

ORDINANCE NO. 2920

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL MONTE REPEALING THE EXISTING ZONING MORATORIUM APPLICABLE TO ALTERNATIVE FINANCIAL SERVICE ESTABLISHMENTS AND AMENDING TITLE 17 (ZONING) TO ESTABLISH REASONABLE ZONING REQUIREMENTS CONCERNING SUCH ALTERNATIVE FINANCIAL SERVICE ESTABLISHMENTS (CODE AMENDMENT NO. 748)

WHEREAS, pursuant to California Constitution Article XI, Section 7, the City of El Monte (the "City") has the authority to enact local planning and land use regulations to protect the public health, safety, and welfare of their residents through its police power; and

WHEREAS, the authority to adopt and enforce zoning regulations is an exercise of the City's police power to protect the public health, safety, and welfare; and

WHEREAS, the California Deferred Deposit Transaction Law regulates "deferred deposit transactions," defined as transactions "whereby a person defers depositing a customer's personal check until a specific date, pursuant to a written agreement for a fee or other charge . . ." (Fin. Code, § 23001.) Such transactions are commonly referred to as "payday" lending because the terms typically provide for the lender to cash the check, which includes interest and fees, on the customer's next payday; and

WHEREAS, the challenges faced by low-income consumers have resulted in a two-tiered system of financial services where banks are used by some consumers for checking, loans, and other services at certain prices and others, who do not use banks due to financial challenges, become targets by alternative financial service establishments that charge comparatively higher rates and fees for such the same services; and

WHEREAS, communities throughout the state and country have experienced detrimental effects of alternative financial service establishments, including drawing low-income elderly persons, the economically disadvantaged, and others into cycles of debt and related potential secondary adverse side effects; and

WHEREAS, the City seeks to promote orderly growth and balance in the development of alternative financial service establishments with respect to economics, aesthetics, and compatibility with other uses, through the development of codified zoning standards; and

WHEREAS, the City Council of the City of El Monte (the "City Council"), on October 6, 2015, adopted a 45-day moratorium, under Interim Urgency Ordinance No. 2868, on the establishment or expansion of any alternative financial service establishments; and

WHEREAS, on November 4, 2015, the City Council adopted Interim Urgency Ordinance No. 2869, to extend such moratorium for an additional ten (10) months and fifteen (15) days, commencing November 19, 2015 pursuant to Government Code Section 65858; and

WHEREAS, the City Council adopted Interim Urgency Ordinance No. 2897 on September 20, 2016 extending such moratorium for an additional duration of one year, commencing October 3, 2016 and concluding October 2, 2017, pursuant to Government Code Section 65858; and

WHEREAS, the Planning Commission held a duly noticed public hearing on this Ordinance on June 13, 2017 at which time it recommended that the City Council adopt this Ordinance (Code Amendment), as memorialized in Planning Commission Resolution No. 3477; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL MONTE, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The recitals above are true and correct and incorporated herein by reference.

SECTION 2. City Council Interim Urgency Ordinances Nos. 2868, 2869, 2897 are hereby repealed in their entirety.

SECTION 3. Section 17.04.020 (Definitions) of Chapter 17.04 (Definitions) of Title 17 (Zoning) of the El Monte Municipal Code is amended by the addition of the following definition:

“Alternative financial service establishments” mean establishments that offer financial services outside traditional federally insured financial institutions, including, but not limited to check cashing outlets, payday lenders, pawnbrokers, and vehicle title lenders.

SECTION 4. Section 17.14.090 (Amortization and Discontinuance of Legal Nonconforming Massage Establishments) of Chapter 17.14 (Nonconforming Provisions) of Title 17 (Zoning) of the El Monte Municipal Code is renamed as follows:

Section 17.14.090 – Amortization and Discontinuance of Legal Nonconforming Massage Establishments and Alternative Financial Service Establishments.

SECTION 5. Section 17.14.090 (Amortization and Discontinuance of Legal Nonconforming Massage Establishments and Alternative Financial Service Establishments) of Chapter 17.14 (Nonconforming Provisions) of Title 17 (Zoning) of the El Monte Municipal Code is amended in its entirety to read as follows:

Section 17.14.090 – Amortization and Discontinuance of Legal Nonconforming Massage Establishments and Alternative Financial Service Establishments.

- A. All massage establishments which have a valid Massage Establishment Certificate under Chapter 5.56 (Massage Establishments and Massage Practitioners/Therapists) of this Code prior to May 5, 2016 and are located within the C-3 (General Commercial) and C-4 (Heavy Commercial) zone shall obtain a conditional use permit no later than May 5, 2019. Any such massage establishment that does not timely obtain a conditional use permit by May 5, 2019 must cease all operations as of May 6, 2019 and remove all signs, advertising and displays relating to such business within thirty (30) days thereafter.
- B. No massage establishment may operate in zones other than C-3 and C-4, in accordance with the provision of Subsection A of this Section 17.04.090 as of May 5, 2021 and must remove all signs, advertising and displays relating to such business within thirty (30) days thereafter.
- C. All alternative financial service establishments validly operating the City as of August 31, 2017 that possess all requisite permits and in compliance with applicable laws and regulations, which are located within the C-3 (General Commercial) and C-4 (Heavy Commercial) zone shall obtain a conditional use permit no later than August 31, 2021, in accordance with Chapter 17.24 of this code. Any such massage establishment that does not timely obtain a conditional use permit by August 31, 2021 must cease all operations as of September 1, 2021 and remove all signs, advertising and displays relating to such business within thirty (30) days thereafter.
- D. No alternative financial service establishment may operate in zones other than C-3 and C-4, in accordance with the provision of Subsection C of this

Section 17.04.090 as of August 31, 2024 and must remove all signs, advertising and displays relating to such business within thirty (30) days thereafter.

