



## DEVELOPMENT REVIEW REPORT

### ORDINANCE NO. 24O-XX-XXX

The item before the Planning and Zoning Board (Board), sitting as the Local Planning Agency (LPA), is a proposed Ordinance of the City of Lauderhill, Florida; amending the Code of Ordinances Article II Chapter 12, and Land Development Regulations (LDR) to amend Article III. Zoning Districts; amending Section 5.11, Check Cashing/Pay Day Loan Store, 5.11.2 Accessory Use; amending Schedule A, Land Use Classifications Definitions; amending Schedule B to add check cashing as an accessory use in the General Commercial (CG) and Community Commercial (CC) zoning districts with exceptions; Providing for an effective date.

The Department recommends the Board enter into the record the Development Review Report and all other substantial competent evidence presented at the hearing, adopt the findings and conclusions contained herein, and forward the record to the City Commission with a recommendation the proposed Ordinance be adopted.

#### I. **BACKGROUND**

Staff is requesting an amendment to the Land Development Regulations to correct a clerical error when Ordinance No. 13O-05-119 was passed in order to properly reflect that check cashing is permitted as an accessory use in the General Commercial (CG) and Community Commercial (CC) zoning districts, except in any new convenience stores uses established after January 28, 2013, and also to distinguish between check cashing (as an ancillary service) versus a Pay Day Loan Store. Currently the adopted regulations combine these two uses in name; however, "check cashing," as a use is common among other uses. The City Commission directed Staff to correct the clerical error in Schedule B and to distinguish between these two uses at a Workshop held on November 27, 2023.

The proposed amendments include:

- Renaming the use classification in Chapter 12 of the Code of Ordinances

- Creating two separate uses: (1) CHECK CASHING & (2) PAY DAY LOAN STORE
- Updating Schedule B to include check cashing as an accessory use in the CG and CC zoning districts, excluding any new convenience store uses established after January 28, 2013.

## II. **PROPOSED AMENDMENTS**

### **Code of Ordinances / Chapter 12**

#### **Article II - CERTIFICATE OF USE AND LOCAL BUSINESS TAX RECEIPT**

##### **Sec. 12-53. - Local business taxes.**

Each business shall be charged the tax or taxes from the list below which best describes its business. In the case of multiple functions operating under one (1) owner at one (1) location, more than one (1) tax may be charged on the same local business. The finance director shall make the final determination on tax classifications.

Each applicant for an initial certificate of use shall pay a non-refundable fifty-five dollars and thirteen cents (\$55.13) processing fee. Each applicant will also be required to pay a one-time non-refundable fifty dollar (\$50.00) processing fee for all renewals processed in the 2020-2021 fiscal budget year.

Additional fees, such as fire inspection fees, automated external defibrillator devices (AEDs), minimum housing inspection fees, rental housing regulation and inspection fees, business development fees, or other fees described in this Code or the Land Development Regulations may be billed as part of the total business tax obligation.

The amount assessed as local business taxes which must be paid in order to obtain a local business tax receipt for each category or combination of various trades, professions, businesses, and accessory uses are hereby fixed as follows:

- (1) Reserved. ....
- (2) Auction stores, sales .....\$670.04
- (2a) Auto dealers, inventory, \$0.00—\$10,000.00 .....\$255.26
- (2b) Auto dealers, inventory, \$10,000.00—\$100,000.00 .....\$510.51
- (2c) Auto dealers, inventory, \$100,000.00 and up .....\$893.40
- (3) Automatic trade machines, distributor or retail facility .....\$191.45
- (3a) Automatic trade machines: Vending, washers/dryers, music, video, pinball, ATM, each machine .....\$25.52
- (4) Banquet Hall .....\$335.03
- (5) Beauty and personal services shop: Hair, nails, massage, etc. ....\$191.42
- (5a) [Reserved.] ....
- (5b) Plus beauty and personal services shop, per chair or station .....\$31.91
- (6) Car Wash (automobile), each stall, lane, or drive thru .....\$115.76 each
- (7) Pay Day Loan Store ~~Check cashing facility, store, franchise~~ .....\$335.03
- (8) Childcare—Commercial .....\$255.26
- ...

## Article III - ZONING DISTRICTS

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### Sec. 5.11. - Check cashing/pay day loan store.

