

ORDINANCE NO. 2012-380

AN INTERIM ORDINANCE OF THE LOS ALTOS CITY COUNCIL
EXTENDING A TEMPORARY MORATORIUM ON THE ESTABLISHMENT,
EXPANSION, OR RELOCATION OF PAYDAY LENDING AND CHECK CASHING
BUSINESSES WITHIN THE CITY OF LOS ALTOS DECLARING THE URGENCY
THEREOF

NOW THEREFORE, the City Council of the City of Los Altos does hereby ordain as follows:

SECTION 1. FINDINGS AND PURPOSE. In accordance with California Government Code section 65858, the City Council finds and declares that this Ordinance is deemed necessary for the following reasons:

1. The inability of low-income consumers with poor credit history to obtain certain services from federally-insured banks has resulted in a two-tiered financial services industry. More financially-stable consumers are generally able to use traditional banks, which charge low fees for checking and issue bans regulated by the federal government, while lower-income, financially-vulnerable consumers often have to rely upon the alternative financial services (AFS) industry for the same services. Payday lending and check cashing businesses are part of the growing AFS industry.

2. Payday lending businesses typically offer an all, 14-day ban for which they charge effective interest rates upwards of 460% annual percentage rate (APR). California law currently caps individual payday bans at \$300, from which a 15% fee can be deducted. As a result, payday lending businesses in California generally charge \$45 for a two-week \$300 ban. According to a 2007 survey conducted by the California Department of Corporations, 48% of payday ban borrowers in California take out payday bans at least once per month. Because payday ban consumers tend to engage in cyclical borrowing, research has demonstrated that the typical borrower ultimately pays \$800 for a \$300 ban.

3. Check cashing outlets cash checks for a large fee, a significant percentage of the amount of the check, or deposit funds on to prepaid debit cards that incur a per-transaction fee. The fees withdrawn from cashed checks are generally significantly higher than the fees that would be charged by most federally-insured banks.

4. In the face of limited state and federal legislation restricting payday lending and check cashing, the growth of these industries has been extremely rapid. Since 1997, when payday lending became legal in California, more than 2,000 payday lending businesses have been established. In 2010, California payday lenders issued \$12 million in bans to 1.6 million borrowers. The check cashing industry has experienced similarly rapid growth. A study by the Consumer Federation of America found that the check cashing industry doubled in size between 1994 and 2000, and again between 2000 and 2005.

5. The proliferation of these businesses has had significant detrimental effects on the financial stability of low-income communities throughout California, and low-income neighborhoods in the

surrounding cities. These businesses operate almost exclusively in low-income neighborhoods and prey upon the City of Los Altos' most financially vulnerable residents, drawing them into a cycle of debt or causing them to lose a significant share of their income to exorbitant fees for simple financial transactions.

6. The Los Altos Municipal Code, Title 14, Zoning, does not adequately regulate the establishment, expansion, or relocation of payday lending and check cashing businesses within the City of Los Altos.

7. In light of the foregoing, the City Council finds that the establishment, expansion, or relocation of payday lending and check cashing businesses within the City of Los Altos presents a current and immediate threat to public health, safety and welfare. The City Council further finds that a temporary moratorium on the establishment, expansion, or relocation of payday lending and check cashing businesses within the City of Los Altos is warranted so that the City Council may review and consider possible amendments to the City of Los Altos Municipal Code, Title 14, Zoning, to address this threat on a permanent basis.

SECTION 2. EXTENSION OF MORATORIUM : This Ordinance extends the prohibition imposed by Ordinance No. 2012-378 on the establishment, expansion, or relocation of any payday lending business or check cashing business within the City of Los Altos.

SECTION 3. COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT : The City Council finds that this Ordinance is not subject to the California Environmental Quality Act (CEQA) because the activity is not a project as defined by Section 15378 of the CEQA guidelines. The Ordinance has no potential for resulting in physical change to the environment either directly or indirectly. Furthermore, pursuant to Section 15060(c)(2) of the CEQA Guidelines, the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment because this Ordinance prevents changes in the environment pending the contemplated review of Los Altos Municipal Code, Title 14, Zoning, amendments applicable to payday lending and check cashing businesses.

SECTION 4. EFFECTIVE PERIOD : This Ordinance is an extension of Ordinance No. 2012-378, an urgency measure adopted pursuant to the provisions of Government Code section 65858. This Ordinance shall be in effect until the earlier of the following, and shall thereupon be repealed and of no further force or effect, unless extended by subsequent enactment of the City Council:

(i) The completion of the study, evaluation, consideration, and legislative action to amend the Los Altos Municipal Code, Title 14, Zoning, to address payday lending and check cashing facilities on a permanent basis.

(ii) 90 days beyond May 25, 2012.

SECTION 5. PUBLICATION : The City Clerk shall cause this Ordinance to be published in a newspaper of general circulation as required by state law.

SECTION 6. SEVERABILITY : If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part of provision to other persons or circumstances, shall not be affected thereby and shall

continue in full force and effect. To this end, the provisions of this Ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be held unconstitutional, invalid, or unenforceable.

PASSED AND ADOPTED by the City Council of the City of Los Altos, this 8th day of May, 2012, by the following vote:

AYES: CASAS, FISH PAW, PACKARD, SATTERLEE, CARPENTER
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

Valerie Cook Carpenter, MAYOR

A t t e s t:

Jon Maginot, DEPUTY CITY CLERK



STATE OF CALIFORNIA)
COUNTY OF SANTA CLARA) CERTIFIED COPY OF ORDINANCE
CITY OF LOS ALTOS) SECOND READING / ADOPTION

I, Jon Maginot, Deputy City Clerk for the City of Los Altos in said County of Santa Clara, and State of California, do hereby certify that the attached is a true and correct copy of Ordinance No. 2012-380, adopted by the Los Altos City Council on May 8, 2012 by the following vote:

AYES: CASAS, FISH PAW, PACKARD, SATTERLEE, CARPENTER
NOES: NONE
ABSTAIN: NONE
ABSENT: NONE

I hereby further certify that the ordinance was published in accordance with Government Code Section 36933 on the following date: _____, 2012. Said ordinance shall be effective immediately.

Dated this ____ day of _____, 2012.

Jon Maginot
Deputy City Clerk