- Maintaining hours that are no earlier than 7:00 AM or later than 8:00 PM
- Removing graffiti within 72 hours
- Removing litter at least twice daily

SUSTAINABLE OPPORTUNITIES

No direct opportunities for sustainable development will be created by this ordinance.

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ENVIRONMENTAL DETERMINATION

The adoption of this ordinance is exempt from CEQA under Sections 15061(b)(3) General Rule, 15307 Actions by Regulatory Agencies for Protection of Natural Resources, and 15308, Actions by Regulatory Agencies for Protection of the Environment, of the State CEQA Guidelines.

SENIOR AND DISABILITY ACCESS

All check cashier and/or check cashing facilities will be subject to the ADA (Americans with Disabilities Act) to allow physical access by seniors and those with disabilities. Access will be provided to the extent required by the ADA and local building code regulations through the building permit process.

RECOMMENDATION (S) AND RATIONALE

Check cashier and/or check cashing activities appear to target low-income Oakland residents. By concentrating near low-income residents, the establishments act to displace accredited banking services or other goods and services. The proliferation of check cashier and/or check cashing activities within certain areas of the City of Oakland perpetuates a cycle of indebtedness and financial vulnerability. The proposed controls allow the City to review applications for such establishments during an interim period while creating permanent controls for such businesses.

Therefore, staff recommends that the Oakland City Council adopt the proposed ordinance establishing interim controls for Check Cashier and/or Check Cashing Activity or any other activity, that includes as an element of the activity that meets the definition of Check Cashier or Check Cashing business as defined in the ordinance. These interim controls would prohibit the establishment of a Check Cashier and/or Check Cashing Activity without first applying for and obtaining a Minor Conditional Use Permit.

ACTION REQUESTED OF THE CITY COUNCIL

1. Affirm the staff's environmental determination
2. Approve the ordinance

Respectfully submitted,



CLAUDIA CAPPIO
Director of Planning, Building Services
Major Projects & OBRA

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Deborah Edgerly
December 16, 2003

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Prepared by: Chris Candell
Planner II
CEDA - Planning & Zoning

APPROVED AND FORWARDED TO THE
CITY COUNCIL:



OFFICE OF THE CITY MANAGER

ATTACHMENTS:

- A. Copy of ordinance 12558 establishing a 45 day Moratorium
- B. Copy of proposed ordinance

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7:20
OFFICE OF THE CITY CLERK
6 VOTES REQUIRED FOR PASSAGE

APPROVED AS TO FORM AND LEGALITY

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Mark P. Walsh
CITY ATTORNEY

INTRODUCED BY COUNCILMEMBER _____

ORDINANCE NO. _____ C.M.S.

AN EMERGENCY ORDINANCE, PURSUANT TO CHARTER SECTION 213, ESTABLISHING INTERIM CONTROLS FOR CHECK CASHIERS AND OR CHECK CASHING BUSINESSES WITHIN ALL ZONING DISTRICTS WHERE CONSULTATIVE AND FINANCIAL SERVICES ARE EITHER ALLOWED BY RIGHT OR CONDITIONALLY PERMITTED (WHICH INCLUDES COMMERCIAL ZONES C-5, C-10, C-20, C-25, C-27, C-30, C-31, C-40, C-45, C-51, C-55, AND C-60, ALL INDUSTRIAL ZONES, SPECIAL ZONES S-1, S-2, S-3, S-16, AND S-19), AND SUSPENDING CONFLICTING PROVISIONS, TO TAKE EFFECT IMMEDIATELY UPON INTRODUCTION AND ADOPTION

WHEREAS, the City of Oakland does not currently, separately regulate check cashier or check cashing businesses and does not differentiate between banks, credit unions, and other consultative and financial services activity thereby permitting check cashier and check cashing businesses, as described below, to be instituted wherever consultative and financial services activity are permitted to be instituted; and

WHEREAS, current zoning allows Consultative and Financial Services in certain commercial, industrial, and special zones either by right or with a Conditional Use Permit; and

