Agenda Item # __6____

Draft for Planning Commission review on August 26, 2013

Council Date: September 24, 2013

SUBJECT: Discussion and Possible Action to Introduce an Ordinance to Regulate Payday Lending Establishments (Study Issue)

REPORT IN BRIEF

In November 2012, the City Council received a request from Sunnyvale Community Services and the Law Foundation of Silicon Valley asking for a study of payday lending establishments and their effects on the community. At that same meeting, the Council sponsored a study issue of the topic (Attachment A).

Payday lending establishments have very little oversight from the Federal or State government and many cities have created specific regulations for this use. The use is not currently defined in the Sunnyvale Zoning Code, leading to confusion about the classification of the use and how these businesses should be treated. Many community groups have expressed social and safety concerns regarding payday lending establishments and their effects on minority and low-income populations.

In order to address the issue, staff recommends that the Council introduce an ordinance with a definition for payday lending establishments, distance requirements, modifications to the use tables and operational standards for new payday lending establishments (Attachment B). The ordinance (Attachment B) is based on the following:

- There is insufficient regulation of the use at the Federal and State level, even though the issue is universal;
- The definition will provide consistency in classifying the use in the zoning code;
- There are safety concerns based on these establishments having a lot of cash on hand without having the same security requirements as financial institutions;
- Excessive payday lending establishments or an over-concentration of such businesses could have an adverse impact on the general welfare of the community and the character of adjacent neighborhoods and commercial areas.

If the City Council chooses to regulate payday lending establishments further, staff has provided a spreadsheet (Attachment E) that provides information on what other Northern California cities have done.

BACKGROUND

The payday lending establishment study issue was ranked first on the list of 2013 topics in the Community Development Department. Staff was requested to return with recommendations on whether or not the City should regulate payday lending establishments, and if so, to provide zoning options (Study Issue paper, Attachment A).

The process of payday lending involves a lender (licensed by the state of California) providing a short-term unsecured loan to be repaid at the borrower's next payday. As discussed in this report, there are State laws regarding this subject; however, they are limited and do not contain the same regulations many local jurisdictions have imposed. Given the lack of State and Federal oversight, it has fallen to cities to regulate and oversee these establishments. In the past few years, some cities (e.g. San Jose, Los Altos, San Mateo, San Francisco, Sacramento) have modified their municipal codes to regulate (and in some cases ban) new payday lending establishments.

EXISTING POLICY

Goal LT-4 Quality Neighborhoods and Districts

Preserve and enhance the quality character of Sunnyvale's industrial, commercial and residential neighborhoods by promoting land use patterns and related transportation opportunities that are supportive of the neighborhood concept.

CEQA REVIEW

Although the modifications to the ordinance are considered a project under the California Environmental Quality Act (CEQA) staff's analysis of the Initial Study checklist has led us to conclude that adopting the proposed ordinance is exempt from CEQA under Section 15061.b.3.

EXISTING REGULATION

Federal Law

Payday lending establishments have very few regulations at the federal level (unless the loan is taken by a member of the military). The following is a description of the federal regulations that exist regarding payday lending establishments:

- The Federal Truth in Lending Act requires payday lending establishments to keep records of their transactions and requires disclosure to customers of fees and payment schedules as set by each state.

- The Military Lending Act imposes a 36% rate cap on tax refund loans and certain payday and auto title loans made to active duty armed forces members and their covered dependents. The act also prohibits certain terms, such as the amount of time an individual has to pay back the loan.

California State Law and Guidelines

The State of California regulates payday lending (deferred deposit transaction) establishments under California Financial Code 23000-23106 with the following standards:

- Loan Terms:
  - Maximum Loan Amount: $300
  - Loan Term: Maximum of 31 days
  - Maximum Finance Rate and Fees: 15%
  - Finance charge for a 14-day $100 loan: $17.65
  - APR for a 14-day $100 loan: 459%
- Debt Limits:
  - Maximum Number of Loans at One Time: One
  - Rollovers Permitted: None
  - Repayment Plan: Voluntary (no fees may be charged in conjunction with a payment plan)
- Collection Limits:
  - Collection Fees: $15 non-sufficient funds fee
  - Criminal Action: Prohibited

On April 17, 2013, California Senate Bill 515 was heard by the Banking and Financial Institutions Committee. This bill proposed the following additional regulations for California payday lending establishments (the full summary of the bill can be found in Attachment F):

- A central database for payday lending establishments to monitor how much money individuals have out in loans and how many loans an individual has taken out.
- A cap on the number of loans an individual could take out in one year (four).
- Increased minimum payback time (30 days).
- Prohibition on a payday lending establishment giving a loan to someone whose total monthly debt service payments exceed 50% of the customer's gross monthly income.
- Requirement for payday lenders to offer payment plans to those who are unable to pay their loan back in the specified time.

Senate Bill 515 did not receive enough votes to pass the bill onto the full Senate; however, the committee allowed the bill to be reconsidered with modifications at a future committee meeting.

Other States
Currently 12 states (and Washington D.C.) prohibit new payday lending establishments and they are highly regulated in five additional states. Every state has some level of regulation on payday lending but, like California, most allow for high APRs and lack a central database to regulate how many loans an individual can have out at one time.

DISCUSSION

Overview
The issue of whether to restrict payday lending establishments in Sunnyvale is complicated and can be controversial. Many arguments have been presented from those who oppose their existence. This study considered the following issues:

- Current laws;
- The role of a local agency in regulating this use;
- The impact of payday lending establishments on the community, and the possible increase of those impacts if regulations are not put in place that limit payday lending establishments;
- Correlation of crime statistics and this use;
- Comparison of what other cities have done regarding payday lending establishments;
- Land use compatibility concerns regarding payday lending establishments in the city; and
- Possible regulations to consider, should the decision be made to restrict payday lending establishments in the city.

As mentioned briefly above, a payday loan transaction (defined as a deferred deposit transaction in the California Finance Code) is a transaction in which an operator defers depositing a customer's personal check until a specific date, pursuant to a written agreement and supplies that customer with a loan equal to the personal check amount. A deferred deposit originator (payday lender) is any person that offers, originates, or makes a deferred deposit transaction (payday loan). Deferred deposit originators are required to obtain a license from the California Department of Corporations and payday loans can only occur at the place of business named in the license.

In the traditional retail model, borrowers visit a payday lending store and secure a small cash loan, with payment due in full at the borrower's next paycheck. The borrower writes a postdated check to the lender in the full amount of the loan plus fees. On the maturity date, the borrower is expected to return to the store to repay the loan. If the borrower does not repay the loan in person, the lender may cash the check. If the account is short on funds to cover the check, the borrower may now face a bounced check fee from their

bank in addition to the costs of the loan, and the loan may incur additional fees and/or increased interest rate as a result of failure to pay.

Land Use
The Zoning Code is used to address land use issues associated with specific uses. It may also include business or lending practices as they relate to a legitimate land use concern.

Payday Lending is not specifically called out in the Zoning Code, but has been classified as both a financial institution and a personal service in the past. The existing payday lending establishments are located within C-1 and C-2 zoning districts of the City. The following table shows the existing businesses and associated zoning (a map is also available, Attachment C).

Name	Address	Zone	Year Business Opened
California Check Cashing Stores	680 N Fair Oaks Way	C-1/PD	1985
Frontera Financial Services	887 E El Camino Real	C-2/ECR	1988
Cash Plus	189 W El Camino Real	C-2/ECR	2004
Check Into Cash	724 S Wolfe Rd	C-1/PD	2005
Check n' Go	939 W. El Camino Real	C-2/ECR	2005
Dolex Dollar Express, Inc.	933 E Duane Ave	C-1/PD	2006
Lucky Check Cashing	950 W El Camino Real	C-2/ECR	2007
Check in Cash Out	1111 W El Camino Real	C-2/ECR	2008

Since the use has been classified in the past as both a financial institution and a personal service business, it leaves a grey area in how to classify new payday lending establishments.

Criminal Activity Concerns
Staff mapped the 2012 crime statistics from the Department of Public Safety (DPS) with the eight existing payday lending establishments (Attachment D) and found that there was one robbery committed at the Check n' Go located at 939 W. El Camino Real. The map also shows other robberies that occurred near other payday lending establishments; however, these robberies were not found to be directly related to the payday lending establishments. Staff conducted site visits to all of the payday lending businesses and found that most of the businesses were located in secure buildings with some safety precautions in place to negate crime in and around their businesses. As a crime precaution, staff has included an operational standard that any new payday lending business would have a uniformed security guard at the

business during hours of operation. This requirement should help prevent future crimes associated with new payday lending establishments but would not apply to existing (legal non-conforming) businesses.

