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CITY SECRETARY

NOTICE OF PUBLIC MEETING

LEON VALLEY CITY COUNCIL
REGULAR MEETING -5:00 P.M.
WEDNESDAY, DECEMBER 18, 2013
LEON VALLEY CITY COUNCIL CHAMBERS
6400 EL VERDE ROAD, LEON VALLEY, TEXAS 78238

AGENDA

1. **5:00 P.M.** Call to order, Determine a Quorum is Present, Pledge of Allegiance.
2. Second Reading and action on an ordinance adopting moratorium on Non-Chartered Financial Institutions pursuant to Chapter 212 of the Texas Local Government Code. (Flores) **M&C 2013-12-18-01**
3. Adjourn.

Attendance by Other Elected or Appointed Officials:

It is anticipated that members of other City boards, commissions and/or committees may attend the meeting in numbers that may constitute a quorum of other City boards, commissions and/or committees. Notice is hereby given that the meeting, to the extent required by law, is also noticed as a meeting of other boards, commissions and/or committees of the City, whose members may be in attendance. The members of other City boards, commissions, and/or committees may not participate in discussions on the items listed on the agenda, which occur at the meeting, and no action will be taken by such in attendance unless such item and action is specifically provided for on an agenda for that City board, commission or committee subject to the Texas Open Meetings Act. [Attorney General Opinion - No. GA-0957 (2012)].

I hereby certify that the above NOTICE OF PUBLIC MEETING(S) AND AGENDA OF THE LEON VALLEY CITY COUNCIL was posted on the Bulletin Board at City Hall, 6400 El Verde Road, Leon Valley, Texas, and remained posted until after the meeting(s) hereby posted concluded. This notice is posted on the City website at www.leonvalleytexas.gov. This building is wheelchair accessible. Any request for sign interpretive or other services must be made 48 hours in advance of the meeting. To make arrangements, call (210) 684-1391, Extension 216.



Leticia Callanen
Leticia Callanen, interim City Secretary

MAYOR AND COUNCIL COMMUNICATION

M&C# 2013-12-18-01

DATE: DECEMBER 18, 2013
TO: MAYOR AND CITY COUNCIL
FROM: KRISTIE FLORES, DIRECTOR OF COMMUNITY DEVELOPMENT
THROUGH: MANUEL LONGORIA JR., CITY MANAGER
SUBJECT: THE SECOND READING OF ORDINANCE #2013-12-09-02 ADOPTING A NINETY (90) DAY MORATORIUM ON THE ACCEPTANCE OR ISSUANCE OF A PERMIT TO DEVELOP, REDEVELOP, OR PARTIALLY DEVELOP PROPERTY WITHIN THE CITY LIMITS FOR THE PURPOSE OF OPERATING A NON-CHARTERED FINANCIAL INSTITUTION LOCATED WITHIN THE GEOGRAPHIC BOUNDARIES OF THE CITY LIMITS OF THE CITY OF LEON VALLEY.

PURPOSE

As required by the Texas Local Government Code, Chapter 212 the completed the following as prescribed:

- November 22, 2013 – Published in the newspaper
- November 29, 2013 – temporary moratorium goes into effect
- December 3, 2013 – the Zoning Commission holds the 1st public hearing and recommends approval of the 90-day Moratorium ordinance
- December 9, 2013 – the City Council holds the 2nd public hearing, approves the 90-day Moratorium ordinance and performs the 1st Reading
- **TONIGHT – December 18, 2013 – 2nd Reading**

This evening the City Council fulfills the statutory requirements to complete the enactment of the ordinance by means of the 2nd reading of the ordinance.

FISCAL IMPACT

None.

RECOMMENDATION

Perform the 2nd Reading of the 90-day moratorium ordinance.

S.E.E STATEMENT

Social Equity- The proposed moratorium gives the City the opportunity to insure social to both the residents and businesses that are affected by the user.

Economic Development- The moratorium is important to maintain a positive economic development trend in the City.

Environmental Stewardship- A moratorium does not affect the literal environment.

APPROVED: _____ DISAPPROVED: _____

APPROVED WITH THE FOLLOWING AMENDMENTS:

ATTEST:

City Secretary

ORDINANCE NO. 2013-12-09-02

AN ORDINANCE OF THE CITY OF LEON VALLEY ADOPTING A NINETY (90) DAY MORATORIUM ON THE CONSTRUCTION, RECONSTRUCTION, OR OTHER ALTERATION OR IMPROVEMENT OF ANY UNDEVELOPED, DEVELOPED, AND PARTIALLY-DEVELOPED NON-RESIDENTIAL PROPERTY FOR THE PURPOSE OF USE AS A NON-CHARTERED FINANCIAL INSTITUTION LOCATED WITHIN THE GEOGRAPHIC BOUNDARIES OF THE CITY LIMITS OF THE CITY OF LEON VALLEY.

