

**Community Planning and Economic Development Planning Division Report
Zoning Code Text Amendment**

Date: August 13, 2012

Initiator of Amendment: Council Member Schiff

Date of Introduction at City Council: October 21, 2011

Ward: Citywide **Neighborhood Organization: (If Applicable):** Citywide

Planning Staff and Phone: Brad Ellis, 612-673-3239

Intent of the Ordinance: To modify the regulations regarding payday lending establishments, including currency exchanges and industrial loan and thrift operations

Appropriate Section(s) of the Zoning Code:

- Chapter 520: Introductory Provisions.
- Chapter 536: Specific Development Standards.
- Chapter 541: Off-Street Parking and Loading.
- Chapter 548: Commercial Districts.
- Chapter 549: Downtown Districts.

Background: The City Council has expressed concern over changes to Minnesota state financial regulations that have allowed payday lending uses to establish as industrial loan and thrift uses rather than as currency exchanges. A change in state law in 1996 allowed a mostly unused type of lender, the industrial loan and thrift, to give short term loans. This change to the regulations either went unnoticed or was unused until 2003, at which time some companies began operating under the industrial loan and thrift regulations. This change to the state financial regulations has allowed several payday lending uses to establish in areas that would not have otherwise allowed them had the use been defined as a currency exchange.

Per the Minnesota Department of Commerce, Industrial Loan & Thrift uses are formed for the purpose of conducting the business of loaning money to people while a state-chartered bank has a wider variety of financial services available, ranging from checking and savings to loans. The state regulates industrial loan and thrift companies separately from banks under the heading “finance companies” which includes other payday lending uses (currency exchanges) as well as automotive finance-focused companies, and are focused almost entirely on lending.

A “payday loan” is a small consumer loan, usually between \$100 and \$500, with a short term. The loan is usually secured with a borrower’s check or other form of access to the borrower’s bank account. Per the Center for Responsible Lending, the average loan in Minnesota is \$331, and state law limits the maximum APR on a two week loan to 391%. The City Council has also expressed concern about lower-

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income individuals and/or families getting caught in a “debt trap” as well as the effects these establishments may have related to crime or the perceived economic vitality of an area.

The zoning code currently regulates currency exchanges, which have been the standard form of establishment specializing in short-term “payday” loans in Minnesota, while regulating industrial loan and thrifts as a bank or financial institution, due to the definition of currency exchange:

Currency exchange. An establishment, except a bank, trust company, savings bank, savings and loan association, credit union or industrial loan and thrift company, engaged in the business of cashing checks, drafts, money orders or traveler's checks or exchanging currency for a fee, as defined in Minnesota Statutes section 53A.01.

A bank or financial institution is allowed in all commercial zoning districts and is not subject to a spacing requirement. In the past few years, several payday lenders have established as industrial loan and thrifts in locations that otherwise would not have allowed a currency exchange.

Staff has been requested to examine a possible text amendment that would change regulations around currency exchanges and other payday lending establishments. This amendment is intended to solve issues related to spacing and the loophole created by changes in state banking regulations.

The proposed amendment would create a new type of use, the “alternative financial establishment,” that encompasses all types of short-term lenders, but does not include banks, credit unions, trust companies, or savings banks. The alternative financial establishment would then be regulated in the same manner as currency exchanges are currently, limiting the districts in which they can locate as well as requiring spacing from other alternative financial establishments, pawnshops, and missions. The text language is modeled on Saint Paul’s recent ordinance changes regarding payday lending establishments.

Purpose for the Amendment:

What is the reason for the amendment?

What problem is the Amendment designed to solve?

What public purpose will be served by the amendment?

What problems might the amendment create?

The City Council has expressed concern over changes to the state financial regulations that have allowed payday lending uses to establish as industrial loan and thrift uses rather than as currency exchanges. This change has allowed payday lending uses to establish in areas that would not have otherwise allowed them had payday lending uses been defined as a currency exchange.

This amendment is intended to solve issues related to the location and concentration of payday lending uses. Staff requested information from the Planning Advisory Service of the American Planning Association as well as performed independent research. Most cities around the country regulate payday lenders differently from standard banks. Research from other cities indicates that payday lenders could have negative impacts on the public welfare. For example, a concentration of payday lenders could create a negative impression of the economic vitality of a

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commercial corridor. Some cities have found that payday lending uses could have a secondary effect of increased crime; patrons are leaving with cash and may be targets of criminals.

