

SUMMARY OF TEXAS LOCAL ORDINANCES
Local Action to Control High-Cost Financial Services

Passing local zoning ordinances has proven a successful strategy to control the growth of high-cost financial services in communities across the US. Texas is joining the national trend, with five cities to date having passed ordinances that limit the location of these businesses and create registration requirements. This document provides a summary of local ordinances passed in Texas and includes the actual text of the ordinances in the Appendix. It is designed as a resource for local communities interested in halting the local expansion of predatory financial services. For more information, please consult *Controlling the Growth of Payday Lending Through Local Ordinances and Resolutions*.¹

Summary of Texas Ordinances

The Texas ordinances fall in one of three areas. They create disclosure or registration systems, they use the police power that municipalities have of zoning and land use ordinances, or they use a combination of the two strategies.

1. SAN ANTONIO TEXAS Tax Refund Anticipation Loans (RALS) (Approved on March 23, 2006)

This is a direct regulation ordinance that requires RALS to post and give fair disclosure, both verbally and in writing of information related to RALS; prohibiting some practices of the RALS; and it imposes penalties for violation of the ordinance.

This ordinance “covers all the bases”, and is very specific as to what this industry can and cannot do.

In response to this ordinance, the Texas Legislature passed a statute dealing with RALS, (Tex. Fin. Code Ann. § 351.008 Vernon 2007) and this was passed after the ordinance became law where the Legislature added a provision to the statute that stated that the Statute “preempts a local ordinance rule regulating RALS”. This statute was passed to preempt the San Antonio Ordinance because when the Texas Legislature manifest their intent to fully regulate a subject matter with unmistakable clarity, the municipalities are prohibited by interfering with the legislative intent.

2. SAN ANTONIO TEXAS PAYDAY AND CHECK CASHING FACILITIES (Approved on April 3, 2008)

This is a zoning ordinance that regulates Payday Loan Agencies and Check Cashing Facilities to hours of operation and establish specific location criteria for them and prohibits outdoor queuing.

¹ The guide is available at:
http://www.paydayloaninfo.org/pdfs/PDL%20Local%20Ordinance%20%20master%2011_08.pdf

3. RICHARDSON TEXAS

City leaders in Richardson were concerned about clustering of payday lenders, auto title lenders, and pawn shops both on major thoroughfares and in low-income neighborhoods. The Richardson sought to be the first Texas city to implement restrictions on these high cost lenders as a way of protecting the working poor and controlling their expanding presence in the city. Richardson also hoped to serve as an example for other neighboring cities, to take similar action.

Summary of Ordinance No. 3692:

The ordinance amends the City Comprehensive Zoning Ordinance to:

- 1) Include separate definitions of Check cashing business, Payday advance/loan business, and Car title Loan business.
- 2) Such businesses can only locate in a zoned commercial district and must be authorized by a special permit.
- 3) Check cashing, payday, and car title loan businesses cannot be located within 1,000 feet of another such business, within 500 feet of the right-of-way of US 75 or State Hwy 190, or the Richardson city limit line. (specifications provided for how to measure the distance)
- 4) Provision that if any component of the ordinance were judged illegal or unconstitutional, only that provision will be invalid, and not the ordinance in its entirety.
- 5) The ordinance is not retroactive.
- 6) Any current provisions of ordinances of the city that are in conflict with this ordinance will be repealed.
- 7) \$2,000 charge per violation per day.

4. MESQUITE TEXAS

Mesquite's main concerns about the concentration, location and certain characteristics associated with alternative financial establishments can be summarized with the following list:

- 1) Perception that area is in economic decline.
- 2) Negative effect on property value growth.
- 3) Displacement of full-service banking institutions.
- 4) Prey on the financially irresponsible and credit-challenged.
- 5) Unaesthetic business appearances with aggressive advertisements, and bold and contrasting colors.

According to Mesquite ordinances, Alternative Financial Establishments (defined below) can operate once a Conditional Use Permit is acquired and all requirements outlined under the 3-500 Supplementary Use Regulation are met.

Summary of Alternative Financial Establishment (AFE) Regulations:

- 1) A lot containing a AFE must be at least 1000 ft from a any lot containing another AFE
- 2) A lot containing a AFE must be at least 200 ft from a lot zoned or used for residential purposes
- 3) No lots with AFE can be within 500 ft of a US Highway 80, I-30, I-20 or I-635

- 4) No lots with AFE can be permitted within the Town East Retail and Restaurant District, The Mesquite Arena/Rodeo Entertainment District, Military Parkway-Scyen Corridor District, Sherwood Forest District
- 5) AFE must be located in a freestanding building and cannot be co-located in the same structure as other uses

5. IRVING, TEXAS

The City of Irving found that certain alternative financial service providers, including payday and auto title lenders hurt property values and economic development in the city, have a detrimental impact on the citizens of the city, and that the city has a disproportionate number of these providers as compared to other areas of the state. Therefore, the city determined that it is, “in the best interest of the public and in support of the health, safety, morals, and general welfare of the citizens that the zoning ordinance be amended.”

