

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

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

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 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 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.

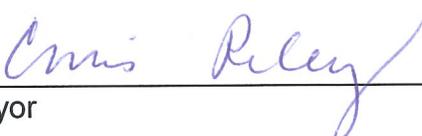
Section 6: It is the intention of the City Council that this ordinance and every provision thereof shall be considered severable, and the invalidity of any section, clause, or provision or part or portion of any section, clause or provision of this Ordinance shall not affect the validity of any other 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 16 day of December, 2013.



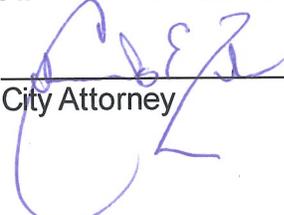
Mayor

ATTEST:



City Secretary

APPROVED AS TO FORM:



City Attorney



MAYOR AND COUNCIL COMMUNICATION

M&C# 2013-12-09-10a

DATE: DECEMBER 9, 2013

TO: MAYOR AND CITY COUNCIL

FROM: KRISTIE FLORES, DIRECTOR OF COMMUNITY DEVELOPMENT

THROUGH: MANUEL LONGORIA JR., CITY MANAGER

SUBJECT: PUBLIC HEARING WITH ATTACHED ORDINANCE TO ADOPT A NINETY (90) DAY MORATORIUM ON THE ACCEPTANCE OR ISSUANCE OF A PERMIT TO OCCUPY 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

A 90-day moratorium is proposed so that the City may further investigate predatory lending businesses in the City of Leon Valley. According to the Texas Consumer Credit Commission listing there are thirteen (13) payday lending institutions in Leon Valley that are officially registered/licensed with them. With a population of 10,151 the density of these institutions equates to one payday lending business for every 781 residents in Leon Valley.

The City of Leon Valley hereby finds and determines that the attached summary of evidence regarding non-chartered financial institutions is consistent with adopting this 90-day moratorium. 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.

FISCAL IMPACT

The moratorium publication fees are \$131. Additionally, no permits or fees will be processed during the duration of the moratorium for non-chartered financial institutions.

RECOMMENDATION

The Zoning Commission will make a recommendation on the proposed 90-day moratorium on December 3, 2013. This recommendation will be forwarded to the City Council at the December 9, 2013 meeting.

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.

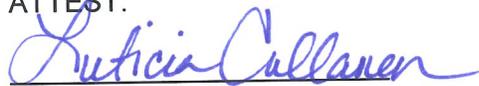
Economic Development- The moratorium is important to maintain a positive economic development trend in the City.

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

APPROVED: DISAPPROVED:

APPROVED WITH THE FOLLOWING AMENDMENTS:

ATTEST:



Interim City Secretary

ATTACHMENT "A" SUMMARY OF EVIDENCE

The City of Leon Valley hereby finds and determines that the following is a summary of what 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.