5.11.1. *Principal use.* A check cashing/pay day loan store shall be a prohibited use; however, any check cashing/pay day loan stores with an existing certificate of use or any proposed check cashing/pay day loan store that has filed a certificate of use application before January 28, 2013 shall be considered a legal, non-conforming use.

5.11.2. *Accessory use.* Any business operating check cashing/~~pay day loan serves [service]~~ services shall be permitted as an accessory use only within the CC and CG zoning districts. However, no such accessory use is permitted within a convenience store unless the accessory use was already in operation as a non-conforming use at said location prior to January 28, 2013. Pay day loan services are prohibited as both a principal and accessory use, unless they were a pre-existing non-conforming use. required to file a new certificate of use application and fee in order to continue operating said use after September 30, 2013 and shall pay, if any, the applicable local business tax for said use.

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## SCHEDULE A. - LAND USE CLASSIFICATIONS

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CAR WASH AND AUTO DETAILING: An establishment (automatic or hand wash) intended for the exterior washing of automobiles within an enclosed building or permanent structure. The cleaning of the interior of motor vehicles, waxing of the exterior detail work of motor vehicles, drying and exterior detail work of motor vehicles if any, may be permitted if the car wash is operating as the primary use. Automatic car wash shall be permitted as an accessory use to gas or service stations.

~~CHECK CASHING/PAY DAY LOAN STORE: A commercial use engaged in the primary and principal business of and providing facilities for cashing checks, drafts, money orders and all other evidence of money for a fee, service charge or other consideration. or in providing for short term loans (less than forty five (45) days) to individuals in exchange for personal checks as collateral. This does not include pay day loan stores.~~

CHILDCARE, DAY: A child care use provided during the hours of 6:30 a.m. and 6:30 p.m. on Monday through Friday.

PAY DAY LOAN STORE: A commercial use providing for short-term loans (less than forty-five (45) days) to individuals in exchange for personal checks as collateral.

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## SCHEDULE B. - ALLOWABLE USES

Land Use Category	CO	CN	CG	CC	CW	CE	IL	PO	PL	PR	CR	S-1	CF	UT	Not Zoned
Accessory Uses <sup>1</sup>	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
...															
Car wash			SE/A	SE/A											
Check cashing/ <del>Pay Day Loan Store</del> <sup>1</sup>			<del>N A</del>	<del>N A</del>											
Childcare <sup>1</sup>															
• Day	SE			SE					SE	SE					
...															
Pattern making							P								
<u>Pay Day Loan Store</u>			<u>N</u>	<u>N</u>											
Personal services <sup>1</sup>	A	P	P	P	P	P					A				
...															

...

Footnotes:

SE = Special exception use

P = Permitted use

A = Accessory use

SP = Special permit

N = Nonconforming use

L = Promotional license

EP = Special Event Permit

1 = See Article III, Zoning Districts, Part 5.0, Special Regulations for Specific Land Use Classifications and Structures for additional requirements.

2 = See the specific zoning district regulations in Article III, Part 3.0, for special regulations regarding this specific land use.

3 = These uses will sunset and expire on December 31, 2019 and will no longer be allowed in this district.

4 = Fast food/drive-through restaurant is not permitted in the General Commercial (CG)/Transect Overlay Zone zoning district along Rt. 441/SR7.

5 = Permitted Use within the Arts and Entertainment Overlay District.

### III. DATA AND ANALYSIS

Data means factual information used as a basis for reasoning, discussion or calculation. Data must be based upon professionally reliable sources and the most recently available data should be used. Analysis involves an examination of the data, any assumptions, any employed methodologies, any applicable regulations, and deducing findings of facts and conclusions needed in order to make a recommendation.

The Department concludes the applicable Land Development Regulations (LDR) include: Article IV., Part 2.0, Section 2.4., on criteria.

1. **Factors.** Article IV., Part 2.0., Section 2.4 requires the Board to consider and evaluate zoning regulation amendments in relation to all pertinent factors, but with reference to six (6) specific factors. These six (6) factors are addressed below in relation to the proposed Land Development Regulations amendment.

- a. *The character of the district and its peculiar suitability for particular uses. (2.4.1.)*

The original intent of the adopted regulations remain. A Pay Day Loan Store is a nonconforming use in General Commercial (CG) and Community Commercial (CC). The current name of the use is “Check Cashing/ Pay Day Loan Store,” and “check cashing” is a service that other businesses (not only financial institutions) offer to customers. Staff is advising to separate check cashing as a service from other financial intuitions that offer short-term loans, often at high-interest rates (i.e. Pay Day Loan Stores).