The city passed two ordinances, one addressing zoning issues and the other amending the code of civil and criminal ordinances to create a registration process for payday and auto title lenders and a penalty for noncompliance.

Summary Ordinance No. 2542: Comprehensive Zoning Ordinance

The ordinance applies to “new establishments seeking to obtain a certificate of occupancy as a nondepository financial institution (NFI), including new building or in any existing building or portion of a building.”

- 1) No new NFI may locate within 1000 feet of another.
- 2) No new NFI may locate within 500 feet of designated highways.
- 3) No new NFI may locate in lot with property line less than 200ft from a residence.
- 4) Required minimum parking spaces based on the building and size of the NFI location.
- 5) Existing NFIs must conform to these requirements, with exceptions provided.
- 6) Existing NFIs must conform to the requirements if the value or size of the location is increased by 25% or more through expansion or renovations.
- 7) Fines of \$1.00 to \$2,000 are established for each day of violation.

Summary Ordinance No.2560: Code of Civil and Criminal Ordinances

This ordinance creates an annual registration process for all NFIs and penalties for noncompliance. It defines the information that must be included in registration documents and applies to all NFIs. An exemption is provided for stores where NFI activities comprise 25 % or less of their business. A penalty for noncompliance is set between \$1 and \$2,000 for each day in violation.

APPENDIX: Text of Texas City Ordinances.

SAN ANTONIO, TEXAS

(RAL Ordinance—note after passage in 2006, was preempted by similar state legislation passed in the 2007 Texas legislative session.)

AN ORDINANCE REQUIRING TAX RETURN PREPARERS WHO FACILITATE INCOME TAX REFUND ANTICIPATION LOANS (RALS) TO POST AND GIVE FAIR DISCLOSURE, VERBALLY AND IN WRITING, OF CERTAIN INFORMATION RELATED TO RALS; PROHIBITING CERTAIN PRACTICES RELATED TO RALS; IMPOSING PENALTIES FOR VIOLATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE, AS REQUESTED BY COUNCILMAN FLORES, DISTRICT 1.

● * * * *

WHEREAS, income tax refund anticipation loans (RALS) are high cost, short-term loans secured by, and repaid directly from, the taxpayer's Internal Revenue Service

WHEREAS, RALS drain millions of dollars from the taxpayers' refunds and low income working families' pockets; and

WHEREAS, according to IRS data, 78% of RAL users in 2004 had adjusted gross incomes of \$35,000 or less; and

WHEREAS, in 2004, RALS cost San Antonio taxpayers an estimated \$13 million in interest and processing costs; and

WHEREAS, RALS are often advertised erroneously as "fast cash" or "instant money" rather than as loans, with an average annualized interest rate of 178%;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

Section 1. Chapter 16 of the San Antonio City Code, entitled "Licenses and Business Regulations" is hereby amended by the addition of Article XVII entitled "Refund Anticipation Loan Regulation" in form and content as set out and incorporated herein for all purposes as Attachment I.

Section 2. The City Clerk is directed to promptly publish public notice of this ordinance in accordance with Section 17 of the Charter of the City of San Antonio.

Section 3. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, S A P Project Definitions, S A P WBS Elements, SAP Internal Orders, S A P Fund Centers, SAP Cost Centers, SAP Functional Areas, S A P Funds Reservation Document Numbers, SAP GL Account Numbers as necessary to carry out the purpose of this Ordinance.

Section 4. This ordinance shall take effect on March 23, 2006, if approved by eight (8) or more affirmative votes; otherwise, this ordinance shall be effective on and after the tenth (10th) day from the date of passage hereof.

PASSED AND APPROVED this 23 day of March, 2006.

SAN ANTONIO, TEXAS
(Payday Lending/Alternative Financial Services Ordinance)

SG 04-03-08
Item # 29

AMENDING CHAPTER 35, UNIFIED DEVELOPMENT CODE OF THE CITY CODE OF SAN ANTONIO, TEXAS ADOPTING PROCEDURES TO DEFINE AND SPECIFY LOCATIONAL CRITERIA FOR PAYDAY LOAN AGENCIES AND CHECK CASHING FACILITIES AS REQUESTED BY COUNCIL

MEMBER MCNEIL, DISTRICT 2

WHEREAS, Council Member McNeil, District 2 submitted a Council Consideration Request to adopt procedures to define and specify locational criteria for payday loan agencies and check cashing facilities; and

WHEREAS, the Planning Commission has recommended approval of adopting procedures to define and specify locational criteria for payday loan agencies and check cashing facilities; and

WHEREAS, the Zoning Commission has requested that additional information be provided from the Office of the City Council Member who initiated the request of the amendment; and

WHEREAS, City Council now desires to amend the Unified Development Code to adopt procedures to define and specify locational criteria for payday loan agencies and check cashing facilities;

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. Chapter 35 of the City Code of San Antonio, Texas is hereby amended by adding language that is underlined (added) and deleting the language that is stricken (deleted) to the existing text as set forth in this Ordinance.

