

RESOLUTION NO. 984

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PACIFICA INITIATING A ZONING TEXT AMENDMENT AND RECOMMENDING CITY COUNCIL APPROVAL OF TEXT AMENDMENT TA-110-17 TO ADD SECTIONS 9-4.205.1, 9-4.208.1 AND 9-4.239.1 AND TO AMEND ARTICLE 2 OF CHAPTER 4 OF TITLE 9, AND TO ADD SECTION 9-4.2317 TO ARTICLE 23 OF CHAPTER 4 OF TITLE 9 OF THE PACIFICA MUNICIPAL CODE TO REGULATE ALTERNATIVE FINANCIAL SERVICES

Initiated by: Planning Commission

WHEREAS, the City's Zoning Regulations, codified in Chapter 4 of Title 9 of the Pacifica Municipal Code, do not contain provisions that expressly regulate alternative financial services, such as check cashing, payday lending, and auto title lending; and

WHEREAS, the City's Zoning Regulations currently permit banks and financial institutions but do not expressly address whether alternative financial services are considered banks or financial institutions; and

WHEREAS, at the September 11, 2017, regular meeting, the City Council of the City of Pacifica provided direction to staff to evaluate permissible regulation of the alternative financial services within the City, including their number and location; and

WHEREAS, the Planning Commission desires to recommend to the City Council enactment of a new Section 9-4.2317 - "Alternative Financial Services" to establish the number and type of permissible uses and locations for alternative financial services; and

WHEREAS, the Planning Commission desires to recommend to the City Council the amendment of Article 2 of Chapter 4 of the Zoning regulations to clarify that alternative financial services are considered neither banks nor financial institutions under the Zoning Regulations; and

WHEREAS, the Planning Commission held a duly noticed public hearing on the proposed zoning text contained in Text Amendment TA-110-17 on November 6, 2017.

NOW, THEREFORE BE IT RESOLVED by the Planning Commission of the City of Pacifica as follows:

1. The above recitals are true and correct and material to this Resolution.
2. In making its findings, the Planning Commission relied upon and hereby incorporates by reference all correspondence, staff reports, and other related materials.
3. The proposed amendments recommended by the Planning Commission are consistent with the City's General Plan and Local Coastal Land Use Plan.
4. This action is exempt from the California Environmental Quality Act ("CEQA"), pursuant to section 15061(b)(3) of the CEQA Guidelines (14 Cal. Code Regs. 15000 et seq.) because it can be seen with certainty that there is no possibility that adoption of the ordinance may have a significant effect on the environment.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Pacifica does hereby intend to initiate enactment of a new Section 9-4.2317, "Alternative Financial Services."

BE IT FURTHER RESOLVED that the Planning Commission of the City of Pacifica does hereby intend to initiate amendments to Article 2 of Chapter 4 of Title 9 to renumber existing Section 9-4.239.1 and add new Sections 9-4.205.1 "Alternative Financial Services," 9-4.208.1 "Bank," and 9-4.239.1 "Financial Institution."

BE IT FURTHER RESOLVED that the Planning Commission of the City of Pacifica does hereby recommend approval to the City Council of the City of Pacifica the zoning text amendment described in Text Amendment TA-110-17 included as Exhibit A to this Resolution.

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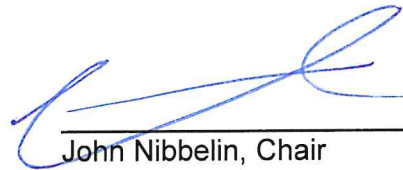
PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Pacifica, California, held on the 6th day of November 2017.

AYES, Commissioners: CAMPBELL, CLIFFORD, GORDON, STEGINK

NOES, Commissioners: COOPER, NIBBELIN

ABSENT, Commissioners: KRASKE

ABSTAIN, Commissioners: N/A



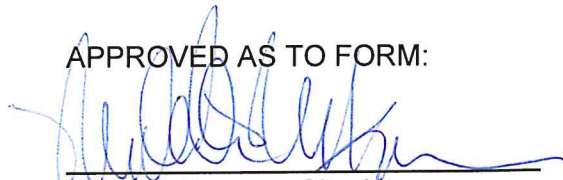
John Nibbelin, Chair

ATTEST:



Tina Wehrmeister, Planning Director

APPROVED AS TO FORM:



Michelle Kenyon, City Attorney

EXHIBIT A

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFICA ADDING SECTIONS 9-4.205.1, 9-4.208.1 AND 9-4.239.1 RELATING TO ALTERNATIVE FINANCIAL SERVICES AND AMENDING ARTICLE 2 OF CHAPTER 4 OF TITLE 9 OF THE PACIFICA MUNICIPAL CODE, AND ADDING SECTION 9-4.2317 TO ARTICLE 23 OF CHAPTER 4 OF TITLE 9 TO REGULATE ALTERNATIVE FINANCIAL SERVICES

WHEREAS, recent academic studies and research by non-profit organizations have suggested that alternative financial services businesses such as check cashing, payday lending, and auto title lending have negative secondary impacts, including a likelihood of increased neighborhood crime, associated negative impacts on neighboring land values and tax base, decreased health outcomes in the community, and negative impacts on local economic development, and impacts on neighboring uses such as creating decreased demand for other local businesses and services. Accordingly, enacting an ordinance to curtail such negative secondary effects would serve a substantial government interest and fall within the City's traditional zoning powers;

WHEREAS, the City Council of the City of Pacifica wishes to regulate the location of alternative financial services businesses such as check cashing, payday lending, and auto title lending;

WHEREAS, the Planning Commission held a duly noticed public hearing on the proposed amendment and additions to Articles 2 and 23 of Chapter 4 of Title 9 of the Pacifica Municipal Code, and adopted Resolution No. _____ initiating and recommending City Council approval of Text Amendment TA-110-17 on November 6, 2017; and

WHEREAS, the City Council of the City of Pacifica held a duly noticed public hearing on the proposed amendment and additions to Articles 2 and 23 of Chapter 4 of Title 9 of the Pacifica Municipal Code on _____.

