

CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, California 95014

DRAFT RESOLUTION

OF THE PLANNING COMMISSION OF THE CITY OF CUPERTINO
RECOMMENDING THAT THE CITY COUNCIL APPROVE AN ORDINANCE
AMENDING SECTION 19.08.030 OF CHAPTER 19.08 OF TITLE 19 OF THE CUPERTINO
MUNICIPAL CODE ADDING DEFINITIONS OF "FINANCIAL INSTITUTIONS" AND
"BANKS" THAT EXPRESSLY EXCLUDE PAYDAY LENDING AND CHECK CASHING
BUSINESSES WITH THE INTENT TO DISALLOW SUCH USES FROM OPERATING
WITHIN THE CITY OF CUPERTINO

PROJECT DESCRIPTION:

Application No: MCA-2016-04
Applicant: City of Cupertino
Location: Citywide

WHEREAS, pursuant to Government Code sections 65854 and 65855, the Planning Commission has the authority to review and make recommendations to the City Council regarding amendments to the City's zoning ordinances; and,

WHEREAS, the City provided all necessary legal notices to hold a public hearing at which the amendment to the City's zoning ordinances would be considered; and

WHEREAS, on October 11, 2016, the Planning Commission held a noticed public hearing at which interested persons had an opportunity to testify in support of, or in opposition to, the proposed amendment to the City's zoning ordinance and at which time the Planning Commission considered the proposed amendment to the City's zoning ordinance; and

WHEREAS, the City has analyzed this proposed zoning amendment and determined that it is not a project within the meaning of section 15378 of the California Environmental Quality Act ("CEQA") Guidelines because it has no potential for resulting in physical change in the environment, either directly or ultimately; and

WHEREAS, in the event that this proposed amendment is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility of a significant effect on the environment; and

WHEREAS, attached as Exhibit A is the proposed Ordinance.

NOW, THEREFORE, the Planning Commission of the City of Cupertino does hereby resolve:

SECTION 1: FINDINGS. The Planning Commission, in light of the whole record before it and any other evidence (within the meaning of Public Resources Code Sections 21080(e) and 21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

1. Payday lenders are predatory businesses that target people in desperate need of cash and charge unusually high interest rates and exorbitant fees that end up trapping borrowers in a cycle of crippling debt and poverty; and
2. State law regulates maximum loan amounts, fees, and other aspects of how payday lenders operate, however, local jurisdictions can enact local policies to restrict payday loan businesses from operating within their communities through the use of its police power.

SECTION 2: APPROVAL. The Planning Commission approves this Resolution recommending that the City Council adopt the proposed Ordinance which is attached hereto and incorporated herein by reference as Exhibit A.

PASSED AND ADOPTED this 11th day of October 2016, at a Regular Meeting of the Planning Commission of the City of Cupertino, State of California, by the following roll call vote:

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:
ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

Benjamin Fu
Assist. Community Development Director

Alan Takahashi
Chair, Planning Commission

ORDINANCE NO. 16-

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO
AMENDING SECTION 19.08.030 OF CHAPTER 19.08 OF TITLE 19 OF THE
CUPERTINO MUNICIPAL CODE ADDING DEFINITIONS OF "FINANCIAL
INSTITUTIONS" AND "BANKS" THAT EXPRESSLY EXCLUDE PAYDAY
LENDING AND CHECK CASHING BUSINESSES WITH THE INTENT TO
DISALLOW SUCH USES FROM OPERATING WITHIN THE CITY OF
CUPERTINO**

WHEREAS, the Ordinance amendments set forth below further the goals and policies of the City's General Plan and are necessary to promote the health, safety and welfare of the City ; and

WHEREAS, the City Council does find that payday lenders are predatory businesses that target people in desperate need of cash and charge unusually high interest rates and exorbitant fees that end up trapping borrowers in a cycle of crippling debt and poverty; and

WHEREAS, the City Council does find that the State regulates maximum loan amounts, fees, and other aspects of how payday lenders operate, however, local jurisdictions can enact local policies to restrict payday loan businesses from operating within their communities through the use of its police power; and

WHEREAS, the City Council finds that payday lenders and cash checking businesses are predatory businesses that target people in a financially vulnerable situation and charge exorbitant fees and high interest rates;

WHEREAS, the Planning Commission has reviewed the amendments to the Municipal Code at a duly noticed public hearing held on October 11, 2016 where the public had an opportunity to comment at which the Commission adopted Planning Commission Resolution No. ____ by a X-X vote recommending that the City Council adopt the amendments;

WHEREAS, a duly noticed public hearing was held on November __, 2016 at which the public had an opportunity to speak on this matter; and

WHEREAS, the proposed Ordinance is not a project within the meaning of section 15378 of the California Environmental Quality Act ("CEQA") Guidelines because it has no potential for resulting in physical change in the environment, either directly or ultimately. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3)

because it can be seen with certainty to have no possibility of a significant effect on the environment.

WHEREAS, the City Council has reviewed and considered the “not a project” determination under the California Environmental Quality Act prior to taking any approval actions on this Ordinance and approves such determinations; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CUPERTINO DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 19.08.030(B), “‘B’ Definitions”, of Chapter 19.08 of Title 19 of the Cupertino Municipal Code is hereby amended to add the definition of “banks” to be inserted into the definitions in alphabetical order and to read as follows:

“banks” means financial institutions including federally-chartered banks, savings and loan associations, industrial loan companies, and credit unions providing retail banking services to individuals and businesses. This classification does not include payday lending businesses or check cashing businesses. The term "payday lending business" as used herein means retail businesses owned or operated by a "licensee" as that term is defined in California Financial Code Section 23001(d), as amended from time to time. The term "check cashing business" as used herein means a retail business owned or operated by a "check casher" as that term is defined in California Civil Code Section 1789.31 as amended from time to time.

SECTION 2. Section 19.08.030(F), “‘F’ Definitions”, of Chapter 19.08 of Title 19 of the Cupertino Municipal Code is hereby amended to add the definition of “financial institutions” to be inserted into the definitions in alphabetical order and to read as follows:

“financial institutions” means a company engaged in the business of dealing with monetary transactions, such as deposits, loans, investments and currency exchange. This classification does not include payday lending businesses or check cashing businesses. The term "payday lending business" as used herein means retail businesses owned or operated by a "licensee" as that term is defined in California Financial Code Section 23001(d), as amended from time to time. The term "check cashing business" as used herein means a retail business owned or operated by a "check casher" as that term is defined in California Civil Code Section 1789.31 as amended from time to time.

SECTION 3. Severability.

Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

SECTION 4. Effective Date.

This Ordinance shall take effect thirty days after adoption as provided by Government Code Section 36937.

SECTION 5. Certification.

The City Clerk shall certify to the passage and adoption of this Ordinance and shall give notice of its adoption as required by law. Pursuant to Government Code Section 36933, a summary of this Ordinance may be published and posted in lieu of publication and posting of the entire text.

SECTION 6. Continuity.

To the extent the provisions of this Ordinance are substantially the same as previous provisions of the Cupertino Municipal Code, these provisions shall be construed as continuations of those provisions and not as amendments of the earlier provisions.

INTRODUCED at a regular meeting of the Cupertino City Council the ____ day of _____ 2016 and ENACTED at a regular meeting of the Cupertino City Council on this ____ of _____ 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

City Clerk

Mayor Barry Chang, City of Cupertino