Other City's Approaches
In the bay area, several jurisdictions have adopted Ordinances restricting payday lending and check cashing businesses. The table attached to this report (Attachment E) shows approaches to the issue by other cities in the bay area and Sacramento. Oakland, San Mateo and San Jose have included operational standards and distancing requirements in their ordinances.

In Santa Clara County, three of the 16 jurisdictions have taken steps to prohibit/restrict payday lending establishments. Both the County of Santa Clara and City of Los Altos have banned check cashing/payday lending establishments by redefining their definition for financial institutions to specifically exclude such uses. The City of San Jose does not ban but restricts payday lending establishments by creating distance requirements, capping the number of payday lending establishments allowed in the City and defining operational standards for the use. The City of Gilroy is also studying the issue at this time. The definition staff has included in the draft ordinance is similar to the definition the County and Los Altos have used and the operational standards are similar to what San Jose, San Mateo and Oakland have in place.

Social Concerns
The Center for Responsible Lending, Law Foundation of Silicon Valley, The Coalition Against Payday Predators and several other organizations have submitted information (Attachments G, H & I) regarding payday lending establishments and their effects on a community.

Community Alternatives to Payday Loans
There are many charitable organizations that are dedicated to providing alternatives to payday loans and many of those organizations have submitted letters in support to regulate new payday lending establishments (Attachment I). In Sunnyvale, the biggest alternative to obtaining financial assistance is Sunnyvale Community Services who offer help in the following ways:

- Financial assistance with utility bills and rent,
- Grocery assistance,
- Classes on financial planning and budgeting (in multiple languages), and
- Budget planning on an individual basis.

Aside from Sunnyvale Community Services, organizations like the United Way, Salvation Army, Society of St. Vincent de Paul, Step Up Silicon Valley, Sunnyvale FISH, Our Daily Bread, Asian Americans for Community Involvement, etc. provide the residents of Sunnyvale with a number of services to help them get through difficult financial times. Prepared meals, grocery services, health services, bill assistance and financial education are a few

examples of the alternatives these organizations provide. More specific examples are included in their public comment letters.

OPTIONS

Option 1: Restrict New Payday Lending Establishments

Adopt an ordinance (Attachment B) to regulate new payday lending establishments. The ordinance would consist of the following:

- Create a definition for payday lending establishments.
- Allow payday lending only in highway business commercial zones (C-2).
- Require at least 1,000 feet between payday lending establishments.
- Establish operational standards for new payday lending establishments; including:
    - Approval of a lighting plan for the tenant space;
    - Limit hours of operation to 7 a.m. to 7 p.m. daily;
    - Require at least one "no loitering" sign posted on the premises in plain view of patrons;
    - Require at least one uniformed security guard during the hours of operation.

This option would allow new payday lending establishments to open in the C-2 zone and help prevent over-concentration of the use. Based on the attached map showing the 1,000 foot radius lines (Attachment C), approximately six additional payday lending establishments could possibly open under the suggested recommendation if they met the operational standards. This option would also leave three existing payday lending establishments classified as legal non-conforming because they are currently located within a neighborhood commercial (C-1) zone and another three payday lending facilities on El Camino Real legal non-conforming because they are within 1,000 feet of each other.

Any new payday lending establishments would be required to obtain a Miscellaneous Plan Permit (MPP) from the Planning Department to open in a C-2 zone. Staff would confirm the distance requirements are met and ensure the operational standards are imposed on the business. If all standards can be met, the MPP would be approved by staff.

This option would not result in changes to existing payday lending establishments except that the uses would not be able to expand if the changes to the ordinance leave it legal non-conforming. This would apply to the existing establishments in the C-1 zone and the existing businesses that are located within 1,000 feet from another payday lending establishment.

Option 2: Ban New Payday Lending Establishments

Similar to the ordinances adopted by Los Altos and the County of Santa Clara, banning new payday lending establishments would restrict any new payday lending businesses from opening in the City. This would not eliminate the

existing payday lending establishments as they would be considered legal non-conforming; however, banning the use would prohibit existing payday lending establishments from expanding or relocating.

Option 3: Capping the Number of Payday Lending Establishments in the City

This option could be done along with Option 1 to further restrict the number of payday lending establishments that could operate within the City. This number could equal the existing number of businesses (eight), or be less (or more) than what currently exists as a method for regulating the number of establishments over time. Adding a cap on payday lending businesses at less than eight would not affect the existing payday lending businesses; however, if those businesses discontinued the use for more than one year (according to the non-conforming use standards), a new business would not be able to open in their place (or elsewhere in the City).

Option 4: Maintain the Status Quo

This would allow payday lending establishments to open in all areas where personal service businesses are allowed (commercial zones, Downtown Specific Plan, and the Moffett Park Specific Plan) with no restrictions on the businesses. It would also have no effect on existing payday lending establishments.

FISCAL IMPACT

If Council introduces the ordinance, the costs to the City to implement it would be minimal. Staff time would include processing the MPP applications to make sure the use meets the operational standards and is not within 1,000 feet of another payday lending business.

PUBLIC CONTACT

Public contact regarding the study issue was made through the following ways:

1. Posting the Planning Commission and City Council agendas on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website;
2. Publication in the *Sun* newspaper, at least 10 days prior to the hearing;
3. E-mail notification of the hearing dates sent to all interested parties, existing payday lending facilities and Sunnyvale neighborhood groups;
4. Public Meeting with the existing Payday Lending Establishments;
5. Meetings with Sunnyvale Community Services and the Law Foundation of Silicon Valley; and
6. Outreach by Sunnyvale Community Services to members of their organization and other service agencies they conduct business with.

Additionally, included in Attachment I are letters received from the public by mail and e-mail in support for restricting payday lending establishments.

ALTERNATIVES

1. Introduce an ordinance with a definition for payday lending establishments, distance requirements, modifications to the use tables and operational standards for new payday lending establishments (Attachment B).
2. Adopt an alternative with modifications (banning the use, capping the number of payday lending establishments, etc.).
3. Do not modify Chapter 19 and direct staff to regulate payday lending businesses as personal service uses.

RECOMMENDATION

Staff recommends Alternative 1, adoption of the attached ordinance, to regulate and restrict payday lending establishments in the City of Sunnyvale because regulation of these establishments will help maintain the general welfare of the community and preserve the quality and character of residential neighborhoods and commercial areas.

Reviewed by:

Hanson Hom, Director, Community Development
Reviewed by: Trudi Ryan, Planning Officer
Prepared by: Amber El-Hajj, Senior Planner

Approved by:

Gary M. Luebbers
City Manager

Attachments

A. Study Issue Paper
B. Draft Ordinance
C. Payday Lending Business Map showing 1,000 foot buffer.
D. 2012 Robbery Statistics Map with Payday Lending Businesses
E. Bay Area Payday Lending Regulation Spreadsheet
F. Senate Bill 515 Summary
G. Coalition Against Payday Predators Fact Sheet
H. The Center for Responsible Lending Fast Facts
I. Public Comment Letters

Attachment A

2013 Council Study Issue

CDD 13-12 Payday lending establishments

Lead Department Community Development

History **1 year ago** None **2 years ago** None

1. **What are the key elements of the issue? What precipitated it?**

Recently, local agencies have been looking into ways to regulate businesses that engage in what is known as "payday lending." Payday lending is a business established to loan money to individuals that have trouble getting traditional loans, and have financial difficulties in meeting their obligations. Payday loans are short-term, small-dollar loans given to people who need cash to tide them over until their next paycheck. In California, the maximum loan amount is $300.00 with a 31-day maximum loan term (Civil Code 1789.30 et. seq. and Financial Code 23000 et. seq.). The people most impacted by payday lender practice include low income, young, families and the disabled.

Several jurisdictions have enacted regulations to control the number of these businesses in their cities. This study would examine land use options for regulating the number and location of payday lending establishments. The study would review options such as: restricting new payday lending businesses, limiting the number of these establishments in the city, and avoiding over-concentration through spacing restrictions. Also, efforts to assist those in need of short-term lending can be reviewed, including existing programs from PG&E, credit unions, Sunnyvale Community Center, and the use of CDBG funds.

