

**ORDINANCE NO. O-2012-005-15**  
**Zoning Case Z-001-12**

**AN ORDINANCE AMENDING ORDINANCE NO. O-2002-032-15, AS AMENDED, THE ZONING ORDINANCE OF THE CITY OF HALTOM CITY TEXAS BY ADOPTING REGULATIONS FOR NONDEPOSITORY FINANCIAL INSTITUTIONS; PROVIDING A DEFINITION FOR CAR TITLE LOAN BUSINESS, CHECK CASHING BUSINESS, NONDEPOSITORY FINANCIAL INSTITUTION AND PAYDAY/ADVANCE LOAN BUSINESS; PROVIDING FOR THE CLASSIFICATION OF NONDEPOSITORY FINANCIAL INSTITUTIONS AS A CONDITIONAL USE PERMIT IN ALL NON-RESIDENTIAL ZONING DISTRICTS; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Haltom City ("City") is a home rule city acting under its charter adopted by the electorate pursuant to article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

**WHEREAS**, the City Council is empowered under the Texas Local Government Code to adopt ordinances and rules for the orderly and beneficial operation of City government and the welfare of the citizens of Haltom City; and

**WHEREAS**, the City Council has adopted a Comprehensive Zoning Ordinance which regulates and restricts the location and use of buildings, structures, and land for trade, industry, residence, and other purposes, and provides for the establishment of zoning districts of such number, shape and area as may be best suited to carry out these regulations, and

**WHEREAS**, nondepository financial institutions include check cashing businesses, payday/advance loan businesses, and car title loan businesses; and

**WHEREAS**, the City Council has reviewed source materials related to the effects of nondepository financial institutions and has determined that a proliferation and clustering of nondepository financial institutions in the City of Haltom City can have a detrimental effect on

local property values and economic development within the City {Sources: (1) "Alternative Financial Services: Chattanooga, TN", Chattanooga-Hamilton County Regional Planning Agency, 2006; (2) Center for Responsible Lending, online at: [www.responsiblelending.org](http://www.responsiblelending.org)} and can have an unreasonable adverse effect on the citizens of Haltom City {Source: Baylor, Don; "The Hidden costs of Payday Lending," *Texas Business Review*, April 2008}; and

**WHEREAS**, the City Council desires to amend the Comprehensive Zoning Ordinance to limit these types of businesses to non-residential zoning districts, but only after issuance of a conditional use permit, to address the affect of the proliferation of these establishments; and

**WHEREAS**, the Planning and Zoning Commission of the City of Haltom City held a public hearing on February 28, 2012 and the City Council held a public hearing on March 12, 2012 with respect to the amendments described herein; and

**WHEREAS**, the City has complied with all requirements of Chapter 211 of the Local Government Code and all other laws dealing with notice, publication and procedural requirements for the amendments described herein.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HALTOM CITY, TEXAS:**

#### **SECTION 1.**

Section 28, "Definitions", of the Comprehensive Zoning Ordinance of the City of Haltom City is hereby amended by adding the following definitions:

*Financial Institution / Bank or Savings & Loan* means a building or premise offering banking, savings and loan, and other financial services, not including pawn shops or nondepository financial institutions as defined herein.

*Car title loan business* means:

- a. An establishment, entity, or person registered with the Texas Secretary of State as a Credit Services Organization (CSO) under Section 393 of the Texas Finance Code that engages in any of the following activities:
  - 1. Acts or operates as a loan broker between a consumer and a lending company;
  - 2. Issues a "letter of credit" or similar document on behalf of a consumer to a lending company;
  - 3. Collects any or all of the following fees:
    - A. A referral fee for referring a consumer to a lending company;
    - B. An application fee for filling out the CSO documents; or
    - C. Interest on the funds distributed to the consumer, or payments based on the amount of money distributed to the consumer; or
- b. A lending company that uses a consumer's vehicle title as collateral for a loan.

*Check cashing business* means an establishment, entity, or person registered with the Texas Secretary of State as a Credit Services Organization (CSO) under Section 393 of the Texas Finance Code that provides one or more of the following:

- a. An amount of money that is equal to the face of the check or the amount specified in the written authorization for an electronic transfer of money, less any fee charged for the transaction;
- b. An agreement not to cash a check or execute an electronic transfer of money for a specified period of time; or
- c. The cashing of checks, warrants, drafts, money orders, or other commercial paper for compensation by any person or entity for a fee.

*Nondepository financial institution* means any check cashing business, payday/advance loan business, or car title loan business, as defined in this section. This definition excludes:

- a. A state or federally chartered bank, savings and loan association, or credit union, or a pawnshop;
- b. Any business that grants or brokers "tax refund advance" loans or other such loans whose value is based on the value of a federal income tax refund due to a consumer; and
- c. A convenience store, supermarket, or other retail establishment where consumer

retail sales constitute at least 75 percent of the total gross revenue generated on site.

*Payday/advance loan business* means an establishment, entity or person registered with the Texas Secretary of State as a Credit Services Organization (CSO) under Section 393 of the Texas Finance Code that engages in any of the following activities:

1. Acts or operates as a loan broker between a consumer and a lending company;
2. Issues a "letter of credit" or similar document on behalf of a consumer to a lending company;
3. Collects any or all of the following fees:
  - i. A referral fee for referring a consumer to a lending company;
  - ii. An application fee for filling out the CSO documents; or
  - iii. Interest on the funds distributed to the consumer, or payments based on the amount of money distributed to the consumer; or
4. Requires the consumer to provide the CSO or lending company with a postdated check or authorization to make an electronic debit against an existing financial account."

## **SECTION 2.**

Section 9, "Use Matrix" of the Comprehensive Zoning Ordinance of the City of Haltom City is hereby amended by amending the Table of Permitted Uses, Subsection G, "Retail and Service Uses" to add the following use as a conditional use permit in all non-residential zoning districts:

Nondepository Financial Institution

## **SECTION 3.**

This ordinance shall be cumulative of all provisions of the City of Haltom City, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of other ordinances, in which event the conflicting provisions of the other ordinances are hereby repealed.

#### **SECTION 4.**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if a phrase, clause, sentence, paragraph, or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect the remaining phrases, clauses, sentences, paragraphs, and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of the unconstitutional phrase, clause, sentence, paragraph, or section.

#### **SECTION 5.**

All rights and remedies of the City of Haltom City are expressly saved as to any and all violations of the provisions of the Zoning Ordinance of the Code of Ordinances of the City of Haltom City, Texas, or any other ordinances regulating zoning and land use which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

#### **SECTION 6.**

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

#### **SECTION 7.**

The City Secretary of the City of Haltom City is hereby directed to publish in the official newspaper of the City of Haltom City, the caption, penalty clause, publication clause and effective date clause of this Ordinance one (1) time within ten (10) days after the first reading of this Ordinance as required by Section 10.01 of the Charter of the City of Haltom City.

#### SECTION 8.

This ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED ON FIRST READING THIS 12<sup>th</sup> DAY OF March, 2012.

PASSED AND APPROVED ON SECOND READING THIS 26<sup>th</sup> DAY OF March, 2012.



Richard Hutchison  
Richard Hutchison, Mayor

ATTEST:

Art Camacho  
Art Camacho, City Secretary

APPROVED AS TO FORM AND LEGALITY:

WkDe  
City Attorney