- b. *Conversion of the value of buildings and encouraging the most appropriate use of land and water throughout the City. (2.4.2.)*

Not applicable – this text amendment seeks to clarify that check cashing is a permitted accessory use, while a Pay Day Loan Store is a nonconforming use.

- c. *The applicable portions of the adopted City Comprehensive Plan and programs such as land use, trafficways, recreation, schools, neighborhoods, drainage and housing, and so forth. (2.4.3.)*

The proposed Ordinance is consistent with the following Comprehensive Plan provisions:

Goal 1 Future Land Use Element: The City Commission shall provide for a distribution of land use by type, density, and intensity to meet the needs of the current and future resident and seasonal population in a manner that; promotes compatible development, redevelopment, and urban infill; promotes a land use pattern that supports a multimodal transportation system, with an emphasis on pedestrian-ways and walkability; protects and improves the natural and physical characteristics of the City; and, ensures the timely, cost-effective provision of public facilities and services.

- d. *The needs of the City for land areas for specific purposes to serve population and economic activities. (2.4.4.)*

The proposed amendment is important to clarify that “check cashing” is a permitted accessory use, which is a service to the public, versus a “Pay Day Loan Store,” where the principal use is to provide short-term loans to customers.

- e. *Whether there have been substantial changes in the character of development of areas in or near an area under consideration for rezoning. (2.4.5.)*

Not applicable –there is no rezoning under consideration.

- f. *The facts and opinions presented to the Planning and Zoning Board through hearings. (2.4.6.)*

This Development Review Report represents the Department’s written findings of facts, conclusions and recommendations.

- 2. **Procedure.** The LDR Article IV., Part 2.0., Section 2.9 addresses the procedure for zoning regulation amendments. It requires the Board to make a recommendation to the City Commission at a duly noticed public hearing on changes to zoning regulations and for the Board to forward its recommendation to the City Commission. The Department has interpreted this provision to apply to LDR amendments consistent with state law.
- 3. **Public notice.** The LDR Article IV., Part 2.0., Section 2.10 addresses public notice. Subsection 2.10.1 requires a change in zoning be published in a newspaper of general circulation in Broward County at least 10 days prior to the date of hearing. Notice of the proposed Ordinance changing the LDR was advertised in the Sun-Sentinel, a newspaper of general circulation within the County. Proof of publication is provided with the agenda package and is included herein by reference.

#### IV. **ATTACHMENTS**

Exhibit A – Ordinance 130-05-119

#### V. **FINDINGS AND CONCLUSIONS**

Based upon the information contained in this Development Review Report, the following findings of fact and conclusions of law are offered:

- A. The Department finds the proposed Ordinance is in Compliance with the Goals, Objectives, and Policies of the Futures Land Uses Element of the Comprehensive Plan as it provides for clear land development regulation.
- B. The Department concludes the proposed Ordinance amending the LDR is in conformance with the standards and requirements specified in Land Development Regulations Article IV., Section 2.4., Basis for Recommendations.
- C. The Department finds the proposed Ordinance amending the LDR have been duly noticed and concludes it is in conformance with the public notice requirements.

#### VI. **ALTERNATIVE ACTIONS**

The Board has one of the following alternative actions at its disposal:

- A. Enter into the record the Development Review Report and all other substantial competent evidence presented at the hearing, adopt the findings and conclusions contained herein, and forward the record to the City Commission with a recommendation that the proposed Ordinance be adopted.
- B. Enter into the record the Development Review Report and all other substantial competent evidence presented at the hearing, amend the findings and conclusions contained herein to support the Board's recommendation, and forward the record to the City Commission with a recommendation that the proposed Ordinance be denied.
- C. Enter into the record the Development Review Report and all other substantial competent evidence presented at the hearing, amend the findings and conclusions contained herein to support any necessary conditions, and forward the record to the City Commission with a recommendation that the proposed Ordinance be adopted with conditions.
- D. Enter into the record the Development Review Report and all other substantial competent evidence presented at the hearing and table the proposed Ordinance until the specified information is provided.