WHEREAS, on November 18, 2003 the Oakland City Council adopted Ordinance No. 12558 C.M.S. imposing a 45 day moratorium prohibiting the permitting or approval of any new, modified, or expanded check cashier or check cashing business as defined in the ordinance; and

WHEREAS, the City Council requested the Planning Commission to initiate a review of the regulatory mechanisms available to regulate check cashiers and or check cashing businesses with the goal of adopting needed changes to the current regulations, including changes to the Planning Code to protect the public health, safety, or welfare from negative effects of check cashier or check cashing businesses; and

WHEREAS, the moratorium adopted by the Oakland City Council will expire on January 2, 2004; and

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WHEREAS, the Oakland Planning Commission will not be able make a thorough review and recommendation to the Oakland City Council prior to the expiration of the moratorium; and

WHEREAS, the Oakland City Council will also be on Holiday recess from December 22, 2003 until January 4, 2004; and

WHEREAS, as a result, the Oakland City Council will not be able to adopt permanent regulatory mechanisms prior to the expiration of the moratorium; and

WHEREAS, in the absence of interim or permanent regulations the continued establishment of check cashier or check cashing businesses in any and all locations where consultative and financial service uses are permitted may result in displacement and availability of full service banking institutions creating a cycle of indebtedness and financial vulnerability for low-income citizens; and

WHEREAS, issuance or approval of any building, planning, or other permit for such check cashier and or check cashing business (newly instituted, modified, or expanded) without any land use review and the imposition of appropriate conditions of approval would result in a current and immediate threat to the public health, safety, or welfare; and

WHEREAS, an updated Land Use and Transportation Element and the Estuary Policy Plan contain goals, objectives, and policies that promote: maintaining and enhancing the vitality of existing neighborhood and commercial areas- Objective I/C1.1 Attracting New Businesses; Policy N1.6 Reviewing Potential Nuisance Activities; Policy 5.1 Environmental Justice; and

WHEREAS, such businesses may potentially conflict with some of the polices and objectives of the Land Use and transportation Element and Estuary Policy Plan ; and

WHEREAS, the establishment of check cashiers and or check cashing businesses without City review could adversely affect the health, safety, and welfare enjoyed by persons in the commercial areas and neighborhoods by causing visual blight that would negatively affect the quality of life of the surrounding residents, and would disrupt the orderly development of the surrounding neighborhood; and

WHEREAS, the failure of the City to properly regulate check cashing businesses in areas otherwise not subject to the Conditional Use Permit process can undermine the City's efforts to improve the urban design and function of the areas at issue; and

WHEREAS, check cashiers and or check cashing businesses are not currently effectively regulated by the Planning Code in all zones, but for the reasons set forth above there is an urgent need to regulate them; and

WHEREAS, until such time that the City institutes land use controls over such check cashier and or check cashing businesses, the community is in jeopardy that said businesses could be instituted prior to the imposition of controls necessary for the protection of the public health safety and welfare; and

WHEREAS, the City of Oakland has recently received a request to establish such activities and there is therefore an urgent need to impose restrictions to avoid a direct threat to the health, safety and welfare of the surrounding community; and

WHEREAS, the adoption of a Conditional Use Permit process for check cashiers and or check cashing businesses would allow the needed regulatory review; and

WHEREAS, for the reasons set forth above, this ordinance is declared by the Council to be necessary for preserving the public peace, health, or safety and to avoid a direct threat to the health, safety, and welfare of the community in proximity to such businesses, and the "Whereas" clauses above taken together constitute the City Council's statement of the reasons constituting such necessity and emergency.

NOW, THEREFORE, the Council of the City of Oakland does ordain as follows:

SECTION 1. The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this ordinance.

SECTION 2. The City Council finds and determines, for the reasons stated in the recitals, the adoption of this ordinance is exempt from CEQA under Sections 15061(b)(3), 15307, and 15308 of the State CEQA Guidelines.