2. **How does this relate to the General Plan or existing City Policy?**

Goal LT-6 SUPORTIVE ECONOMIC DEVELOPMENT ENVIRONMENT
An economic development environment that is supportive of a wide variety of businesses and promotes a strong economy within existing environmental, social, fiscal and land use constraints.

Policy LT-7.3
Promote commercial uses that respond to the current and future retail service needs of the community.

3. **Origin of issue**

Council Member(s) Griffith, Davis, Spitaleri

4. **Staff effort required to conduct study** Moderate

Briefly explain the level of staff effort required
Review State law concerns, review other city processes, and conduct outreach with the community.

5. **Multiple Year Project?** No **Planned Completion Year** 2013

6. **Expected participation involved in the study issue process?**

Does Council need to approve a work plan?	No
Does this issue require review by a Board/Commission?	Yes
If so, which?	Planning Commission
Is a Council Study Session anticipated?	No

7. **Briefly explain if a budget modification will be required to study this issue**

ATTACHMENT A
Page 2 of 2

Amount of budget modification required 0

Explanation

8. Briefly explain potential costs of implementing study results, note estimated capital and operating costs, as well as estimated revenue/savings, include dollar amounts

Are there costs of implementation? No

Explanation

9. Staff Recommendation

Staff Recommendation Support

If 'Support', 'Drop' or 'Defer', explain
As of November 20, 2012, Sunnyvale has seven payday lending businesses. Studying the issue now, before the use becomes more prevalent, would be useful. This study would look into restrictions to avoid a larger number of these businesses in the city, along with looking for other useful approaches to help those in need.

Reviewed by

11/26/12

Department Director **Date**

Approved by

11/20/1.

City Manager **Date**

Attachment B

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE TO AMEND CERTAIN SECTIONS OF TITLE 19 (ZONING) OF THE SUNNYVALE MUNICIPAL CODE RELATING TO PAYDAY LENDING ESTABLISHMENTS.

SECTION 1. SECTION 19.12.070 AMENDED. Section 19.12.070 of Chapter 19.12 (Definitions) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.12.070. "F"

(1)-(5) [Text unchanged.]

(6) "Financial institution" means establishments such as, but not limited to, state or federally-chartered banks, savings and loan associations, credit unions, credit agencies, mortgage lenders, investment companies, non-profit financial institutions and brokers and dealers of securities and commodities. "Financial institution" does not include "Payday lending establishments". ~~Banks, savings and loan, credit unions, credit agencies, investment companies, and brokers and dealers of securities and commodities.~~

(7)-(10) [Text unchanged.]

SECTION 2. SECTION 19.12.170 AMENDED. Section 19.12.170 of Chapter 19.12 (Definitions) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.12.170. "P"

(1) – (2) [Text unchanged]

(3) "Payday lending establishment" means a retail business owned or operated by a "licensee" as that term is defined in California Financial Code section 23001(d), as amended from time to time.

(3) – (15) [Renumber (4) – (16) consecutively. Text unchanged]

SECTION 3. TABLE 19.18.030 AMENDED. Table 19.18.030 of Chapter 19.18 (Residential Zoning Districts) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

TABLE 19.18.030
Permitted, Conditionally Permitted and Prohibited Uses in Residential Zoning Districts

In the table, the letters and symbols are defined as follows:

P = Permitted use
MPP = Miscellaneous Plan Permit required
UP = Use Permit required
SDP = Special Development Permit required

N = Not permitted, prohibited

RESIDENTIAL ZONING DISTRICTS	R-0/R-1	R-1.5	R-1.7/PD	R-2	R-3	R-4	R-5	R-MH
1.-6. **[Text unchanged.]**								
7. ***Other Uses***								
A– N. **[Text unchanged.]**								
O. Payday Lending Establishment	N	N	N	N	N	N	N	N

SECTION 4. TABLE 19.20.030 AMENDED. Table 19.20.030 of Chapter 19.18 (Commercial Zoning Districts) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

TABLE 19.20.030
Permitted, Conditionally Permitted and Prohibited Uses in Commercial Zoning Districts

In the table, the letters and symbols are defined as follows:

P = Permitted use
UP = Use permit required
MPP = Miscellaneous plan permit
N = Not permitted, prohibited

COMMERCIAL ZONING DISTRICTS	C-1	C-2	C-3	C-4
1 – 9 [Text Unchanged]				
10. Other				
A-K [Text Unchanged]				
L. Payday lending establishment	N	MPP[9]	N	N

1-8. [Text unchanged.]
9. Subject to the provisions of Section 19.20.050

SECTION 5. SECTION 19.20.050 ADDED. Section 19.20.050 of Chapter 19.20 (Commercial Zoning Districts) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.20.050. Payday Lending Establishments.

(a) **Distance Requirement.** Payday lending establishments are prohibited within 1,000 feet of the parcel boundaries of any permitted payday lending establishment.

(b) **Operational Standards.** Payday lending establishments must meet the following minimum operational standards at all times, which are the obligation of the owner of the payday lending establishment:

(1) The approved lighting plan for the tenant space must be maintained (plan required with the submittal of the applicable planning permit application);

(2) Hours of operation must be between the hours of 7 a.m. to 7 p.m. daily;

(3) At least one "no loitering" sign must be posted on the premises in plain view of patrons; and

(4) At least one uniformed security guard must be on duty during the hours of operation.

SECTION 6. SECTION 19.22.030 AMENDED. Section 19.22.030 of Chapter 19.22 (Industrial Zoning Districts) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

TABLE 19.22.030
Permitted, Conditional Permitted and Prohibited Uses in Industrial Zoning Districts

In the table, the letters and symbols are defined as follows:

P = Permitted use
MPP = Miscellaneous plan permit required
UP = Use permit required
N = Not permitted, prohibited
FAR = Floor area ratio restrictions
> = Greater than
N/A = FAR does not apply

Use Regulations by Zoning District USE	**M-S Zoning Districts FAR[3]**	**M-S Zoning Districts**	**M-S/POA Zoning Districts**	**M-3 Zoning Districts FAR[3]**	**M-3 Zoning Districts**
1 – 5 [Text Unchanged]					
6. Other					
A – R [Text Unchanged]					
S. Payday lending establishment	N/A	N	N	N/A	N

TABLE 19.24.030
Permitted, Conditionally Permitted and
Prohibited Uses in Office and Public Facilities Zoning Districts

In the table, the letters and symbols are defined as follows:

P = Permitted use
UP = Use permitted required
MPP = Miscellaneous plan permit required
N = Not permitted, prohibited

OFFICE AND PUBLIC FACILITIES ZONING DISTRICTS	**O**	**P-F**
1 – 5 [Text Unchanged]		
6. Other		
A – M [Text Unchanged]		
N. Payday lending establishment	N	N

SECTION 8. SECTION 19.28.070 AMENDED. Section 19.28.070 of Chapter 19.28 (Downtown Specific Plan District) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

TABLE 19.28.070
Permitted, Conditionally Permitted and Prohibited
Uses in Mixed Use, Commercial and Office DSP Blocks

In the table, the letters and symbols are defined as follows:

P = Permitted use
SDP = Special development permit required
MPP = Miscellaneous plan permit required
N = Not permitted, prohibited

DSP MIXED USE, COMMERCIAL AND OFFICE BLOCKS	**1**	**1a**	**2**	**3**	**7**	**13**	**18**	**20**
1 – 5 [Text Unchanged]								
6. Other Uses								
A – O [Text Unchanged]								
P. Payday lending establishment	N	N	N	N	N	N	N	N

SECTION 9. SECTION 19.29.050 AMENDED. Section 19.29.050 of Chapter 19.29 (Moffett Park Specific Plan Districts) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

Table 19.29.050
Permitted, Conditionally Permitted and Prohibited Uses
in MPSP Subdistricts

In the table, the letters and symbols are defined as follows:

P = Permitted use. A Moffett Park Design Review Permit is required pursuant to Section 19.29.050(c). Development exceeding the standard FAR limit must be reviewed through a major permit.

SDP = Special development permit. A Moffett Park Special Development Permit is required.

MPP = Miscellaneous Plan Permit. A Miscellaneous Plan Permit is required.

N = Not permitted. Prohibited.

Use			**Specific Plan Subdistrict**		
			MP-TOD	**MP-I**	**MP-C**
		1 – 7 [Text Unchanged]			
8.		***Other***			
		A – U [Text Unchanged]			
	V.	Payday lending establishment	N	N	N

SECTION 10. EXEMPTION FROM CEQA. The City Council finds that although the modifications to the ordinance are considered a project under the California Environmental Quality Act (CEQA) analysis of the Initial Study checklist has led to a conclusion that adopting the proposed ordinance modifications is exempt from CEQA under Section 15061.b.3.