WHEREAS, Non-Chartered Financial Institutions are defined as a use, other than a State or Federally chartered bank, credit union, mortgage lender, savings and loan association or industrial loan company that offers deferred deposit transaction services or check cashing services and loans for payment of a percentage fee. The term “Non-Chartered Financial Institution” 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; and

WHEREAS, the City of Leon Valley, Texas, seeks to provide for the orderly and safe occupancy, development and/or redevelopment of land and use of property within its city limits to protect the health, safety and welfare of its residents and the general public; and

WHEREAS, the City of Leon Valley, Texas, is dedicated to the protection, enhancement, preservation of developed and undeveloped properties, places, buildings and structures because it is a desirable public goal and is needed in the interest of sustainability, social equity, economic development, environmental stewardship, and education and general welfare of the people; and

WHEREAS, the City of Leon Valley, Texas, is closely monitoring and making an effort to take part in discussions with the Texas Legislature in the proper regulation of Non-Chartered Financial Institutions which studies indicate are detrimental to the public’s economic status and may lead to a decline in economic development in saturated areas; and

WHEREAS, the City has a Zoning Commission, which has been charged with undertaking the investigation and study of matters relating to the protection, enhancement, perpetuation or use of the existing and remaining developed and undeveloped properties and included structures, and to submit reports and recommendations thereon to the City Council; and

WHEREAS, the City Council wishes to exercise its land use and development authority in a manner that will establish reasonable regulations for land development that

sufficiently protects the general health, safety and welfare of its citizens and adequately protects property values and the economic vitality of the community; and

WHEREAS, the City Council intends to work in a cooperative manner with the owners of property regarding business development; and

WHEREAS, the City of Leon Valley desires to enhance existing structures and properties located within the defined geographic boundary by evaluating the highest and best use of the property available for new development and/or redevelopment; and

WHEREAS, Texas Local Government Code Chapter 212, Subchapter E, provides authority for the adoption of a moratorium on commercial property development; and

WHEREAS, the City of Leon Valley has provided the legal notice required for public hearings on the adoption of a moratorium on commercial property development; and

WHEREAS, the City of Leon Valley has held two public hearings on the adoption of a moratorium on commercial property development; and

WHEREAS, the City Council of the City of Leon Valley hereby finds and determines that the unregulated proliferation of Non-Chartered Financial Institutions results in a perception that the area is in economic decline; a negative effect on property value growth; displacement of full service banking institutions; and unaesthetic business appearances, including aggressive advertisement and bold and contrasting colors which are inconsistent with the surrounding commercial development resulting in reduced property values; and

WHEREAS, the City of Leon Valley, based on the finding herein, has determined that a temporary moratorium on property development and/or redevelopment for the purpose of Non-Chartered Financial Institutions located within the geographic boundaries of the City of Leon Valley is justified because existing development ordinances, regulations and other applicable laws need to be strengthened to prevent the harms and secondary effects associated therewith; and

WHEREAS, the City Council of the City of Leon Valley, Texas therefore finds that it is in the public interest to impose a ninety (90) day moratorium on the acceptance, review, and approval of permits for the construction, reconstruction, or other alteration or improvement of property located within the City limits to be used as Non-Chartered Financial Institutions within the City Limits.

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

Section 1: The City of Leon Valley hereby finds and determines that the following is a summary of what existing relevant evidence establishes regarding Non-Chartered Financial Institutions. Specifically, the evidence establishes that the location of Non-

Chartered Financial Institutions have 1) negative impacts on nearby property values, 2) contribute to increase crime levels in the area, 3) negatively affect the general perception of the viability of commercial areas in which they are located, 4) utilize on site advertising techniques which are generally incompatible with the general commercial areas where they are located, and 5) provide for an unattractive appearance, and displacement of conventional and traditional banks among others.

During the institution of this moratorium the City shall endeavor to determine and adopt appropriate regulations which will limit or eliminate the harm as summarized herein.

Section 2: Except as otherwise provided for herein, after the effective date of this ordinance, and for ninety (90) days thereafter, no city employee, officer, agent, department, board, or commission of the City shall accept for filing any applications for a permit for the construction, reconstruction, or other alteration or improvement of property located within the City limits of the City of Leon Valley for a Non-Chartered Financial Institutions which are defined as a use, other than State or Federally chartered bank, credit union, mortgage lender, savings and loan association or industrial loan company that offers deferred deposit transaction services or check cashing services and loans for payment of a percentage fee. The term “non-chartered financial institution” 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. Applications, together with any documents or fees accompanying the applications, which are submitted during the duration of this ordinance, shall be returned to the applicant as unfiled.