SECTION 2. Chapter 35 of the City Code of San Antonio, Texas is hereby amended as follows:

Chapter 35, Appendix A: Definitions and Rules of Interpretation, is amended by adding:

APPENDIX A: DEFINITIONS AND RULES OF INTERPRETATION

Sec. 35-A1 01. Generally.

Check Cashing Facility - a person or business that for compensation engages in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. The term "check cashing facility" does not include a state or federally chartered bank, savings and loan association, credit union, or industrial loan company.

Pay-Day Loan Agency -an establishment providing loans to individuals in exchange for personal checks as collateral.

Chapter 35, Article 111, Division 2, Use Regulations Table, is amended as follows:

ABLE 31 1-2 NON-RESIDENTIAL USE MATRIX

Chapter 35, Article III, Division 7, is amended as by adding Section 35-394 as follows:

DIVISION 7 - SUPPLEMENTAL USE REGULATIONS

Sec. 35-394. Check Cashing Facilities and Pay-Day Loan Agencies

Check cashing facilities and pay-day loan agencies shall comply with the following requirements:

(a) Hours of operation shall be established by City Council as part of a Specific Use Authorization.

(b) There shall be no outdoor queuing; an indoor waiting area large enough to accommodate all customers shall be provided.

SECTION 3. All other provisions of Chapter 35 of the City Code of San Antonio, Texas shall remain in full force and effect unless expressly amended by this ordinance.

SECTION 4. Should any Article, Section, Part, Paragraph, Sentence, Phrase, Clause, or Word of this ordinance, for any reason be held illegal, inoperative, or invalid, or if any exception to or limitation upon any general provision herein contained be held to be unconstitutional or invalid or ineffective, the remainder shall, nevertheless, stand effective and valid as if it had been enacted and ordained without the portion held to be unconstitutional or invalid or ineffective.

SECTION 5. Notice of these changes to the Unified Development Code shall not require the publication in an official newspaper of general circulation in accordance with Chapter 35, Article IV, Division 1, Table 403-1.

SECTION 6. The publishers of the City Code of San Antonio, Texas are authorized to amend said Code to reflect the changes adopted herein and to correct typographical errors and to index, format and number paragraphs to conform to the existing code.

SECTION 7. This ordinance shall become effective the 13th day of April, 2008

PASSED AND APPROVED this the 3rd day of April, 2008.

RICHARDSON, TEXAS
ORDINANCE NO. 3692

AN ORDINANCE OF THE CITY OF RICHARDSON, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF RICHARDSON BY AMENDING ARTICLE I, SECTION 2 DEFINITIONS BY ADDING A DEFINITION FOR CHECK CASHING BUSINESSES, PAYDAY ADVANCE/LOAN BUSINESSES, CAR TITLE LOAN BUSINESSES AND BY AMENDING THE DEFINITION OF BANK OR FINANCIAL INSTITUTION; BY AMENDING ARTICLE XXII-A SPECIAL PERMITS TO REQUIRE A SPECIAL PERMIT FOR CHECK CASHING BUSINESSES, PAYDAY ADVANCE/LOAN BUSINESSES AND CAR TITLE LOAN BUSINESSES; BY AMENDING ARTICLE XXII-E TO PROVIDE SUPPLEMENTAL REGULATIONS FOR CHECK CASHING BUSINESSES, PAYDAY ADVANCE/LOAN BUSINESSES AND CAR TITLE LOAN BUSINESSES; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF A FINE NOT TO EXCEED THE SUM OF TWO THOUSAND (\$2,000.00) DOLLARS FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE. (ZF 0734)

WHEREAS, the City Planning Commission of the City of Richardson and the governing body of the City of Richardson, in compliance with the laws of the State of Texas and the ordinances of the City of Richardson, have given requisite notice by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all property owners generally and to all persons interested and situated in the affected area and in the vicinity thereof, the governing body, in the exercise of the legislative discretion, has concluded that the Comprehensive Zoning Ordinance should be amended; **NOW THEREFORE,**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RICHARDSON, TEXAS:

SECTION 1. That the Comprehensive Zoning Ordinance of the City of Richardson, Texas, duly passed by the governing body of the City of Richardson on the 5th day of June, 1956, as heretofore amended, be, and the same is hereby amended by amending Article I, Section 2 in part, by adding a definition for check cashing businesses, payday/advance loan businesses and car title loan businesses, and by amending the definition of bank or financial institution to read as follows:

“Article I.