SECTION 11. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid by a court of competent jurisdiction, 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.

SECTION 12. EFFECTIVE DATE. This ordinance shall be in full force and effect 30 days from and after the date of its adoption.

SECTION 13. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in *The Sun*, the official newspaper for publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within 15 days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on _____, 2013, and

adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____, 2013, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

APPROVED:

_____
City Clerk
Date of Attestation: _____

_____
Mayor

(SEAL)

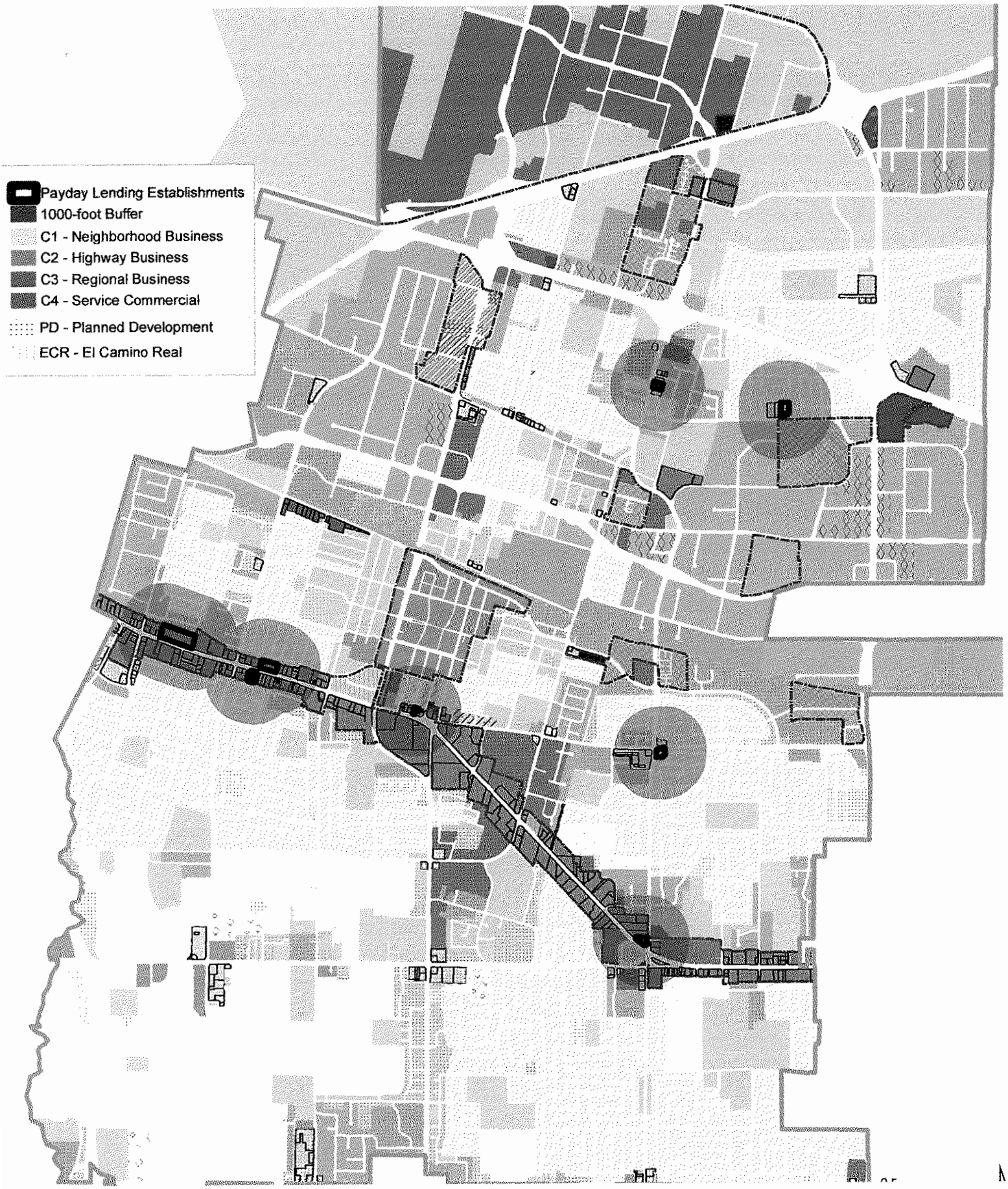
APPROVED AS TO FORM AND LEGALITY:

_____
Joan Borger, City Attorney

Attachment C

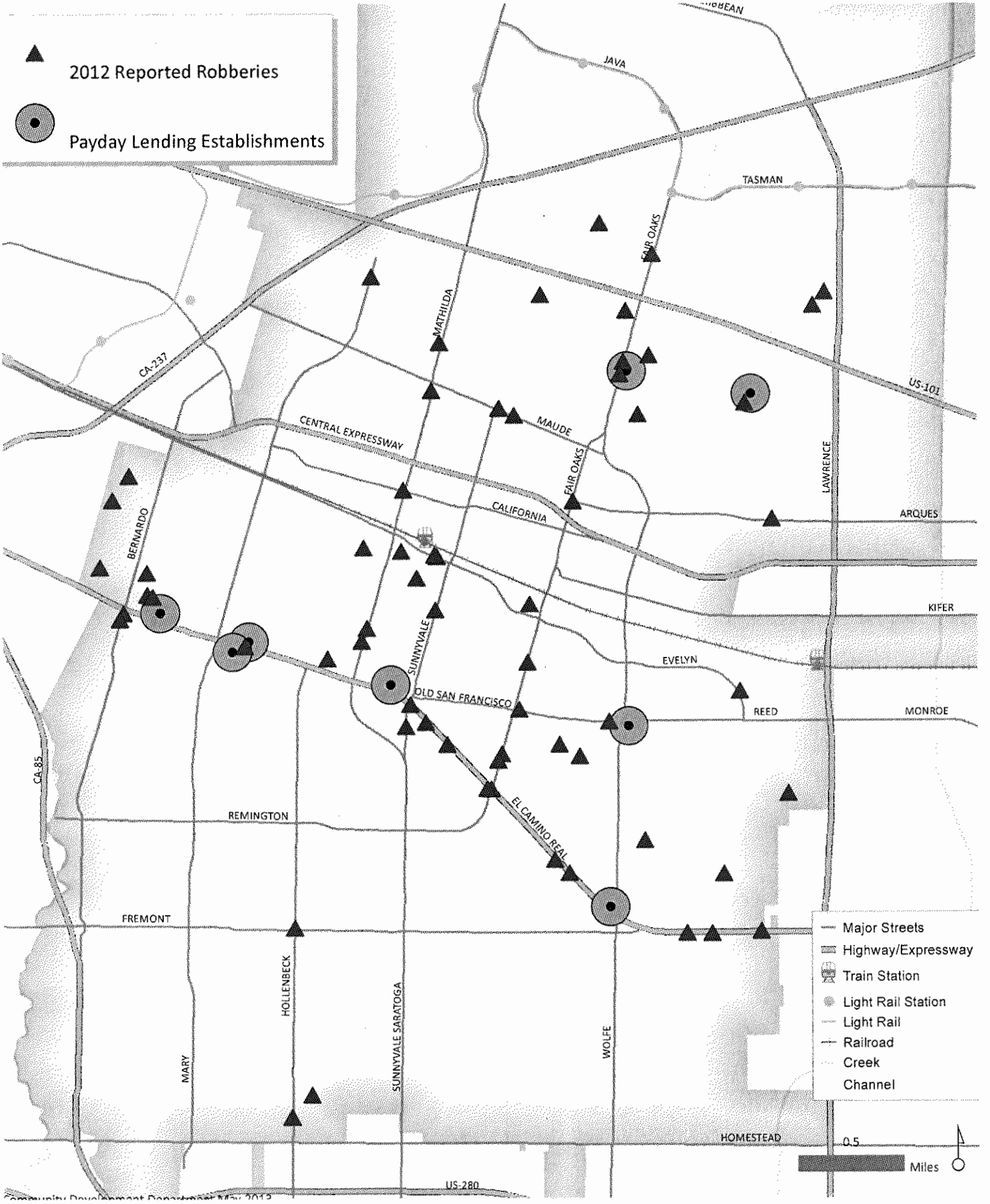
Council Study Issue: Payday Lending Establishments