Section 3: Exemptions.

The provisions of Section 2 of this Ordinance shall not be applicable to any completed applications for permits for the construction, reconstruction, or other alteration or improvement of property located within the defined geographic boundary that were pending prior to the fifth business day after November 22, 2013, the date on which the City published notice of a public hearing to consider this Ordinance.

Section 4: Appeals.

(1) An applicant for a permit for the construction, reconstruction, or other alteration or improvement of property located within the defined geographic boundary aggrieved by the City’s decision not to accept for filing or to further process such applications may appeal for relief to the City Manager, or his designee. The appeal shall be in writing and shall be submitted to the City Secretary within ten (10) days of the date written notification was sent that an application for the construction, reconstruction, or other alteration or improvement of property located within the defined geographic boundary will not be accepted for filing or will not be further processed for the duration of this Ordinance.

(2) The appeal shall be considered by the City Manager within twenty (20) days of the date the appeal is received by the City Secretary. The City Manager shall not release the applicant from the requirements of this Ordinance unless the applicant first presents credible evidence from which the City Manager can reasonably conclude that the delay in accepting or processing the application substantially deprives the applicant of vested property rights protected by state law or constitutional provision. The City Manager shall also consider whether such potential deprivation outweighs the potential harm to the public health, safety and general welfare that may result from granting such appeal.

(3) The City Manager may take the following action:

- (a) Deny the appeal, in which case the application shall not be accepted or further processed;
- (b) Grant the appeal, and direct the official responsible for reviewing the application to accept the application for filing or to further process the application.

(4) In the event that the City Manager does not take the action described in Section 4, subpart (3) within twenty (20) days of the date the appeal is received by the City Secretary, the appeal shall be deemed granted and the officials responsible for reviewing the application shall accept the application for filing or further process the application, as applicable.

Section 5: Waiver Procedure.

(1) An applicant aggrieved by the City Manager's decision not to accept for filing or to further process an application for a permit for the construction, reconstruction, or other alteration or improvement of property to which this moratorium applies may apply for a waiver of this moratorium by submitting to the City Council by and through the City Secretary a written request for waiver.

(2) The applicant seeking a waiver shall provide to the City Council credible evidence from which the Council can reasonably conclude that the delay in accepting or processing the application substantially deprives the applicant of vested property rights protected by state law or constitutional provision. The City Council must, in an open meeting, vote to grant or deny the waiver request within twenty (20) business days of the date the written request for waiver is received by the City Secretary.

(3) In the event that the City Council does not take the action described in Section 5, subpart (2) within twenty (20) business days of the date the written request for waiver is received by the City Secretary, the waiver shall be deemed granted and the officials responsible for reviewing the application shall accept the application for filing or further process the application, as applicable.

Section 6: It is the intention of the City Council that this ordinance and every provision thereof shall be considered severable, and the invalidity of any section, clause, or provision or part or portion of any section, clause or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

Section 7: Any and all ordinance, orders, resolutions, rules, regulations, policies, or provisions in conflict with the provisions of this Ordinance are hereby repealed and rescinded to the extent of conflict herewith.

Section 8: This Ordinance shall become effective immediately from and after its adoption on second reading.

Passed and Approved on first reading on the 9th day of December, 2013.

Passed and Approved on second reading on the 18 day of December, 2013.

Mayor

ATTEST:

City Secretary

APPROVED AS TO FORM:

City Attorney



City of Leon Valley Zoning Commission

**2nd Reading to fulfill Enactment of
a 90-day Moratorium within the
Leon Valley City Limits**

December 18, 2013



Purpose

- Complete statutory requirements per the Local Government Code, Chapter 212.



Purpose

- November 22, 2013 – Published in the newspaper
- November 29, 2013 – temporary moratorium went into effect



Purpose

- December 3, 2013 – the ZC held the 1st public hearing and recommended approval of the 90-day Moratorium ordinance
- December 9, 2013 – the CC held the 2nd public hearing, approved the 90-day Moratorium ordinance and performed the 1st Reading



Fiscal Impact

- None



Recommendation

- Complete the 2nd Reading
- The 1st Reading was held 12/09/13



City of Leon Valley Zoning Commission

**2nd Reading to fulfill Enactment of
a 90-day Moratorium within the
Leon Valley City Limits**

December 18, 2013