Title, Definitions, General Provisions, Auto Wrecking Yards and Swimming Pools

...

Sec. 2. Definitions

...

“*Bank or financial institution* means an establishment, open to the public, for the deposit, custody, loan, exchange or issue of money, the extension of credit, and/or facilitating the transmission of funds excluding pawnshops, check cashing businesses, payday advance/loan businesses and car title loan businesses.”

....

ADD

“*Check cashing business* means an establishment that provides to the customer 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, and where there is an agreement not to cash the check or execute an electronic transfer of money for a specified period of time, the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose for compensation by any person or entity other than a retail seller engaged primarily in the business of selling consumer goods, including consumables to retail buyers, that cashes checks or money orders or issues money orders or money transfers for a minimum flat fee as a service that is

incidental to its main purpose or business, provided such retailer does not cash more than 100 checks in any calendar month. This definition excludes a state or federally chartered bank, savings and loan association or credit union, pawnshop or grocery store.”

....

ADD

“*Payday advance/loan business* means an establishment that makes small consumer loans, usually backed by a postdated check or authorization to make an electronic debit against an existing financial account, where the check or debit is held for an agreed-upon term, or until an applicant’s next payday, and then cashed unless the customer repays the loan to reclaim such person’s check.”

....

ADD

“*Car title loan business* means an establishment that makes small consumer loans that leverage the equity value of a car or other vehicle as collateral where the title to such vehicle is owned free and clear by the loan applicant and any existing liens on the car or vehicle cancel the application. The loan terms are often for 30 days and failure to repay the loan or make interest payments to extend the loan allows the lender to take possession of the car or vehicle.”

SECTION 2. That the Comprehensive Zoning Ordinance of the City of Richardson, Texas, duly passed by the governing body of the City of Richardson on the 5th day of June, 1956, as heretofore amended, be, and the same is hereby amended by amending Article XXII, Section 2 in part, to allow check cashing businesses, payday advance/loan businesses and car title loan businesses only by special permit to read as follows:

“ARTICLE XXII-A. SPECIAL PERMITS

....

Sec. 2. Use regulations.

(a)

(b) The following uses may be authorized by special permit in the specified districts upon compliance with all of the requirements of this article and other applicable city codes and ordinances:

(1) Ambulance service, in any industrial district.

....

(38) Check cashing business, payday advance/loan business and car title loan business in the C-M Commercial zoning district.”

SECTION 3. That the Comprehensive Zoning Ordinance of the City of Richardson, Texas, duly passed by the governing body of the City of Richardson on the 5th day of June, 1956, as heretofore amended, be, and the same is hereby amended by amending Article XXII-E in part to add Section 9 to provide supplemental regulations for check cashing businesses to read as follows:

“ARTICLE XXII-E. SUPPLEMENTAL REGULATIONS FOR CERTAIN USES

....

Sec. 8. Check cashing businesses, payday advance/loan businesses, car title loan businesses

(a) No check cashing business, payday advance/loan business or car title loan business may be located within 1,000 feet of another check cashing business, payday advance/loan business or car title loan business, within 500 feet of the right-of-way of Central Expressway/US 75 or President George Bush Turnpike/State Highway 190 or within 500 feet of the Richardson city limit line.

(b) For purposes of this section, measurement shall be made in a straight line, without regard to intervening structures or objects,

(1) from the nearest portion of the property line of the premises where the existing business is located to the nearest portion of the property line of the premises where the new business is proposed, if confirming separation between businesses;

(2) from the nearest portion of the right-of-way line of Central Expressway/US 75 or President George Bush Turnpike/State Highway 190 to the property line of the premises where the new business is proposed if confirming buffering from these roadways; or

(3) from the nearest portion of the city limit line to the property line of the premises where the new business is proposed if confirming buffering from the city limit.

SECTION 4. That should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Comprehensive Zoning Ordinance as a whole.

SECTION 5. An offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Comprehensive Zoning Ordinance, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

SECTION 6. That all provisions of the ordinances of the City of Richardson in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions of the ordinances of the City of Richardson not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 7. That any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in the Comprehensive Zoning Ordinance of the City of Richardson, as heretofore amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand dollars (\$2,000.00) for each offense; and each and every day such violation shall continue shall be deemed to constitute a separate offense.

SECTION 8. This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such case provide.

DULY PASSED by the City Council of the City of Richardson, Texas, on the 14^{rh} day of January 2008.