**VII. RECOMMENDED ACTION**

- A. Department recommendation. The Department recommends the Board enter into the record the Development Review Report and all other substantial competent evidence presented at the hearing, adopt the findings and conclusions contained herein, and forward the record to the City Commission with a recommendation that the proposed Ordinance amending the LDR be adopted.
- B. Board recommendation. The proposed Ordinance is scheduled for January 30, 2024, Planning and Zoning Board regular meeting.
- C. City Commission action. First reading of the proposed Ordinance is tentatively scheduled for February 26, 2024 and second reading and adoption on March 11, 2024.

**ORDINANCE NO. 130-05-119**

**AN ORDINANCE OF THE CITY COMMISSION OF LAUDERHILL, FLORIDA AMENDING THE LAND DEVELOPMENT REGULATIONS AND PERTAINING TO FINANCIAL INSTITUTIONS AND CHECK CASHING/PAY DAY LOAN STORES; AMENDING SCHEDULE A, LAND USE CLASSIFICATIONS BY ADDING A LAND USE CLASSIFICATION AND DEFINITION FOR FINANCIAL INSTITUTION AND CHECK CASHING/PAY DAY LOAN STORE; AMENDING SCHEDULE B., ALLOWABLE USES BY ALLOWING WITHIN THE GENERAL COMMERCIAL AND COMMUNITY COMMERCIAL ZONING DISTRICTS CHECK CASHING/PAY DAY LOAN STORE AS A LEGAL, NON-CONFORMING USE; AMENDING ARTICLE III, PART 5.0.,SECTION 5.12 BY ADDING SPECIAL REGULATIONS FOR CHECK CASHING/PAY DAY LOAN STORES; PROVIDING FOR FINDINGS AND CONCLUSIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE (REQUESTED BY CITY MANAGER CHARLES FARANDA)**

WHEREAS, the City Commission has adopted a Comprehensive Plan as is required by the Local Government Comprehensive Planning and Land Development Regulation Act (Act), which Comprehensive Plan was subsequently determined to be in-compliance with said Act; and

WHEREAS, Section 163.3202, Florida Statutes, requires each municipality to adopt or amend and enforce land development regulations that are consistent with and implement their adopted comprehensive plan; and

WHEREAS, on June 11<sup>th</sup>, 1990, the City Commission implement its adopted Comprehensive Plan as is required by Section 163.3202, Florida Statutes, by adopting the City of Lauderhill Land Development Regulations (LDR); and

WHEREAS, Paragraph 163.3202(2)(b), Florida Statutes, requires the land development regulations contain specific and detailed provisions necessary to regulate the use of land and water for those land use categories included in the land use element and ensure the compatibility of adjacent uses and provide for open spaces; and



WHEREAS, the Land Development Regulations (LDR) Schedule B., Allowable Uses, Section 2., Uses Permitted in Non-residential districts, allows financial institutions as a permitted use in the Neighborhood Commercial (CN), General Commercial (CG), Community Commercial (CC) and Commercial Office (CO) zoning districts; and

WHEREAS, the LDR Article III., Zoning Districts, Part 5.0., Special Regulations for Specific Land Use Classifications, Section 3.2., Commercial zoning districts, Subsection 3.5., Commercial Entertainment (CE) zoning district, Paragraph B., Permitted principal uses and structures, allow financial institutions, such as automated teller machines, banks, check cashing, credit union, currency exchange, money transfer and savings and loans but excluding drive-through facilities; and

WHEREAS, other than the example listing of financial institutions in LDR Article III, Part 5.0., Subsection 3.5.2., Paragraph B, the LDR does not provide a definition for financial institutions; and

WHEREAS, the Center for Responsible Lending reported that on average, in America borrowers renew their loan eight (8) times before they are able to pay the loan in full and end up paying \$800.00 on an original \$325.00 loan; and

WHEREAS, mapping of payday lending locations by neighborhood characteristics and studies of payday lending use issued by regulators and academics document that these high cost loans disproportionately harm minority families and low to moderate-income borrowers; and

WHEREAS, the City of Lauderhill has a high proportion of minority and low to moderate-income families that may be disproportionately harmed by such uses; and

WHEREAS, payday lending presents a classic example of an industry that creates a financial drain on the local economy by exporting the capital generated from the fees outside of the local economy, thereby reducing the capital that could be available for circulation within the local economy; and