NOW, THEREFORE, the City Council of the City of Pacifica does ordain as follows:

Section 1. Recitals. The City Council of the City of Pacifica does hereby find that the above referenced recitals are true and correct and material to the adoption of this Ordinance.

Section 2. Amended. Section 9-4.239.1 of Title 9, Chapter 4, Article 2 of Pacifica Municipal Code is hereby amended as follows:

Sec. 9-4.239.1 – Floor Area is renumbered as Section 9-4.239.2 – Floor Area.

Section 3. Enacted. The following Sections 9-4.205.1, 9-4.208.1, Sec. 9-4.239.1 are hereby enacted and added to Title 9, Chapter 4, Article 2 of the Pacifica Municipal Code:

Section 9-4.205.1. – Alternative Financial Services.

“Alternative Financial Services” shall mean the use defined in Section 9-4.2317(a).

Section 9-4.208.1. – Bank.

“Bank” shall mean a federally or state chartered bank.

Sec. 9-4.239.1 – Financial Institution

“Financial Institution” shall mean a federally or state chartered credit union, mortgage lender, savings and loan association, industrial loan company, or a non-profit financial institution or other provider of financial services, but specifically excluding any provider of Alternative Financial Services.

Section 4. Enacted. Section 9-4.2317 of Title 9, Chapter 4, Article 23 of the Pacifica Municipal Code (Alternative Financial Services) is hereby enacted as follows:

Sec. 9-4.2317. – Alternative Financial Services

(a) *Definitions.* “Alternative Financial Services” means a use, other than a Bank or Financial Institution (as defined in Article 2 of this Chapter), that offers deferred deposit transaction services or check cashing services and loans for payment of a fee. The term “Alternative Financial Service” includes, but is not limited to, deferred deposit transaction (payday loan) businesses that make loans upon assignment of wages received, check cashing businesses that charge a percentage fee for cashing a check or negotiable instrument, and motor vehicle title lenders who offer a short-term loan secured by the title to a motor vehicle. The terms “deferred deposit transaction business” and “payday loan 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. Non-profit financial institutions are not encompassed by the term “Alternative Financial Services.” The term “Alternative Financial Services” does not include retail sellers engaged primarily in the business of selling consumer goods to retail buyers and that cash checks for a minimum fee, not exceeding five (5%) percent, as a service to its customers that is incidental to its main purpose or business.

(b) *Maximum Number and Location.* A maximum of one Alternative Financial Services use may be located in the City of Pacifica. Subject to this numerical limitation, an Alternative Financial Services use may be established in the C-1, C-1-A, C-2, C-3, C-R and O zoning districts as a conditional use upon approval of a use permit in accordance with Article 33 (Use Permits) of this Chapter, and in the P-D zone if such use is included in an approved Development Plan.

(c) *Coastal Zone Combining District.* An Alternative Financial Services use shall not be considered a “visitor-serving use” within the meaning of that term as defined in Article 43 (Coastal Zone Combining District) of this Chapter.

(d) *Existing Alternative Financial Services.* Any Alternative Financial Services use in existence upon the effective date of this Section shall be deemed a nonconforming use and shall be subject to the provisions of Article 30 (Nonconforming Lots, Structures, and Uses) of this Chapter. Such use shall be deemed a lawful nonconforming use if it complies with all the laws in existence at the time the use commenced.

Section 5. Compliance with CEQA. The City Council hereby finds that the action to adopt this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA), under Section 15061(b)(3) of the CEQA Guidelines (14 Cal. Code Regs. 15000 et seq.) because it can be seen with certainty that there is no possibility that the adoption of this

Ordinance may have a significant effect on the environment. The City Clerk shall file a Notice of Exemption with the San Mateo County Clerk.

Section 6. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it should have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Section 7. Publication. The City Clerk is hereby ordered and directed to certify to the passage of this Ordinance by the City Council of the City of Pacifica, California, and cause the same to be published once in The Pacifica Tribune, a newspaper of general circulation, published and circulated in the City of Pacifica, California.

Section 8. Effective Date. This Ordinance shall be in full force and effective thirty (30) days after its adoption and shall be published and posted as required by law. For areas within the Coastal Zone, this Ordinance shall not become effective until the California Coastal Commission certifies an amendment to the City's local coastal program pursuant to Section 30514 of the Public Resources Code.

PASSED AND ADOPTED this _____ day of _____, 2017, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Mike O'Neill, Mayor

ATTEST:

APPROVED AS TO FORM:

Kathy O'Connell, City Clerk

Michelle Marchetta Kenyon, City Attorney