

ORDINANCE NO. 2013-12-09-03

AN ORDINANCE OF THE CITY OF LEON VALLEY ADOPTING 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.

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 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, included structures, and other health, safety and general welfare regulations related to Non-Chartered Financial Institutions and to submit reports and recommendations thereon to the City Council; and

WHEREAS, the City Council wishes to exercise its regulatory authority in a manner that will establish reasonable regulations for business occupancy and 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 occupancy and land 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 occupancy; and

WHEREAS, Texas Local Government Code Chapter 51.001 provides authority to the governing body of a municipality to adopt an ordinance that is (1) is for the good government, peace, or order of the municipality or for the trade and commerce of the municipality; and (2) is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality; and

WHEREAS, Texas Local Government Code Chapter 51.012 provides authority to the governing body of a general law type A municipality to adopt an ordinance, act, law, or regulation, not inconsistent with state law, that is necessary for the government, interest, welfare, or good order of the municipality as a body politic; and

WHEREAS, Texas Local Government Code Chapter 211 provides authority to municipalities to regulate land use through zoning; and

WHEREAS, the City Council of the City of Leon Valley, a general law type A municipality, 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 findings 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 occupancy of property to be used as Non-Chartered Financial Institutions within the City limits;

WHEREAS, based on the foregoing the City Council of the City of Leon Valley, Texas therefore finds that the moratorium enacted herein is for the good government, peace, or order of the municipality or for the trade and commerce of the municipality and is necessary or proper for carrying out a power granted by law to the municipality is consistent with state law and is necessary for the government, interest, welfare, or good order of the municipality as a body politic.

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.

Section 2: Pursuant to the legal authority cited supra, and except as otherwise provided for herein, upon the effective date of this ordinance, no city employee, officer, agent, department, board, or commission of the City shall accept for filing any applications for, or issue, a permit for the occupation of property located within the City limits of the City of Leon Valley for the purpose of operating a Non-Chartered Financial Institution which is 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 submitted prior to the effective date of this Ordinance.

Section 4: Appeals.

(1) An applicant for a permit for the occupancy of property to be used as Non-Chartered Financial Institutions who is denied a permit may appeal for relief to the City Manager, or his designee as provided for in this section. 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 permit for occupancy of property will not be accepted for filing or will not be further processed for the duration of this Ordinance. Said appeal shall be allowed only for a determination of whether the exemption provided for in Section 3 herein is applicable to the permit request.

(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.

(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 this section, 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.

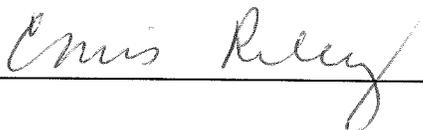
Section 5: Unless the City Council determines that an extension of up to ninety (90) days of the duration of this Ordinance, or termination thereof, as applicable, is in the public interest, this Ordinance shall be in effect for ninety days from its effective date.

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.

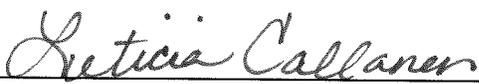
Section 8: This Ordinance shall become effective immediately from and after its adoption.

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



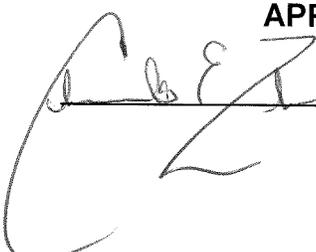
Mayor

ATTEST:



City Secretary



APPROVED AS TO FORM:


City Attorney

MAYOR AND COUNCIL COMMUNICATION

M&C# 2013-12-09-11

DATE: DECEMBER 9, 2013
TO: MAYOR AND CITY COUNCIL
FROM: KRISTIE FLORES, DIRECTOR OF COMMUNITY DEVELOPMENT
THROUGH: MANUEL LONGORIA JR., CITY MANAGER
SUBJECT: CONSIDER AN ORDINANCE ADOPTING A MORATORIUM ON CERTIFICATES OF OCCUPANCY FOR NON-CHARTERED FINANCIAL INSTITUTIONS PURSUANT TO CHAPTER 51 OF THE TEXAS LOCAL GOVERNMENT CODE

PURPOSE

This is a supplemental ordinance which covers the temporary suspension of applications and permits for Certificates of Occupancy for Non-Chartered Financial Institutions. The previous Item #10a covers the moratorium on construction, reconstruction, or other alternation of any undeveloped, developed and partially-developed non-residential property. The attached ordinance pursuant to Chapter 51 addresses the application and permitting of such uses.

FISCAL IMPACT

No applications or fees for Certificates of Occupancy for Non-Chartered Financial Institutions will be processed during the duration of the moratorium. This is a loss of \$60 per application.

RECOMMENDATION

If Item #10a was approved, it is recommended that this ordinance be approved to supplement the moratorium in regard to applications/permits for Certificates of Occupancy for Non-Chartered Financial Institutions.

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 environment.

APPROVED: DISAPPROVED:

APPROVED WITH THE FOLLOWING AMENDMENTS:

ATTEST:



Interim City Secretary