1000-foot Buffer from Payday Lending Establishments



Attachment D

Council Study Issue: Payday Lending Establishments
2012 Reported Robberies



Attachment E

City	Outright Ban?	Regulated?	Include Check Cashing?	Include Operational Standards?	Include Distancing Requirements between other Payday Establisments?	Include Distancing Requirements from Schools, Liquor Stores, etc?	Additional Information
Co. of Santa Clara	Yes		Yes	n/a	n/a	n/a	
Los Altos	Yes		Yes	n/a	n/a	n/a	
San Jose		Yes	No	No	Yes, 1,320 ft.	Yes	Capped the number of allowed payday lending establishments at 39 (the number that currently exists)
East Palo Alto		Yes	Yes	Yes	Yes, 1,000 ft.	Yes, 500-1000 ft.	Allowed in commercial zones only
Oakland		Yes	Yes	Yes	Yes, 1,000 ft.	Yes, 500 ft.	
San Francisco		Yes	Yes	No	Yes	n/a	Code restricts the use to only a few zones (commercial)
San Mateo		Yes	Yes	Yes	Yes, 1,000 ft.	Yes, 500 ft.	Allowed in commercial zones only
Sacramento		Yes	Yes	Yes	Yes, 1,000 ft.	Yes, 1,000 ft.	Allowed in commercial zones only

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BILL ANALYSIS

SENATE BANKING & FINANCIAL INSTITUTIONS COMMITTEE
Senator Lou Correa, Chair
2013-2014 Regular Session

SB 515 (Jackson) Hearing Date: April 17, 2013

As Amended: April 1, 2013
Fiscal: Yes
Urgency: No

SUMMARY Would make several changes to the California Deferred Deposit Transaction Law (CDDTL; Payday Loan Law), such as increasing the minimum length of deferred deposit transactions; requiring deferred deposit licensees to underwrite deferred deposit transactions and offer installment plans, as specified; capping the maximum number of deferred deposit transactions per customer at four per year; requiring the Commissioner of Corporations (commissioner) to develop and implement a database to help enforce the CDDTL; and making other related changes.

DESCRIPTION

1. Would change the due date of the annual CDDTL report required to be filed by the commissioner, authorize the public release of information submitted by licensees to the commissioner for the commissioner's use in compiling the annual report, and add to the list of information required to be included in the commissioner's annual report. Among the additional information that would be required to be submitted by licensees and included in the commissioner's annual report: the total dollar amount of fees paid by CDDTL customers; the minimum and maximum annual percentage rates (APRs) of deferred deposits; the distribution of the number of days of the terms of deferred deposit transactions; the total number of, and minimum, maximum, and average lengths of installment plans entered into by CDDTL customers; and the number of borrowers entering into each permissible number of deferred deposit transactions, from one transaction to four transactions, during the prior year.

2. Would change the allowable length of deferred deposit transactions from a maximum of 31 days to a minimum of 30 days per each $100 borrowed by a customer (thus a $100 loan would have a minimum 30-day term; loans between $101 and

$200 would have a minimum 60-day term; and loans between $201 and $300 would have a minimum 90-day term).

3. Would change the schedule of charges and fees that is required to be posted in every physical location of every CDDTL licensee to include 30-day, 60-day, and 90-day APRs for $100, $200, and $300 loans.

4. Would prohibit a CDDTL licensee from entering into a deferred deposit transaction with a customer if the transaction would result in that customer entering into more than four deferred deposit transactions from all California CDDTL licensees during any 12-month period.

5. Would require each CDDTL licensee to underwrite each deferred deposit transaction, and would prohibit a licensee from entering into a deferred deposit transaction if the customer's total monthly debt service payments, at the time of the transaction, across all outstanding forms of credit that can be independently verified by the licensees, including the amount of the deferred deposit transaction for which the customer is being considered, exceed 50% of the customer's gross monthly income.

6. Would provide that, if a customer notifies a CDDTL licensee, on or before the date their account is due to be debited, that the customer is unable or will be unable to repay the transaction when due, the licensee must inform the customer that he or she may convert their transaction into

an installment plan. Would further require each CDDTL licensee to convert a deferred deposit transaction into an installment plan, as follows:

a. Each agreement for an installment plan would have to be in writing and acknowledged by both the customer and the licensee.

b. The licensee would be prohibited from assessing any fee, interest charge, or other charge on a customer, when converting a deferred deposit transaction into an installment plan.

c. The minimum length of an installment plan would be 90 days per each $100 borrowed (thus a $100 loan would have a minimum 90-day installment plan; loans between $101 and $200 would have a minimum 180-day installment

plan; and loans between $201 and $300 would have a minimum 270-day installment plan).

d. Customers would be allowed to prepay their installment loans at any time, without penalty, fee, or other charge.

e. A licensee would be allowed to accept one or more postdated checks for installment plan payments at the time the installment plan is entered into. However, licensees would be prohibited from charging customers any fee for postdated checks that are dishonored. If a customer defaults on his or her installment plan, the licensee would be able to charge that customer a one-time installment plan default fee of $25.

7. Would require the commissioner, by contract with a third-party provider or otherwise, to develop and implement a common database with real-time access, via an Internet connection, through which CDDTL licensees may determine whether a prospective customer has an outstanding deferred deposit transaction or is in an outstanding installment plan, and whether a prospective customer has reached his or her four loan per year limit.

8. Licensees would be responsible for doing all of the following with respect to the database:

a. Timely and accurately submitting data required by the commissioner before entering into a deferred deposit transaction with a customer. At a minimum, the required information would include the customer's name, social security number or employment authorization alien number, address, driver's license number, transaction amount, transaction date, date the completed transaction is closed, income by category established by the commissioner, zip code where the transaction occurs, and gender.

b. Correcting any incorrect data entered into the database.

9. The database provider would be responsible for doing all of the following with respect to the database:

a. Establishing and maintaining a process by which

licensees may submit information to and obtain information from the database during times the database is inaccessible via the Internet due to technical difficulties.

b. Take all reasonable measures and comply with all applicable federal and state laws intended to prevent identity theft.

c. Provide accurate and secure receipt, transmission,

and storage of customer data.

10. The commissioner would be responsible for adopting rules to ensure that the database is used by licensees, in accordance with the bill. Rules would be required to:

    a. Ensure that data are retained in the database only as required to ensure licensee compliance with the bill.

    b. Ensure that borrower information is deleted from the database on a regular and routine basis, twelve months after a transaction is closed.

    c. Require the archiving of deleted data.

    d. Prohibit the database from ranking the creditworthiness of a borrower.

    e. Require that data collected within the database be used only as prescribed by the commissioner.

    f. Authorize the imposition of a fee, per transaction, payable by a licensee to the database provider, for data that is required to be submitted. The fee may not exceed the reasonable costs of entering the data into the database and may not include any costs paid by the commissioner to the provider for operating the database. The fee may not be passed on to a customer.

    g. Allow persons to request reports and data from the database provider, as specified.

    h. Send written notification to each licensee informing them when the database has been implemented and specifying the date the database shall be considered operational, for purposes of triggering licensees' duty

to report loan data to the database.

EXISTING LAW

11. Provides for the CDDTL (Financial Code Section 23000 et seq.), administered by the Department of Corporations (DOC). The CDDTL:

    a. Allows lenders licensed under its provisions to defer the deposit of a customer's personal check for up to 31 days; limits the maximum value of the check to $300; limits the maximum fee to 15% of the face amount of the check; and requires CDDTL lenders to distribute a notice to customers prior to entering into any deferred deposit transaction that includes information about the loan and loan charges and a listing of the borrower's rights.

    b. Requires each CDDTL loan agreement to be in writing in a type size of 10 point or greater, written in the same language that is used to advertise and negotiate the loan, signed by both the borrower and the lender's representative, and provided by the lender to the borrower, as specified.

    c. Allows CDDTL licensees to grant borrowers an extension of time or a payment plan to repay an existing deferred deposit transaction, and prohibits the lender from charging any additional fee in connection with the extension or payment plan.

    d. Prohibits CDDTL licensees from entering into a deferred deposit transaction with a customer who already has a deferred deposit transaction outstanding, and from doing any of the following:

        i. Accepting or using the same check for a subsequent transaction;

        ii. Permitting a customer to pay off all or a portion of one deferred deposit transaction with the proceeds of another;

        iii. Entering into a deferred deposit transaction with a person lacking the capacity to contract;

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iv. Accepting any collateral or making any deferred deposit transaction contingent on the purchase of insurance or any other goods or services;

v. Altering the date or any other information on a check, accepting more than one check for a single deferred deposit transaction, or taking any check on which blanks are left to be filled in after execution;

vi. Engaging in any unfair, unlawful, or deceptive conduct or making any statement that is likely to mislead in connection with the business of deferred deposit transactions;

vii. Offering, arranging, acting as an agent for, or assisting a deferred deposit originator in any way in the making of a deferred deposit transaction unless the deferred deposit originator complies with all applicable federal and state laws and regulations;

e. Provides that licensees who violate the CDDTL are subject to suspension or revocation of their licenses, and that violations of the CDDTL are subject to civil penalties of $2,500 per violation.