WHEREAS, the City's economy may be characterized as having a high proportion of small and minority businesses that need the circulation of local capital in order to prosper and the drain of financial resources from the local economy may be detrimental to the City's small and minority businesses; and

WHEREAS, on January 28<sup>th</sup>, 2013, the City Commission adopted Ordinance No. 130-01-102, which established a 120 moratorium on financial institutions engaged as "deferred presentment providers," "money services businesses," "check cashing stores", "petty loans", and "payday lending"; and

WHEREAS, at their duly noticed meeting and public hearing of May 7<sup>th</sup>, 2013, the City's Planning and Zoning Board, sitting as the Local Planning Agency (LPA), entered the Development Review Report on the proposed Ordinance into the record, adopted the findings and conclusions supporting the Ordinance's adoption, and recommended the City Commission adopt the Ordinance and incorporate it into the Land Development Regulations; and

WHEREAS, at their duly noticed meeting and public hearing of May 13<sup>th</sup>, 2013, the City Commission considered the record, adopted findings and conclusions, and approved the proposed Ordinance on first reading; and

WHEREAS, at their duly noticed meeting and public hearing of June 10<sup>th</sup>, 2013, the City Commission on second reading adopted the Ordinance incorporating revisions to the Land Development Regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAUDERHILL, FLORIDA:

**SECTION 1. Land use classification amended.** The Land Development Regulations Schedule A., Land Use Classifications, is amended as set forth below.

CHECK CASHING/PAY DAY LOAN STORE: A commercial use engaged in the primary and principal business of and providing facilities for cashing checks, drafts, money orders and all other evidence of money for a fee, service charge or other consideration or in

providing for short-term loans (less than 45 days) to individuals in exchange for personal checks as collateral.

FINANCIAL INSTITUTION: A commercial use engaged in the primary and principal business of and providing facilities for financial and banking services to consumers or clients. Financial institutions include a state or federally chartered banks, savings and loan associations, saving banks, credit unions, lending companies, investment companies or industrial loan company and automatic teller machines. It does not include a check cashing/pay day loan store as defined herein or deferred presentment providers, money services businesses, and payday lending as defined in the Florida Statutes.

SECTION 2. **Schedule B.** The Land Development Regulations Schedule B., Allowable Uses, Section 2, Uses Allowed in Nonresidential Districts, is amended as set forth below.

SECTION 3. **Section 5.11 amended.** The Land Development Regulations

**Sec. 5.11. Reserved Check cashing/pay day loan store.**

5.11.1. Principal use. A check cashing/pay day loan store shall be a prohibited use; however, any check cashing/pay day loan stores with an existing Certificate of Use or any proposed check cashing/pay day loan store that has filed a Certificate of Use application before January 28<sup>th</sup>, 2013 shall be considered a legal, non-conforming use.

5.11.2. Accessory use. Any business operating check cashing/pay day loan serves shall be required to file a new Certificate of Use application and fee in order to continue operating said use after September 30<sup>th</sup>, 2013 and shall pay, if any, the applicable local business tax for said use.

**SECTION 4. Findings and Conclusions.** The Whereas clauses herein and the Development Review Report prepared by City staff is attached hereto, incorporated herein, and is hereby adopted as the

findings of fact and conclusions of law to support the Ordinance amending the Land Development Regulations.

**SECTION 5. Conflict.** All ordinances or parts of ordinances, all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed as to the extent of such conflict.

**SECTION 6. Codification.** The provisions of this Ordinance shall become and be made a part of the City of Lauderdale, Florida Land Development Regulations; sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; and the word "ordinance" may be changed to "article," "part," "section," or other appropriate word.

**SECTION 7. Effective Date.** This Ordinance shall take effect upon adoption.


DATED this 10th day of June, 2013.

PASSED on first reading this 13th day of May, 2013.

PASSED AND ADOPTED on second reading this 10th day of June, 2013.

  
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PRESIDING OFFICER

ATTEST:

  
\_\_\_\_\_  
CITY CLERK

	FIRST READING	SECOND READING
MOTION	Benson	Benson
SECOND	Thurston	Thurston
M. BATES	Absent	Absent
H. BENSON	Yes	Yes
H. BERGER	Yes	Yes
K. THURSTON	Yes	Yes
R. KAPLAN	Yes	Yes