- E. A legal nonconforming massage establishment use or alternative financial service establishment use shall terminate in accordance with the discontinuance provisions of Section 17.14.050 (Nonconforming Uses) and be subject to the provisions of Chapter 17.14 (Nonconforming Provisions) of this Code.

SECTION 6. Section 17.14.100 (Extension of Massage Establishment Amortization Period) of Chapter 17.14 (Nonconforming Provisions) of Title 17 (Zoning) of the El Monte Municipal Code is renamed as follows:

Section 17.14.100 – Extension of Massage Establishment and Alternative Financial Service Establishment Amortization Periods.

SECTION 7. Subdivision B of Section 17.14.100 (Extension of Massage Establishment and Alternative Financial Service Establishment Amortization Periods) of Chapter 17.14 (Nonconforming Provisions) of Title 17 (Zoning) of the El Monte Municipal Code amended to read as follows:

- B. The owner of the property on which the massage establishment or alternative financial service establishment is located, or the owner of the massage establishment or alternative financial service establishment, must submit a complete application for approval of an extension not later than six (6) months prior to the expiration of the amortization period, unless the Economic Developer determines that good cause is shown for late filing of the application. Such application shall be made in writing on a form prescribed by the Economic Development Director and shall be accompanied by the filing fee established by resolution of the City Council. The person requesting the extension of the amortization period shall bear the burden of proof in establishing that the amortization period established by Section 17.14.090 is unreasonable, and that the requested extension is a reasonable amortization period under the criteria set forth in Subsection G of this Section 17.14.100. The person applying for the extension shall furthermore be required, in order to meet its burden of proof, to submit the documentation set forth in this Section.

SECTION 8. Subdivision H of Section 17.14.100 (Extension of Massage Establishment and Alternative Financial Service Establishment Amortization Periods) of Chapter 17.14 (Nonconforming Provisions) of Title 17 (Zoning) of the El Monte Municipal Code amended to read as follows:

- C. The Planning Commission, or the City Council on appeal, shall receive and consider evidence presented by the appellant and any other persons, and shall make findings that the extension to the amortization period it establishes is reasonable in view of the evidence and the criteria set forth in Subsection G. In no event shall the amortization period extension be longer than three (3) years for massage establishments (or by May 5, 2024) or two (2) years for alternative financial service establishments (or by August 31, 2026). The decision of the Planning Commission shall be final and conclusive, unless a timely and complete appeal is filed with the City Clerk pursuant to Subsection E of this Section. The decision of the City Council on appeal shall be final and conclusive, unless timely judicial review is sought pursuant to Code of Civil Procedures Section 1094.6. In the event a timely action or proceeding is brought pursuant to Code of Civil Procedures Section 1094.6 from the decision to deny the requested extension, in whole or in part, the decision shall be automatically stayed pending a final decision on the merits by the trial court. As used in this Subsection, final decision on the merits does not include rehearing or appellate procedures.

SECTION 9. Section 17.24.040 (Conditionally Permitted Uses in Specified Zones) of Chapter 17.24 (Conditional Use Permits) of Title 17 (Zoning) of the El Monte Municipal Code is hereby amended by the addition of Subsection 64, which shall read as follows:

Section 17.24.040 – Conditionally permitted uses in specified zones.

4. Alternative financial service establishment in C-3 or C-4 zones, so long as no new alternative financial service establishment is within 1,000 feet of another existing alternative financial service establishment. All alternative financial service establishments validly operating the City as of August 31, 2017 that possess all requisite permits and in compliance with applicable laws and regulations, which are located within the C-3 or C-4 zones shall obtain a conditional use permit no later than August 31, 2021, in accordance with Chapter 17.24 of this code. Any such establishment that does not timely obtain a conditional use permit by August 31, 2021 must cease all operations as of September 1, 2021 and remove all signs, advertising and displays relating to such business within thirty (30) days thereafter.

SECTION 10. Inconsistent Provisions. Any provision of the El Monte Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to the extent necessary to implement the provisions of this Ordinance.

SECTION 11. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase would be subsequently declared invalid or unconstitutional.

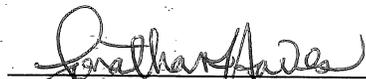
SECTION 12. Publication and Effective Date. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in a newspaper of general circulation within fifteen (15) days after its adoption. This Ordinance shall become effective thirty (30) days after adoption.

PASSED, APPROVED AND ADOPTED by the City Council of the City of El Monte at the regular meeting of this 1st day of August, 2017.



Andre Quintero, Mayor
City of El Monte

ATTEST:



Jonathan Hawes, City Clerk
City of El Monte

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF EL MONTE)

I, Jonathan Hawes, City Clerk of the City of El Monte, hereby certify that the foregoing Ordinance No. 2920 was introduced for a first reading on the 1st day of August, 2017 and approved for a second reading and adopted by said Council at its regular meeting held on the 15th day of August, 2017 by the following vote, to-wit:

AYES: Mayor Quintero, Mayor Pro Tem Velasco, Councilmembers Gomez and Martinez

NOES: None

ABSTAIN: None

ABSENT: Councilmember Macias



Jonathan Hawes, City Clerk
City of El Monte