COMMENTS

1. Purpose: SB 515 is intended to bring needed reforms to payday lending in California. According to the author's office, the bill targets the specific features of payday loans that cause the most damage to customers, by requiring that lenders evaluate borrowers' ability to pay back their loans, giving borrowers more time in which to repay them, and limiting the number of loans that lenders can make to any one borrower. The bill is intended to bring payday loans into alignment with their advertised purpose of short-term loans for occasional, unexpected expenses.

2. Background: Debates over the merits and dangers of payday loans have been waged in the California Legislature since the state first authorized payday lending in 1996. Consumer advocates believe that payday loans drive borrowers into a

cycle of repeat borrowing, which harms them more than they are helped by the infusion of borrowed cash. Industry advocates assert that their product offers needed credit to borrowers who have few other options, and cite high rates of customer satisfaction from borrowers who understand the risks and rewards of their product.

SB 515 represents a new approach by consumer advocates to the issue of payday lending in California. Where previously, the groups advocated on behalf of a 36% APR cap, now they are seeking loan limit caps enforced by a payday loan database, longer loan lengths, automatic installment plans, and underwriting. Industry counters that these changes will put them out of business, by significantly increasing their costs without a commensurate increase in allowable fees, and by changing their loans into installment products.

In 2011, the most recent year for which annual data are available on the California payday loan industry, 12.4 million payday loans were made to 1.7 million different customers by payday lenders licensed to operate in California. The total dollar volume of payday loans equaled $3.3 billion dollars. The average loan was $263 in size, and average loan length equaled 17 days. In 2011, DOC licensed and regulated 241 payday lenders, operating at 2,119 locations.

Online payday lending is legal in California, as long as the lender holds a CDDTL license from DOC. Although DOC's annual report does not provide a breakdown of payday loans made online by licensed lenders versus those made in licensed storefronts located in California, information contained in recent annual reports strongly suggests that payday loans are increasingly being made online in California. The number of licensed storefront locations at which payday loans can legally be made in California has dropped each year since 2007. This trend occurred over a time period during which the total number of loans and the total dollar volume of loans rose steadily.

Customers who obtain payday loans often have few other borrowing options available to them, when they seek out credit. A study of California payday loan customers conducted during 2007 by the Applied Management and Planning Group, on behalf of DOC, found that a significant number of payday loan customers have not considered other options. When forced to

consider those options, most payday loan customers said they would turn to family or friends if they were unable to obtain a payday loan. A smaller percentage would wait until their next payday. Other options cited by the survey respondents, in very low numbers, included use of pawn shops and borrowing money from an employer.

Consistent with the responses of survey participants, short-term installment loans in amounts below $2,500 are not extensively used in in California. During 2011, approximately 275,000 loans totaling $217 million were made. The vast majority of those loans (258,000) were unsecured.

3. Payday Loan Database: SB 515 is the second bill introduced in recent years, which proposes to establish a payday loan database that can be used by DOC to help administer the CDDTL. Two policy issues posed by creation of a database are addressed immediately below. A policy discussion of the remaining elements of the bill is left to the supporters and opponents of this bill (see support and opposition sections below).

a. Database funding: SB 515 is silent on a funding mechanism for the database contemplated by the bill. The author and sponsors indicate that they expect DOC to fund the database through surcharges on licensees - a funding mechanism which requires no additional statutory changes. Financial Code Section 23016 requires each licensee to annually pay to the commissioner its pro rata share of all costs and expenses reasonably incurred in the administration of the CDDTL. According to DOC, the most recent pro rata assessment imposed on CDDTL licensees equaled $941 per licensed lending location.

b. Database privacy: This bill requires DOC to develop and implement a payday loan database with real-time access, via an Internet connection, for use by payday loan licensees in complying with this bill, and by DOC for purposes of enforcing this bill.

To date, fourteen other states have established payday loan databases similar to the one envisioned by this bill (Florida, Virginia, South Carolina, Kentucky, Delaware, New Mexico, Illinois, Michigan, Wisconsin, North Dakota, Washington, Alabama, Indiana, and Oklahoma).

A single company, Veritec, administers the databases in all of those states. Committee staff reached out to representatives of Veritec to ask how they have handled privacy and data breach issues in those other states. They responded that if a Veritec database is breached, the company's responsibilities are covered by existing state and federal data breach laws. Those laws require

that the company housing the data notify consumers of the breach and pay for credit monitoring. Veritec's contracts require it to adhere to applicable state and federal laws regarding customer notification following a data breach, and to carry insurance to cover Veritec's costs to comply with those requirements, should Veritec lack the funds with which to do so.

In the states in which Veritec operates, the state payday loan regulator and Veritec are the only entities that have access to all of the data in the database. Typically, these states and Veritec indemnify each other against unlawful use of the database by each of their employees and contractors. Individual payday lenders only have access to data they enter into the database. According to Veritec, lenders are liable for unauthorized access to the database via their portals.

4. Summary of Arguments in Support:

a. This bill is co-sponsored by the Center for Responsible Lending (CRL), Public Interest Law Firm (a program of the Law Foundation of Silicon Valley), California Reinvestment Coalition (CRC), and National Council of La Raza (NCLR).

CRL believes that the provisions of SB 515, taken together, will align payday loans with their intended purpose as short-term loans, by reducing loan-churning, ensuring that payday borrowers can afford to repay their loans, reducing borrowers' need for additional loans, and otherwise alleviating the harm that payday loans cause. CRL asserts the following four points: 1) Most payday loans go to borrowers caught in a debt trap; 2) Most payday borrowers are regular users of payday loans; 3) For many payday borrowers, there is no way out of the payday lending debt trap; and 4) Very few borrowers take out just one payday loan. CRL believes that payday loans

do not solve financial emergencies; instead, they leave borrowers worse off than they were before obtaining payday loans. SB 515 targets the problem of the debt trap, by ensuring that borrowers are able to repay their loans without having to borrow again before their next payday.

In its letter of support, CRL cites data from Washington State, which implemented an eight loan per person per year cap in 2010, and saw the volume of payday loans made in that state decrease by 75% in the two years since enactment. CRL believes that this reduction reflects loans that were going to borrowers who were churning their payday loans, and taking out more than eight loans per year. CRL also believes that this limit has led more Washington State borrowers to use payday loans for truly occasional borrowing, as they are marketed. Washington borrowers have saved millions of dollars in fees. But, CRL believes that a cap of eight loans per borrower per year is still too much, and prefers the four loan limit proposed in SB 515.

CRL also support the provisions of SB 515 that give payday borrowers more time to repay their loans, believing that these provisions will make it more likely that borrowers will be able to accumulate the funds to pay off their loans, without having to return to take out new loans.

Finally, CRL cites the underwriting requirements of the bill as important to ensuring that families will avoid the cycle of repeat lending, by ensuring that borrowers are able to repay their loans, without the need to borrow again.

CRC views SB 515 as necessary to rein in the predatory payday loan industry and protect consumers from the payday loan debt trap. CRC is extremely concerned about the high APRs on payday loans, the inescapable cycle of debt the loans create for borrowers, and the easy accessibility of payday loans, especially to individuals who can least afford the loans. Over the past seven years, CRC has worked with its members, allies, and elected officials in the cities of Oakland, San Francisco, Oceanside, Sacramento, and San Jose to enact

local land use policies restricting the growth of payday lenders. CRC asserts that many cities have done what

they could to limit payday lending, but need the leadership of state representatives to address payday lenders' practices.

The Law Foundation of Silicon Valley, NCLR, myriad other advocacy groups, and at least one local government and one microlender support SB 515 for all of the reasons cited above. These groups believe that payday loans are harmful to the people who use them, and believe that SB 515 will help mitigate the most harmful of the impacts of payday loans on the Californians who use these products.