APPROVED:

MAYOR

CORRECTLY ENROLLED:

CITY SECRETARY

APPROVED AS TO FORM:

CITY ATTORNEY

MESQUITE, TEXAS

ORDINANCE NO. 3932
Zoning Text Amendment No. 2008-1

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE MESQUITE ZONING ORDINANCE ADOPTED ON SEPTEMBER 4, 1973, AND RECODIFIED ON NOVEMBER 21, 1988, BY PROVIDING CERTAIN ADDITIONS AND DELETIONS UNDER SECTIONS 3-200, 3-500 AND 6-100 THEREBY CREATING REGULATIONS ON THE LOCATION, SPACING, APPEARANCE AND SITE DESIGN OF CHECK CASHING, PAYDAY LOAN AND SIMILAR ESTABLISHMENTS; PROVIDING A REPEALER CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED TWO THOUSAND (\$2,000.00) DOLLARS FOR EACH OFFENSE; AND DECLARING AN EFFECTIVE DATE THEREOF.

WHEREAS, in order that the intended purposes of the Mesquite Zoning Ordinance are best served, it has been determined necessary to amend certain language of said ordinance; and

WHEREAS, the Planning and Zoning Commission did give public notice and did hold a public hearing regarding proposed revisions and has recommended amendment of the ordinance; and

WHEREAS, the City Council did give public notice and did hold a public hearing regarding the proposed amendment.

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

SECTION 1. That the Mesquite Zoning ordinance adopted on September 4, 1973, and recodified on November 21, 1988, be and the same is hereby amended by providing certain additions and deletions under Sections 3-200, 3-500 and 6-100 to read as follows, said Ordinance in all other respects to remain in full force and effect:

- (1) *Subsection 3-203(SIC Codes 60 and 61).* Amend by deleting the permitted uses under SIC Codes 60 and 61 in Subsection 3-203 in their entirety and adding new permitted uses under SIC Codes 60 and 61 in Subsection 3-203 to read as follows:

| <i>SIC CODE</i> | <i>USE DESCRIPTION</i> | <i>O</i> | <i>GR</i> | <i>LC</i> | <i>THN</i> | <i>MU</i> | <i>CB</i> | <i>SS</i> | <i>C</i> | <i>I</i> | <i>PK ST D</i> | <i>SPECIAL CONDITIONS</i> |
|-----------------|---|----------|-----------|-----------|------------|-----------|-----------|-----------|----------|----------|------------------------|--------------------------------|
| 60 | DEPOSITORY INSTITUTIONS (Banks, Savings, Credit Unions, except) | P | P | P | | P | P | | P | P | 3 | |
| | a. Alternative financial establishments | | C | C | | | | | C | C | | Requires compliance with 3-505 |
| 61 | NONDEPOSITORY INSTITUTIONS | P | P | P | | P | P | | P | P | 3 | |
| | a. Alternative financial establishments | | C | C | | | | | C | C | 1 | Requires compliance with 3-505 |

- (2) *Subsection 3-505.* Amend by adding a new Subsection 3-505 to read as follows:

MESQUITE, TEXAS
(Resolution governing redevelopment of a particular property)

ORDINANCE NO. 4042
File No. 74-20

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE MESQUITE ZONING ORDINANCE ADOPTED ON SEPTEMBER 4, 1973, AND RECODIFIED ON NOVEMBER 21, 1988, SO AS TO APPROVE A CHANGE OF ZONING FROM SERVICE STATION TO PLANNED DEVELOPMENT - GENERAL RETAIL SUBJECT TO CERTAIN STIPULATIONS; REPEALING ALL ORDINANCES IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED TWO THOUSAND (\$2,000.00) DOLLARS FOR EACH OFFENSE; AND DECLARING AN EMERGENCY.

WHEREAS, the Planning and Zoning Commission of the City of Mesquite and the governing body of the City of Mesquite, in compliance with the Charter of the City of Mesquite and State laws with reference to granting of zoning changes under the Zoning Ordinance Regulations and Zoning Map, have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all property owners generally and to the persons interested and situated in the area, the City of Mesquite is of the opinion that the change of zoning may be granted herein.

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

SECTION 1. That the Mesquite Zoning Ordinance adopted on September 4, 1973, and recodified on November 21, 1988, be and the same is hereby amended by amending the Zoning Map of the City of Mesquite so as to approve a change of zoning on property zoned Service Station to Planned Development - General Retail subject to the following stipulations:

1. Uses of the site shall be limited to those permitted by right in the Office zoning district as provided in the City of Mesquite Zoning Ordinance as well as the following Standard Industrial Classifications (SIC) use categories:
 - a. SIC 54 Food Stores
 - b. SIC 58 Eating, Drinking Places
 - c. SIC 5992 Florists
 - d. SIC 723 Beauty Shops
 - e. SIC 724 Barber Shops
2. Check cashing, payday lending, car title lending and money transfers shall be prohibited accessory uses on the subject property.

IRVING, TEXAS
(Two Separate Ordinances)

ORDINANCE NO. (ID # 2545)

AN ORDINANCE AMENDING COMPREHENSIVE ZONING ORDINANCE NO. 1144 OF THE CITY OF IRVING, TEXAS, ADDING SECTION 52-35e NONDEPOSITORY FINANCIAL INSTITUTIONS; AND PROVIDING FOR PENALTY AND SEVERABILITY.