SECTION 3. For the term of this Ordinance, as set forth in Section 6 hereof, "Check Cashiers and Check Cashing Activities" shall be defined to include:

(1) A person or entity that, for compensation, engages in whole or in part in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. A "check cashier" also includes the business of deferred deposits whereby the check cashier refrains from depositing a personal check written by a customer until a specific date pursuant to a written agreement as provided in Civil Code sec. 1789.33.

(2) "Check cashier" or "check cashing business" does not include a state or federally chartered bank, savings association, credit union, or industrial loan company. "Check cashier" or "check cashing business" also does not include a retail seller engaged primarily in the business of selling consumer goods, such as consumables to retail buyers, that cashes checks or issues money orders for a minimum flat fee, not exceeding \$2.00, as a service to its customers that is incidental to its main purpose or business.

SECTION 4. During the term of this ordinance as set forth in Section 6 hereof, no Check Cashier and/or Check Cashing Activity or any other activity, that includes as an element of the activity an activity that meets the definition of Check Cashier or Check Cashing business as defined in Section 3 above and located in any zoning district where Consultative and Financial services, as defined by the Oakland Planning Code, are either allowed by right or conditionally permitted (which includes without limitation COMMERCIAL zones C-5, C-10, C-20, C-25, C-27, C-30, C-31, C-40, C-45, C-51, C-55, AND C-60, All INDUSTRIAL Zones, SPECIAL ZONES S-1, S-2, S-3, S-16, AND S-19), shall be issued a building, zoning or other permit by any department, agency, employee or agent of the City of Oakland to allow for any check cashier and or check cashing without first applying for and obtaining a Minor Conditional Use Permit.

SECTION 5. For the term of this ordinance as set forth in Section 6 hereof, no building, zoning or other permit that has been issued for any Check Cashiers and Check Cashing Activity, for which rights to proceed with such activity have not vested pursuant to the provisions of State law shall proceed, and no building, zoning or other permit for any Check Cashiers and Check Cashing Activity, shall be issued by any department, agency, employee or agent of the City of Oakland to allow for such activity, until such activity has complied with the requirements of section 4 above.

SECTION 6. The interim controls imposed by this ordinance shall remain in place and be effective for a continuous one year from the effective date of this ordinance, or until the City Council adopts permanent controls, whichever occurs first.

SECTION 7. For the term of this ordinance, as set forth in Section 6 hereof, the provisions of this ordinance shall govern, to the extent there is any conflict between the provisions of this ordinance and the provisions of any other City code, ordinance, resolution or policy, and all such conflicting provisions shall be suspended.

SECTION 8. This ordinance shall be effective immediately upon its adoption by the City Council, subject to the provisions of Section 216 of the Charter of the City of Oakland.

SECTION 9. This Ordinance is enacted pursuant to the City of Oakland's general police powers, Sections 106 and 213 of the Charter of the City of Oakland, and Article XI of the California Constitution.

SECTION 10 If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, the remainder of this ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.

*In Council, Oakland, California, December 16, 2003, Passed By The Following
Vote:*

AYES-

NOTES-

ABSENT-

ABSTENTION-

ATTEST: _____
CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California

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OAKLAND
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NOTICE AND DIGEST

By this ordinance, the Oakland City Council adopts interim controls, for a one-year period, to regulate the establishment of check cashiers and or check cashing businesses by requiring a minor conditional use permit.

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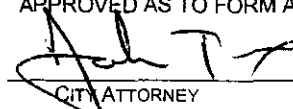
FILED
OFFICE OF THE CITY CLERK
SAN JOSE, CALIFORNIA

2003 NOV 18 PM 12:32

4/5 VOTE REQUIRED FOR PASSAGE

APPROVED AS TO FORM AND LEGALITY

INTRODUCED BY COUNCILMEMBER DE LA FUENTE


CITY ATTORNEY

ORDINANCE NO. 12558 C.M.S.