5. Summary of Arguments in Opposition:

a. The California Financial Service Providers (CFSP) and Community Financial Services Association of America (CFSA) are opposed to the bill, because it would abolish licensed payday lending in California, and would drive customers to unlicensed, unregulated payday lenders. Among its many provisions, the bill would turn a deferred deposit into an installment product, which is not what a deferred deposit is.

The bill would also impose significant costs on payday lenders, related to underwriting and database support, which would render the product unprofitable, given its current cost structure. The underwriting requirements would not only increase the costs of the product, but would also create enormous liability for lenders and would be extremely intrusive for borrowers. The obligation to establish a database presents a threat to customers' privacy and creates a risk of identity theft.

6. Amendments:

a. In order to address concerns that the version of the bill before this Committee goes too far, the author and sponsors will offer the following substantive amendments in Committee:

i. Delete the underwriting requirements.

ii. Delete the requirement that loan

length be increased to 30 days per $100 borrowed. Instead, increase the minimum loan length from 14 days to 30 days. According to CRL, Oregon and Virginia both have 30-day minimum length requirements for their payday loans.

iii. Cap the maximum number of loans per borrower per year at six (up from four in the version of the bill before this committee). This compares with a loan cap of five loans per year in Delaware and eight loans per year in Washington State.

iv. Strike the language which allows borrowers to obtain an installment repayment plan if they are unable to pay back any payday loan and replace it with language authorizing payday borrowers to obtain an installment repayment plan only if they are unable to pay back their sixth loan in any year. Require that each installment plan be a minimum of 120 days in length, and provide for the amount owed to be repaid over at least four substantially equal installments, spaced at least 14 days apart, scheduled on or after a borrower's pay date.

v. Require the DOC commissioner to ensure that the payday loan database is fully operational no later than July 1, 2014, and require payday loan licensees to begin reporting to the database within 30 days after the database is certified by the DOC commissioner as being fully operational.

vi. Make a series of technical amendments, to clarify terms, delete superfluous language, and authorize the database provider to charge fees to offset its cost of providing data to people who request it.

b. In addition to the amendments summarized above, which were offered by the author's office and this bill's sponsors, SB 515 requires technical amendments to achieve its intent. The list of technical amendments recommended by staff focuses only on the provisions of the bill that the author is proposing to retain. It does not focus on the provisions the author is proposing to delete from the

bill.

i. Language is needed to provide delayed operative dates for three provisions of the bill that rely on the existence of an operational payday loan database. These provisions include subdivision (b) of Section 23035 (which applies the payday loan cap), subdivision (b) of Section 23036 (which allows customers to trigger an installment plan if they cannot pay back their sixth and final payday loan of the year), and subdivision (c) of Section 23036 (which prohibits licensees from entering into a new payday loan with a customer who has an existing outstanding payday loan or outstanding installment plan).

Staff suggests the addition of language to the bill, providing that these provisions will become operative on the same date that licensees' requirements to begin submitting data to the database become operative.

ii. Staff also suggests that this bill's author and sponsors are overly optimistic about the ability of DOC to contract out for, test, and bring an operational database online by July 1, 2014. Expecting licensees to enter data into that database within one month of the database coming online is also highly optimistic.

DOC is in a much better position than Committee staff to offer reasonable timeframes for contracting out, testing, and bringing the database online, and for requiring licensees to begin entering data into that database. Until input from DOC can be obtained on these issues, staff suggests an implementation date for the database of at least one year from the bill's operative date (January 1, 2015) and an additional 90 day period (April 1, 2016) to give licensees time in which to train their branch employees in how to use the database, before requiring data to be entered into it on a regular basis.

iii. Technical amendments are also necessary to address the issue of database entries by

licensees who go out of business or have their licenses revoked by DOC. The bill's existing language on this topic is unclear (page 12, lines 20 through 29). Staff understands that the author's office is working with DOC on language to clarify this issue.

iv. The author may also wish to include language, clarifying the liability of the commissioner, in the event of a database data breach, which occurs despite the existence of policies and procedures intended to prevent it.

7. Selected Prior and Related Legislation:

a. AB 365 (Lowenthal), 2011-12 Legislative Session: Would have directed the Commissioner of Corporations to establish a payday loan database. Never taken up by the author.

b. AB 7 (Lieu, Chapter 358, Statutes of 2007): Gave DOC the authority to enforce specified federal protections, including a 36% APR cap, which were granted to members of the military and their dependents.

c. SB 898 (Perata, Chapter 777, Statutes of 2002). Enacted the Deferred Deposit Transaction Law and shifted the responsibility for administering the law to DOC.

d. SB 1959 (Calderon, Chapter 682, Statutes of 1996): Enacted the earliest version of a payday lending law in California. Gave regulatory authority to the California Department of Justice.

LIST OF REGISTERED SUPPORT/OPPOSITION

Support

Center for Responsible Lending (co-sponsor)
California Reinvestment Coalition (co-sponsor)
National Council of La Raza (co-sponsor)
Public Interest Law Firm/Law Foundation of Silicon Valley (co-sponsor)
Opportunity Fund
Affordable Housing Network

Affordable Housing Services
Alliance of Californians for Community Empowerment
Asian Americans for Community Involvement
Asian Law Alliance
Asian Pacific Policy and Planning Council
Black Economic Council
California Association for Micro Enterprise Opportunity
California Capital Financial Development Corporation
California Church IMPACT
California Labor Federation
California/Nevada Community Action Partnership
Catholic Charities of California United
CCCS Financial Resource Center
CHAM Deliverance Ministry
Civic Center Barrio Housing Corporation
Coalition for Quality Credit Counseling
Community Housing Council of Fresno
Community HousingWorks
Community Legal services in East Palo Alto
Courage Campaign
Dennis Herrera, San Francisco City Attorney
Dolores Huerta Foundation
EARN
East L.A. Community Corporation
East Palo Alto Community Legal Services
Economic Partners in Change
Fair Housing Council of San Fernando Valley
Fair Housing Napa Valley
Faith in Community
Jose Cisneros, Treasurer, City and County of San Francisco
Housing and Economic Rights Advocates
Housing Equality Law Project/Human Equality Law Project
Housing Opportunities Collaborative
Housing Rights Center
Insight Center for Community Economic Development
Latino Business Chamber of Greater Los Angeles
League of United Latin American Citizens
Mexican American Legal Defense and Educational Fund
Mission Asset Fund
Mission Economic Development Agency
Mission San Francisco Community Financial Center
Multicultural Real Estate Alliance for Urban Change

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Mutual Housing California
NAACP, San Jose Chapter
National Asian American Coalition
NEW Economics for Women

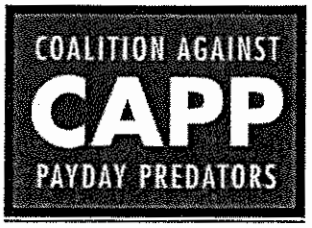
Novadebt
Nuestra Casa
Oakland Community Organizations
Opportunity Fund
Pacific Islander Initiative
Pan American Bank
PICO California
Public Counsel
Public Law Center
Sacred Heart Community Service
Santa Clara County Board of Supervisors
Santa Clara County La Raza Lawyers Association
San Diego City-County Reinvestment Task Force
Somos Mayfair
Sonoma County Housing Advocacy Group
St. Joseph's Family Center
Sunnyvale Community Service
Training Occupational Development Educating Communities Legal Center
Valley Economic Development Center
Watts/Century Latino Organization
Western Center on Law & Poverty
Youth Leadership Institute

Opposition

California Financial Service Providers
Community Financial Services Association of America
Greater Riverside Hispanic Chamber of Commerce

Consultant: Eileen Newhall (916) 651-4102

Attachment G



THE FACTS ABOUT PAYDAY LENDING

Payday is widespread in Silicon Valley

- There are currently **7 payday lenders in Sunnyvale, amounting to 1 lender per 20,000 residents, a higher ratio than in San Jose.**[1]
- Santa Clara and San Mateo Counties had **91 payday lending stores** in 2007.[2]

Payday charges exorbitant fees for very short term loans

- A California borrower who writes **a check for $300** receives a loan of $255 and **pays a fee of $45.**[3] The **average annual percentage rate** for payday loans was **414 percent** in 2010.[4]
- Payday lending costs Californians an estimated **$757 million annually** in finance charges.[5]
- In California, the average number of **days to pay back a payday loan** was **17 days** in 2010.[6]