WHEREAS, “nondepository financial institutions” are determined to include check cashing businesses, payday advance and payday loan businesses, and car title loan businesses; and

WHEREAS, the proliferation and clustering of nondepository financial institutions in a community can have a detrimental effect on local property values and economic redevelopment {Sources: (1) “Alternative Financial Services: Chattanooga, TN”, Chattanooga-Hamilton County Regional Planning Agency, 2006; (2) Center for Responsible Lending, November 10 2008, online at: www.responsiblelending.org/issues/payday/briefs; (3) J.D. Wilson and Associates; “Retail Study of Underperforming and Vacant Retail Areas”, 2002}; and

WHEREAS, the fees and lending practices used by nondepository financial institutions can have an unreasonable adverse affect on the citizens of the City of Irving {Source: Baylor, Don; “The Hidden Costs of Payday Lending,” *Texas Business Review*, April 2008}; and

WHEREAS, the City of Irving has over three times as many nondepository financial institutions per capita than the statewide average, and nearly five times the national average {Source: City of Irving research of the 2002 U.S. Economic Census (NAICS codes 522291 and 5221) and Irving certificates of occupancy issued in 2008}; and

WHEREAS, the City of Irving has fewer traditional banking and savings institutions per capita than the statewide and national averages {Source: City of Irving research of the 2002 U.S. Economic Census (NAICS codes 522291 and 5221) and Irving certificates of occupancy issued in 2008}; and

WHEREAS, after notice and public hearing was conducted by the Planning and Zoning Commission on April 6, 2009, the Planning and Zoning Commission recommended approval of the zoning amendment; and

WHEREAS, after notice and public hearing, and upon consideration of the recommendation of the Commission and of all testimony and information submitted during the public hearing, the City Council has determined that it is in the best interest of the public and in support of the health, safety, morals, and general welfare of the citizens that the zoning ordinance be amended;

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

SECTION 1. That Zoning Ordinance No. 1144 of the City of Irving, Texas, is hereby amended by adding a new Section 52-35e “Nondepository financial institutions,” to read as follows:

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Sec. 52-35e. Nondepository financial institutions.

(a) *Definitions.*

(1) *Nondepository financial institution.* 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, and
- b. A convenience store, supermarket, or other retail establishment where consumer retail sales constitute at least 75% of the total gross revenue generated on site.

(2) *Check cashing business.* An establishment 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.

(3) *Payday advance/loan business.*

- a. An establishment that makes small consumer loans, usually backed by a postdated check or authorization to make an electronic debit against an existing financial account, where the check or debit is held for an agreed-upon term, or until a customer’s next payday, and then cashed unless the customer repays the loan to reclaim such person’s check.
- b. Such establishments may charge a flat fee or other service charge and/or a fee or interest rate based on the size of the loan amount.

(4) *Car title loan business.* An establishment that makes small consumer loans that leverage the equity value of a car or other vehicle as collateral where the title to such vehicle is owned free and clear by the loan applicant and any existing liens on the car or vehicle cancel the application. Failure to repay the loan or make interest payments to extend the loan allows the lender to take possession of the car or vehicle.

(b) *Applicability.* The following regulations shall apply to all new establishments seeking to obtain a certificate of occupancy as a nondepository financial institution, including new buildings or in any existing building or portion of a building.

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(1) No new nondepository financial institution may be located within one thousand (1,000) feet of another nondepository financial institution, measured in a direct line from property line to property line.

(2) No new nondepository financial institution may be located in a building that is closer than five hundred (500) feet from the rights-of way of State Highway 183, State Highway 114, State Highway 161/President George Bush Turnpike, Interstate Highway 635, Loop 12, Spur 348, Spur 482, or State Highway 356 (Irving Boulevard).

(3) No new nondepository financial institution may be located on a property whose lot line is less than two hundred (200) feet from any single family residential property line that is zoned for single-family, duplex, or townhouse uses.

(4) Parking requirements for nondepository financial institutions.

a. All nondepository financial institutions located within a freestanding building with no other commercial tenant shall provide a minimum of twenty-five (25) parking spaces or one (1) parking space for every one hundred (100) square feet, whichever is greater. All parking shall be located on site. Notwithstanding other provisions set forth in the City of Irving Zoning Ordinance, all required spaces must be on site, and shall not be provided through a shared parking agreement, shared parking easement, or on any other off-site location through any method or agreement.

b. All other nondepository financial institutions that are not subject to the preceding provision shall provide one (1) parking space for every one hundred (100) square feet of gross floor space.

(5) If there is any conflict between this section 52-35e and an adopted S-P-1, S-P-2, or Development Plan in a PUD district, the more specific standard shall apply.