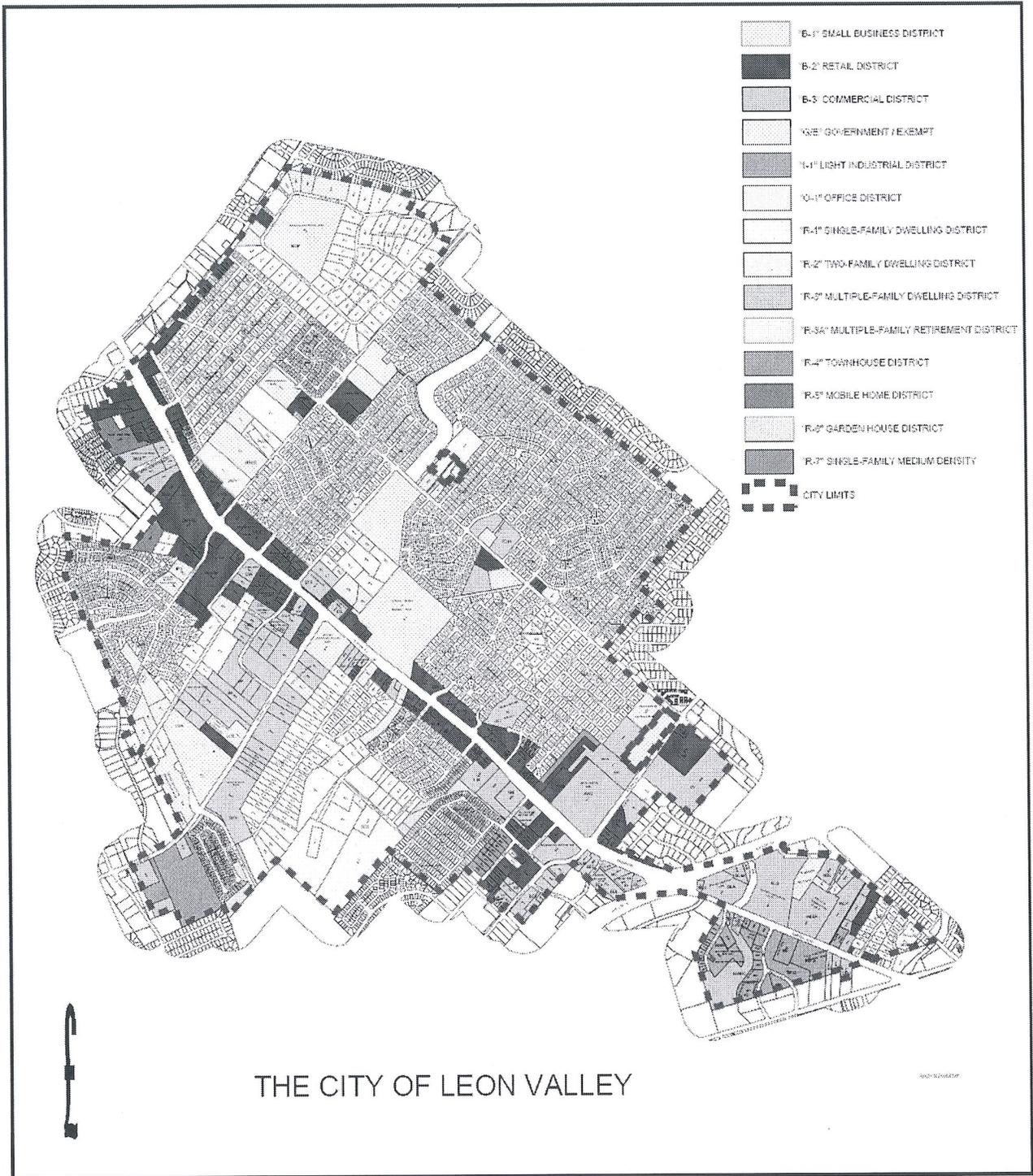
The Hamilton County Regional Planning Agency in a report completed in July 2006, determined that the proximity of non-chartered financial institutions had a negative effect on the rate of change in median appraised residential values nearby. More specifically, over a five-year period, residential properties within a ¼ mile radius of non-chartered financial institutions only appreciated in value by an average of 23%, whereas residential properties citywide appreciated in value by an average of 31%. The study also indicated that with increasing distance from the nearest non-chartered financial institutions, appreciation of residential property values was more pronounced.

A clustering of non-chartered financial institutions creates a perception that a specific area, neighborhood or even a whole community or region may be in decline and that there may be underlying economic problems in the area. Non-chartered financial institutions siphon much of the economic potential of attractive and lucrative businesses away from commercial areas. It is a possible indication that the local market will not be supportive of desired and attractive businesses due to much of the market's use of establishments reflecting that many in the market may be financially marginal and credit-challenged, and in turn, not a potential market for attractive businesses to locate.

The City of Sacramento, California, in an action by its city council to place a moratorium on check cashing centers, argues that a clustering of these establishments in certain areas and a reliance of certain segments of the public on said establishments "leads to the displacement of full service banking institutions." This occurrence makes "access to traditional banking service even more difficult in lower income neighborhoods." This phenomenon leads to a vicious cycle of perpetual financial irresponsibility and continuous indebtedness of residents to these establishments over a protracted period of time.

Non-chartered financial institutions preying on those most vulnerable to financial irresponsibility and protracted indebtedness is used ubiquitously across the U.S. in efforts of many governmental entities to regulate the operations of such businesses. This argument is used by many jurisdictions; however, it has less ability to be linked to a case for protecting against secondary neighborhood impacts because it is not as convincingly tied to the land use element and location of such businesses. This argument was used to outlaw the operation of such businesses in the entire State of Georgia as well as a similar law heavily restricting such businesses in North Carolina.

Expert testimony provided to the City of Milwaukee, Wisconsin's Board of Zoning Appeals is that non-chartered financial institutions present themselves with "unaesthetic businesses appearances with aggressive advertisements, and bold and contrasting colors." Such physical manifestation of these uses can project an unsightly appearance detracting from a surrounding area's ability to attract additional commerce of high quality with an aesthetic appeal.





City of Leon Valley City Council

**Consider a 90-Day Moratorium
with a Defined Geographic
Location for Non-Chartered
Financial Institutions within the
Leon Valley City Limits**

December 9, 2013



Purpose

- Consider an ordinance adopting a 90-day moratorium on the acceptance or issuance of a permit to occupy property within the City Limits for the purpose of operating a Non-Chartered Financial Institution within the geographic boundaries of the City Limits of the City of Leon Valley



Purpose

- Evidence establishes that the location of non-charted 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



Purpose

- Evidence establishes that the location of non-charted financial institutions have:
 - 4) utilize on site advertising techniques which are generally incompatible with the general commercial areas where they are located
 - 5) provide for an unattractive appearance, and displacement of conventional and traditional banks



Recommendation

- Chairman Guerra III will present the Zoning Commission findings of December 3, 2013.



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December 9, 2013