Payday borrowing is a symptom of poverty

- In 2007, approximately **60 percent of California payday borrowers** earned less than **$50,000 per year.**[7]
- Families who borrow from payday lenders are more likely to be of **color, single women, young, and non-homeowners.**[8]

Payday causes a cycle of debt and poverty

- Most borrowers **cannot afford to pay back** the typical $255 that they borrow after 17 days and still afford all their other basic living expenses. Instead, most use a back-to-back transaction where they pay off their balance and immediately borrow it back for another $45 fee.
- The typical California payday borrower takes out 10 loans a year. In essence, that means that the borrower **ultimately pays $450 for a $300 loan** over the course of a year.[9]

Payday is big business in California

- In 2010, **1,646,700 Californians** obtained payday loans, **an increase of 79,512 customers** from the previous year.[10]
- The **total dollar amount of payday loans** made in 2010 was **$3,125,299,157.**[11]
- The **total number of payday loans** made in 2010 was **12,092,091** and 11,784,798 in 2009.[12]
- Nearly **450 companies** are licensed by the state to provide payday loans. These companies operate approximately **2,400 payday loan outlets.**[13]

THE FACTS ABOUT PAYDAY LENDING

Northern California cities and counties are leading the way in restricting payday

- The **City of San Jose** passed an ordinance in 2012 that:
  - Capped the number of payday lenders at the current number;
  - Restricted payday lenders from locating in low income neighborhoods; and
  - Prevented overconcentration of payday lenders.
- The **City of Los Altos** banned payday lending.
- **Santa Clara County** banned payday lending in unincorporated areas of the County.
- **Pacifica and East Palo Alto** also recently passed ordinances restricting payday lending. Sacramento, Oakland, and San Francisco passed such ordinances years ago.

There are real alternatives to payday borrowing

- Alternatives to payday borrowing include: nonprofit cash assistance programs such as those provided by Sunnyvale Community Services, government assistance programs like food stamps, utility payment assistance programs, more affordable credit union-based loan products, affordable for-profit loan alternatives such as Progreso Financiero, non-profit loan products like Ways to Work that provides a 6% loan for cars, family borrowing, lending circles, and emerging employer-based lending products like PAL loans through OnePacificCoast Bank. More alternatives are coming on line every day.
- Often, there's not a quick solution when families run out of money. The car breaks, a child needs money for tuition, or someone in the family gets ill and has unexpected medical bills. The best long-term plan to build an emergency savings fund. Many nonprofits, including three of CAPP's core coalition members, are providing financial education, budget planning assistance, and matched savings accounts to low income families.
- Because the 7 current payday lenders in Sunnyvale would be grandfathered into any ordinance, payday lending would continue to exist in Sunnyvale until more affordable alternatives replace it.

The Coalition Against Payday Predators (CAPP)

CAPP is a coalition of community-based organizations in Santa Clara County that has come together to advocate for county-wide policies that would limit payday lenders' ability to prey on financially vulnerable members of our community as well as to advocate for state-wide reform of the legal loopholes that allow for this type of predatory loan. CAPP's core coalition includes:

1. Public Interest Law Firm (PILF) (of the Law Foundation of Silicon Valley)
2. The California Reinvestment Coalition (CRC)
3. Asian Law Alliance (ALA)
4. Alliance of Californians for Community Empowerment (ACCE)

5. Sacred Heart
6. Step Up/Catholic Charities
7. United Way

CAPP's core organizations are supported by grants from the Silicon Valley Community Foundation. Organizational endorsers include: 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 (CRL), 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 National Association for the Advancement of Colored People (NAACP), Santa Clara County Democratic Party, Santa Clara County Older Women's League (OWL), SEIU Local 521, Silicon Valley Community Foundation, Silicon Valley Council of Nonprofits, Somos Mayfair, South Bay Labor Council, Sunnyvale Community Services, The Opportunity Fund, UNITE HERE Local 19, and the Latino Democratic Forum.

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[1]California Department of Corporations (DOC), http://www.corp.ca.gov/fsd/licensees/default.asp?flag=1&srchtyp=contains&licstatus=active&busname=&id=&lictype=Deferred+Deposit+Originator&city=sunnyvale&state=&zip=

[2] DOC, "2007 Payday Loan Study" (December 2007; updated June 2008), 31-32, available at http://www.corp.ca.gov/pub/pdf/PDLStudy07.pdf.

[3] California Budget Project, "Payday Loans: Taking the Pay out of Payday" (Sept. 2008), 10, available at http://www.cbp.org/pdfs/2008/080926_paydaychartbook.pdf.

[4]DOC, "Annual Report: Operation of Deferred Deposit Originators under the California Deferred Deposit Transaction Law," (2010), 3, available at http://www.corp.ca.gov/pub/pdf/CDDTL2010ARC.pdf.

[5] California Reinvestment Coalition, "The Financial Divide: An Uneven Playing Field, Bank Financing of Check Cashers and Payday Lenders in California Communities" (Mar. 2005), 2, available at http://www.calreinvest.org/system/assets/17.pdf.

[6] DOC, "Annual Report: Operation of Deferred Deposit Originators under the California Deferred Deposit Transaction Law," (2010), 3, available at http://www.corp.ca.gov/pub/pdf/CDDTL2010ARC.pdf.

[7] DOC, "2007 Payday Loan Study" (December 2007; updated June 2008), 63, available at http://www.corp.ca.gov/pub/pdf/PDLStudy07.pdf.

[8] Amanda Logan and Christian E. Weller, "Who Borrows From Payday Lenders? An Analysis of Newly Available Data," Center for American Progress (Mar. 2009), available at http://www.americanprogress.org/issues/2009/03/pdf/payday_lending.pdf.

[9] California Budget Project, "Payday Loans: Taking the Pay out of Payday" (Sept. 2008), 5, available at http://www.cbp.org/pdfs/2008/080926_paydaychartbook.pdf.Payday lenders report that almost half (48%) of their business comes from borrowers who obtained between 2 and 9 loans within an 18-month period. California Department of Corporations, "2007 Payday Loan Study" (December 2007; updated June 2008), 27, available at http://www.corp.ca.gov/pub/pdf/PDLStudy07.pdf. [statistics based on information gathered during the 18 months prior to the study period].

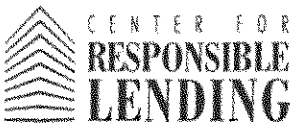
[10] DOC, "Annual Report: Operation of Deferred Deposit Originators under the California Deferred Deposit Transaction Law," (2010), 2, available at http://www.corp.ca.gov/pub/pdf/CDDTL2010ARC.pdf [this statistic counts repeat customers once].

[11] *Id.*

[12] *Id.*

[13] California Budget Project, "Payday Loans: Taking the Pay out of Payday" (Sept. 2008), 14, available at http://www.cbp.org/pdfs/2008/080926_paydaychartbook.pdf.

Attachment H



ATTACHMENT H
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FAST FACTS--PAYDAY LOANS

- Since its inception in the 1990s, the payday lending industry has established over 22,000 locations which originate an estimated $27 billion in annual loan volume.
- Nationally, there are more than two payday lending storefronts for every Starbucks location.
- The typical two-week payday loan has an annual interest rate ranging from 391 to 521 percent.
- The"churning" of existing borrowers' loans every two weeks accounts for three-fourths of all payday loan volume.
- Repeated payday loans result in $3.5 billion in fees each year.
- Loans to non-repeat borrowers account for just two percent of the payday loan volume.
- The average payday borrower has nine transactions per year.
- 90% of the payday lending business is generated by borrowers with five or more loans per year, and over 60% of business is generated by borrowers with 12 or more loans per year.
- If a typical payday loan of $325 is flipped eight times, the borrower will owe $468 in interest; to fully repay the loan and principal, the borrower will need to pay $793.
- The typical payday borrower remains in payday loan debt for 212 days of the year.
- From 2008-2010, voters in three states have said 'NO' to triple digit interest rates when their state legislatures did not: Arizona, Montana and Ohio.
- Seventeen states and the District of Columbia have enacted double-digit rate caps on payday loans.
- Studies have shown that payday borrowers are more likely to have credit card delinquency, unpaid medical bills, overdraft fees leading to closed bank accounts, and even bankruptcy.

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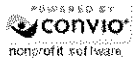

Please see the Planning Commission web page for Attachment I & Supplemental Information