(6) Modifications of the requirements outlined in this section may be accomplished through either an S-P-1 (Detailed Site Plan) or a Development Plan in a PUD district.

(c) *Existing nondepository financial institutions.*

(1) It is the declared purpose of this section that in time all nondepository financial institutions shall come to conform to the provisions of this section or be removed.

(2) A nondepository financial institution that does not conform to these standards and that existed lawfully on the date the use commenced shall be deemed a nonconforming use. A nonconforming use may be continued, so long as it does not increase its level of nonconformity.

(3) If a nondepository financial institution ceases operations at a particular location, a new certificate of occupancy shall not be issued for a new nondepository financial institution at that location without first complying with all the requirements of this section 52-35e.

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(4) No existing nondepository financial institution may be expanded by 25 percent or more of its building area on or after April 23, 2009, or be repaired, remodeled, rehabilitated, or otherwise improved to the point that the value of the repairs, remodeling, rehabilitation, or improvements constitute 25 percent of the current value of the structure as established by the most current value established by the appraisal district, without first complying with the requirements of section 52-35e (b).

(5) The privilege to continue a nonconforming nondepository financial institution shall cease and such use shall terminate whenever any of the following occur:

a. A certificate of occupancy for a change of owner, occupant, tenant, or business is issued.

b. The certificate of occupancy for the use is relinquished, canceled, or terminated in accordance with other applicable ordinances.

c. The use or the structure housing the use is altered, remodeled, expanded, or otherwise improved that increases its level of nonconformity.

d. The structure housing the use is damaged and the cost to repair exceeds 51 percent of the replacement cost on the date of damage.

e. Under a plan determined by the board of adjustment whereby the full value of the use can be amortized. It shall be a rebuttable presumption that the value of the owner's investment in the use has been fully recovered within the time of the owner's lease term, if any.

SECTION 2. Any person violating or failing to comply with any provision of this ordinance shall be fined upon conviction not less than one dollar (\$1.00) nor more than two thousand dollars (\$2,000.00). Each day any violation of any provision of this ordinance continues constitutes a separate offense.

SECTION 3. That the terms and provisions of this ordinance shall be deemed to be severable and that if the validity of any section, subsection, sentence, clause, or phrase of this ordinance should be declared to be invalid, the same shall not affect the validity of any other section, subsection, sentence, clause, or phrase of this ordinance.

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PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS,
on April 23, 2009.

HERBERT A. GEARS

MAYOR

ATTEST:

Janice Carroll, TRMC

City Secretary

APPROVED AS TO FORM:

Charles R. Anderson

City Attorney

ORDINANCE NO. (ID # 2560)

AN ORDINANCE AMENDING THE CODE OF CIVIL AND CRIMINAL ORDINANCES OF THE CITY OF IRVING, TEXAS, BY ADDING CHAPTER 38 BUSINESS REGISTRATION, ARTICLE I. NONDEPOSITORY FINANCIAL INSTITUTIONS; CONTAINING FINDINGS, DEFINITIONS, PROVIDING REQUIREMENTS AND PROCEDURES FOR REGISTRATION OF NONDEPOSITORY FINANCIAL INSTITUTIONS; AND PROVIDING FOR PENALTY AND SEVERABILITY.

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

WHEREAS, the proliferation and clustering of nondepository financial institutions in the City of Irving can have a detrimental effect on local property values and economic redevelopment; and

WHEREAS, the City Council after notice and public hearing has adopted zoning regulations to address the affects of the proliferation of these establishments; and

WHEREAS, the registration of nondepository financial institutions would facilitate the application and enforcement of this ordinance and other laws;

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

SECTION 1. That the findings contained in the preamble of this ordinance are determined to be true and correct and are hereby adopted as a part of this ordinance.

SECTION 2. That The Code of Civil and Criminal Ordinances of the City of Irving, Texas, is

hereby amended by adding a new Chapter 38, Business Registration, Article I, Nondepository Financial Institutions that reads as follows:

Chapter 38

**BUSINESS REGISTRATION
ARTICLE I. NONDEPOSITORY FINANCIAL INSTITUTIONS**

Sec. 38-1. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Nondepository financial institution. Any check cashing business, payday advance/loan business, or car title loan business, as defined in this section. This definition excludes a state or federally chartered bank, savings and loan association or credit union, or a pawnshop. [Cross reference to 38-2(g): nondepository financial institution that is also a convenience store, supermarket, or other retail establishment where consumer retail sales constitute on an annual basis at least 75 percent of the total gross revenue generated on site]

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Check cashing business. An establishment that provides one or more of the following:

- (1) 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;
- (2) An agreement not to cash a check or execute an electronic transfer of money for a specified period of time;
- (3) The cashing of checks, warrants, drafts, money orders, or other commercial paper for compensation by any person or entity for a fee.