**AN URGENCY MEASURE ADOPTING AN INTERIM ORDINANCE
PURSUANT TO GOVERNMENT CODE SECTION 65858 IMPOSING A
MORATORIUM ON CHECK CASHIER OR CHECK CASHING
BUSINESSES**

WHEREAS, In the State of California the number of check cashing business permits rose from 1,467 in 1996 to over 4,000 by 2002; and

WHEREAS, 57 percent of African-Americans and 49% of Hispanics live within close proximity to a check cashing business indicating a pattern by check cashing business for targeting primarily minority neighborhoods; and

WHEREAS, 42 percent of households with incomes of less than \$25,000 live within 1 mile of check cashing business in California indicating a pattern by check cashing business for targeting primarily low-income neighborhoods; and

WHEREAS, a recent study by the Urban Law & Public Policy Institute and Consumer Federation of America revealed that check cashing facilities charge interest rates as high as 900 percent and displace the availability of full service banking institutions; and

WHEREAS, a recent study by the American Association of Retired Persons revealed that customers using check-cashing business average 13 transactions per year, per borrower, with 21 percent reporting more than 20 transactions in a 12-month period creating a cycle of indebtedness and financial vulnerability; and,

WHEREAS, 28% of consumers without a traditional checking account cash their checks primarily at check cashing institutions; and

WHEREAS, a recent study by The Progressive Policy Institute revealed that a traditional bank account is the first step toward giving low-income Americans access to the mainstream tools for wealth creation now taken for granted by the middle-class; and,

WHEREAS, check cashing business obtain their profits from transactions fee, unlike banks, which primarily derive their income from the spread between

ATTACHMENT A

interest paid on deposits and loan portfolios, creating an incentive for check cashing business for ever increasing transaction fees; and

WHEREAS, check cashing business have failed to provide adequate safety for their costumers as evidenced by 3 armed individuals recently robbing a man after leaving a check cashing business on East 14th; and

WHEREAS the City of Oakland does not currently, separately regulate check cashier or check cashing businesses and does not differentiate between banks, credit unions, and other consultative and financial services activity thereby permitting check cashier and check cashing businesses, as described below, to be instituted wherever consultative and financial services activity are permitted to be instituted; and

WHEREAS, an updated Land Use and Transportation Element of the Oakland General Plan was adopted by the Oakland City Council in March, 1998 to guide future land use and development in the city; and

WHEREAS, the Land Use and Transportation Element and the Estuary Policy Plan contain goals, objectives, and policies that promote: maintaining and enhancing the vitality of existing neighborhood commercial areas - Objective I/C1.1 Attracting New Business; Policy N1.6 Reviewing Potential Nuisance Activities; Policy 5.1 Environmental Justice; and

WHEREAS, the continued establishment of check cashier or check cashing businesses in any and all locations where consultative and financial service uses are permitted activity may result in displacement and availability of full service banking institutions creating a cycle of indebtedness and financial vulnerability for low-income citizens; and

WHEREAS, such impacts may potentially conflict with some of the policies and objectives of the Land Use and Transportation Element of the General Plan; and

WHEREAS, the City Council hereby requests that the Planning Commission initiate a review of the regulatory mechanisms available to regulate check cashiers or check cashing businesses with the goal of adopting needed changes to the current regulations, including changes to the Planning Code to protect the public health, safety, and welfare from the negative effects of check cashier or check cashing businesses. During the period of time that it undertakes this task, the City is concerned that absent the adoption of an emergency moratorium, check cashier or check cashing businesses that conflict with contemplated changes to the City's regulatory schemes could be established in the City of Oakland thereby frustrating the realization of the goals of that study; and

WHEREAS, until such time that the City concludes its review and adopts new land use controls over such check cashier or check cashing businesses, the

community is in jeopardy that such check cashier or check cashing businesses could be instituted, modified, or expanded prior to the imposition of new controls necessary for the protection of public health and welfare; and

WHEREAS, issuance or approval of any building, planning or other permit for such check cashier or check cashing businesses (newly instituted, modified, or expanded) prior to the City's completion of such investigation would result in a current and immediate threat to the public health, safety or welfare; and