The public purpose of the amendment is to alleviate potential concentration of payday lending uses, as well requiring alternative financial establishments to locate in districts in which currency exchanges are allowed. This would keep new alternative financial establishments from locating in neighborhood commercial districts or in the downtown core.

Staff does not anticipate any problems with the text; currency exchanges have been regulated in the current manner with few issues since 1989. Future changes in state financial regulations could possibly make the proposed regulations out-of-date, but staff has attempted to draft the regulations in such a way to avoid this issue.

Timeliness:

Is the amendment timely?

Is the amendment consistent with practices in surrounding areas?

Are there consequences in denying this amendment?

The amendment is timely because several payday lenders have established under the loophole, with more likely to appear unless the regulations are changed to space the uses appropriately.

St. Paul revised its regulations regarding payday lending substantially at the end of 2010. All of the proposed changes to the Minneapolis Zoning Code are consistent with St. Paul's changes and are in fact modeled closely after that City's changes of 2010. The spacing regulations proposed are different from St. Paul, and are consistent with Minneapolis' existing spacing requirements for uses rather than St. Paul's half-mile and quarter-mile spacing requirements.

Other than St. Paul, communities from the surrounding area have not revised their regulations related to currency exchanges and other payday lending institutions to address the industrial loan and thrift loophole. Most communities around the area regulate currency exchanges as separate uses from banks or other financial institution. Duluth appears to be an exception, treating currency exchanges as banks.

Peer city research was not conducted; this is a regulatory issue specific to Minnesota and the state's financial regulations. However, most municipalities around the country regulate payday lending differently from banks for the reasons outlined above.

The consequences of denying the amendment are that the City would continue to regulate new payday lending institutions as banks rather than as alternative financial establishments. This could lead to a concentration of payday lenders in a given area or additional lenders appearing in locations inconsistent with the intent of the zoning ordinance.

Comprehensive Plan:

How will this amendment implement the Comprehensive Plan?

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The following policies of the Minneapolis Plan for Sustainable Growth are related to the proposed amendment:

Relevant Policy: 1.1: Establish land use regulations to achieve the highest possible development standards, enhance the environment, protect public health, support a vital mix of land uses, and promote flexible approaches to carry out the comprehensive plan.

Relevant Implementation Step:

- 1.1.1 Ensure that the City's zoning code is consistent with The Minneapolis Plan and provides clear, understandable guidance that can readily be administered.
- 1.1.5 Ensure that land use regulations continue to promote development that is compatible with nearby properties, neighborhood character, and natural features; minimizes pedestrian and vehicular conflict; promotes street life and activity; reinforces public spaces; and visually enhances development.

Staff comment: This amendment is designed to clear up confusion related to a discrepancy between City and State regulations, as well as promote development that is compatible with nearby properties and neighborhood character by limiting a specific use to the appropriate zoning districts.

Relevant Policy: 1.4: Develop and maintain strong and successful commercial and mixed use areas with a wide range of character and functions to serve the needs of current and future users. Ensure appropriate transitions between uses with different size, scale, and intensity.

Relevant Implementation Steps:

- 1.4.1 Support a variety of commercial districts and corridors of varying size, intensity of development, mix of uses, and market served.
- 1.4.2 Promote standards that help make commercial districts and corridors desirable, viable, and distinctly urban, including: diversity of activity, safety for pedestrians, access to desirable goods and amenities, attractive streetscape elements, density and variety of uses to encourage walking, and architectural elements to add interest at the pedestrian level.

Staff comment: This amendment is intended to direct payday lenders to commercial corridors rather than to community corridors or neighborhood commercial nodes while not allowing a concentration of them along a commercial corridor that could create a negative impression of the economic vitality of the corridor as well as spreading out any possible negative impacts on public health, safety, or welfare.

Relevant Policy: 10.5: Promote growth and encourage overall city vitality by directing new commercial and mixed use development to designated corridors and districts.

Relevant Implementation Steps:

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- 1.5.1 Support an appropriate mix of uses within a district or corridor with attention to surrounding uses, community needs and preferences, and availability of public facilities.

Staff comment: This amendment is intended to allow payday lenders in the appropriate commercial districts where they can meet community needs while minimizing impacts on surrounding areas.

Recommendation of the Community Planning and Economic Development Planning Division:

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission and City Council adopt the above findings and **approve** the zoning code text amendment, amending chapters 520, 536, 541, 548, and 549, pertaining to regulations regarding payday lending establishments, including currency exchanges and industrial loan and thrift operations.

Attachments:

- 1) Draft ordinance language