Payday advance/loan business means:

(1) An establishment that makes small consumer loans, usually backed by a postdated check or authorization to make an electronic debit against an existing financial account, where the check or debit is held for an agreed-upon term, or until a customer's next payday, and then cashed unless the customer repays the loan to reclaim such person's check.

(2) Such establishments may charge a flat fee or other service charge and/or a fee or interest rate based on the size of the loan amount.

Car title loan business means an establishment that makes small consumer loans that leverage the equity value of a car or other vehicle as collateral where the title to such vehicle is owned free and clear by the loan applicant and any existing liens on the car or vehicle cancel the application.

Failure to repay the loan or make interest payments to extend the loan allows the lender to take possession of the car or vehicle.

Manager means the person designated by the owner to be responsible for the daily operation of a nondepository financial institution.

Director means the director of planning and inspections or person he may designate to act as the official primarily responsible for the administration of this article or the official's designees.

Registered agent means the person identified by the owner of a nondepository financial institution in the registration filed pursuant to this article that is authorized to receive on behalf of the owner any legal process and/or notice required or provided for in this article.

Sec. 38-2. Registration of nondepository financial institutions.

(a) It shall be unlawful for any person to own or operate a nondepository financial institution in the city that has not been registered as required by this section. A fee established by resolution of the city council shall be charged for the registration required by this section.

(b) The owner of a nondepository financial institution shall register annually by providing to the director the following information regarding the nondepository financial institutions:

(1) The name, telephone number, facsimile number, and business or residence address of each owner; and, if the owner is a corporation, whether foreign or domestic, the name of the registered agent of the owner and the telephone number and facsimile number and business or residence address of the registered agent, which address information shall include the street name and number, office or suite number if a business address, and the city, state, and zip code;

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(2) The nature and extent of each owner's interest in the business; and

(3) The nature and extent of the owner's interest in the property where the business is located; and

if a tenant of the property, provide a true copy of the current lease identifying the landowner and showing the owner's right to occupy the location; and

(4) The name, telephone number, facsimile number, and business or residence address, including street name and number, city, state and zip code, of the current manager and, if the manager is other than an individual, the name, title, telephone number, facsimile number, and business or residence address, including street name and number, city, state, and zip code, of the individual to be contacted for any purpose under this article relating to the nondepository financial institution.

The use of a public or private post office box or other similar address shall not be sufficient

for the purposes of complying with this subsection.

(c) Any change of ownership of a nondepository financial institution, including, but not limited to, the sale of the nondepository financial institution or any ownership interest therein, shall require the purchaser or transferee to update the information provided under subsection (b) of this section and to file the updated information with the director within 30 days of the effective date of the ownership change. The same requirement shall apply to any change relating to the owner's registered agent and manager. A prior owner shall advise the director that he no longer holds any ownership interest in the property.

(d) No certificate of occupancy shall be issued for a newly constructed or established nondepository financial institution until the owner shall comply with the provisions of this article.

(e) After the owner of a nondepository financial institution complies with the provisions of this section, the director will provide to the nondepository financial institution:

(1) A registration compliance decal which shall be displayed above a public entrance door to the nondepository financial institution; and

(2) A registration statement, a true and correct copy of which shall be posted in the nondepository financial institution at all times in a conspicuous place accessible at all times to the public.

(f) Compliance with the requirements of this section shall be deemed to meet the requirements of §§ 250.003 and 250.004 of the Texas Local Government Code.

(g) It shall be an affirmative defense to the registration required by this section if the nondepository financial institution is also a convenience store, supermarket, or other retail establishment where consumer retail sales constitute on an annual basis at least 75 percent of the total gross revenue generated on site, as shown in the books, records, receipts or tax records of the business. Upon the request of the director, the owner or manager of a nondepository financial institution claiming this defense to registration, shall allow the director access to the books, records, receipts or tax records of the business showing the total gross revenue generated on site.

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Sec. 38-3. Applicability.

This ordinance shall become effective June 1, 2009. The owner or operator of a nondepository financial institution in operation, or with a completed building permit application, on that date shall

comply with all provisions of this article no later than September 30, 2009.

SECTION 3. Any person violating or failing to comply with any provision of this ordinance shall be fined upon conviction not less than one dollar (\$1.00) nor more than two thousand dollars

(\$2,000.00). Each day any violation of any provision of this ordinance continues constitutes a separate offense.

SECTION 4. That the terms and provisions of this ordinance shall be deemed to be severable and that if the validity of any section, subsection, sentence, clause, or phrase of this ordinance should be declared to be invalid, the same shall not affect the validity of any other section, subsection, sentence, clause, or phrase of this ordinance.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS,
on April 23, 2009.

HERBERT A. GEARS
MAYOR
ATTEST:

Janice Carroll, TRMC
City Secretary
APPROVED AS TO FORM:

Charles R. Anderson
City Attorney

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