WHEREAS, pursuant to Government Code Section 65858 a city, including a charter city, may adopt an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan or zoning proposal that the legislative body is considering or intends to study within a reasonable time; and

WHEREAS, for the reasons set forth above, this ordinance is declared by the Council to be necessary for preserving the public peace, health, or safety and to avoid a current, immediate and direct threat to the health, safety, or welfare of the community, and the "Whereas" clauses above taken together constitute the City Council's statement of the reasons constituting such necessity and urgency.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND does ordain as follows:

SECTION 1. The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this ordinance.

SECTION 2. The City Council finds and determines, for the reasons stated in the recitals, the adoption of this ordinance is exempt from CEQA under Sections 15061(b)(3), and 15307 of the State CEQA Guidelines.

SECTION 3. Until such time as the City concludes the review described above, and adopts new land use controls pertaining to check cashier or check cashing business, the City of Oakland hereby declares a moratorium on the permitting or approval of any new, modified, or expanded check cashier or check cashing business as defined in section 4 below.

SECTION 4. For purposes of this Ordinance, the following definitions shall apply:

- a) "Check cashier or check cashing business means (1) A person or entity that, for compensation, engages in whole or in part in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. A "check cashier" also includes the business of deferred deposits whereby the check cashier refrains from depositing a personal check written by a customer until a specific date pursuant to a written

agreement as provided in Civil Code sec. 1789.33.

(2) "Check casher" or "check cashing business" does not include a state or federally chartered bank, savings association, credit union, or industrial loan company. "Check casher" or "check cashing business" also does not include a retail seller engaged primarily in the business of selling consumer goods, such as consumables to retail buyers, that cashes checks or issues money orders for a minimum flat fee, not exceeding \$2.00, as a service to its customers that is incidental to its main purpose or business.

SECTION 5. In accordance with Government Code Section 65858, this Ordinance shall be in full force and effect for a period of 45 days from the date of its adoption. This 45-day period may be extended by the City Council in accordance with the provisions of California Government Code § 65858.

SECTION 6. During the term of this ordinance as set forth in Section 5 hereof, no use permit, building, zoning or other permit that has been issued for any "Consultative and financial services Activity" or any other activity, that includes as an element of the activity an activity that meets the definition of check casher or check cashing business as set forth in section 4 above for which rights to proceed with the permit have not vested pursuant to the provisions of State law shall proceed, and no use permit, building, zoning or other permit for any check casher or check cashing business shall be issued by any department, agency, employee or agent of the City of Oakland to allow for any "Consultative and financial services Activity" or any other activity which includes as an element thereof any check casher or check cashing business. Only "Consultative and financial services Activity" or any other activity which include as an element thereof any check casher or check cashing businesses which have vested, pursuant to the provisions of State law, prior to the date of this Ordinance shall proceed in violation of the provisions of this Ordinance.

SECTION 7. The City Clerk shall certify to the passage and adoption of this Ordinance causing it to be posted, as required by law, and it shall thereafter be in full force and effect. This Ordinance shall become effective immediately as an interim urgency ordinance, in order to protect the public health, safety and welfare.

SECTION 8. For the term of this ordinance, as set forth in Section 5 hereof, the provisions of this ordinance shall govern, to the extent there is any conflict between the provisions of this ordinance and the provisions of any other City code, ordinance, resolution or policy, and all such conflicting provisions shall be suspended.

SECTION 9. This Ordinance is enacted pursuant to the City of Oakland's general police powers, Section 106 of the Charter of the City of Oakland, Article XI of the California Constitution and Government Code section 65858.

SECTION 10. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase be declared invalid.

In Council, Oakland, California, NOV 18 2003, 2003, Passed By The Following Vote:

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN and
PRESIDENT DE LA FUENTE — 8

NOTES- *Ø*
ABSENT- *Ø*
ABSTENTION- *Ø*

ATTEST *Debrah Kukul*
for CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California

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