

ORDINANCE 15-12

**AN ORDINANCE TO AMEND ORDINANCE 86-47, THE SAME BEING
THE ZONING ORDINANCE OF THE CITY OF SPRING HILL, TENNESSEE
BY AMENDING ARTICLES III (DEFINITIONS) AND VII (PROVISIONS GOVERNING
BUSINESS DISTRICTS) PERTAINING TO ALTERNATIVE FINANCIAL INSTITUTIONS**

BE IT ORDAINED BY THE CITY OF SPRING HILL:

WHEREAS, the Board of Mayor and Aldermen for the City of Spring Hill may, pursuant to its charter and the general laws of the State of Tennessee, have right to enact an amend the Spring Hill Zoning Ordinance 86-47. Said amendments being within the adopted Comprehensive Plan purpose of promoting the public health, safety, morals, convenience, order, prosperity, and general welfare of the community; and

WHEREAS, the Spring Hill Municipal Planning Commission has created a precedent of guiding such land uses to areas of less impact creating a better harmony of land uses for the community ; and

WHEREAS, the Spring Hill Municipal Planning Commission has recommended to the Board of Mayor and Aldermen on the 11th day of May, 2015 to amend Zoning Ordinance 86-47 of the City of Spring Hill, as hereafter described;

BE IT ORDAINED BY THE CITY OF SPRING HILL, TENNESSEE BOARD OF MAYOR AND ALDERMEN:

Section 1. That Article III (Definitions) inserts the definition for Alternative Financial Services as attached hereto.

Section 2. That Article VII (Provisions Governing Business Districts) is amended as attached hereto.

BE IT FURTHER ENACTED, that all ordinances or parts of ordinances in conflict herewith, be and same hereby, are repealed or modified as the case may be.

BE IT FURTHER ENACTED, that this Ordinance shall take effect from and after its adoption the public welfare requiring it.

Passed and adopted by the Board of Mayor and Aldermen of the City of Spring Hill,
Tennessee on the __ day of __, 2015.



Rick Graham, Mayor

ATTEST:



April Goad, City Recorder

LEGAL FORM APPROVED:



Patrick Carter, City Attorney

ARTICLE III
DEFINITIONS (Chg by Ord 15-09)

Alternative Financial Services – Any non-chartered financial institution offering checking cashing services, currency exchange, payday loans, car title loans, and/or similar services as its primary function.

ARTICLE VII
PROVISIONS GOVERNING BUSINESS DISTRICTS
(As Amended by Ordinance 15-09)

Section 3. (B-3) Intermediate Business District.

Intent. This district is designed primarily to provide sufficient space primarily along arterial and collector streets for establishment and uses engaged in wholesale and retail trade, offering a wide variety of products and services.

3.1 Uses Permitted.

- 3.1(1) Automobile sales and service, bank, barbershop or beauty parlor, bus terminals, churches, clinics, dry cleaning and laundry establishments, filling stations, funeral homes, hotels, movie theaters, legitimate theaters, manufacture of articles to be sold at retail on the premises (provided such manufacturing is incidental to the retail business and employs not more than five (5) operators), motels, offices, outdoor advertising signs and outdoor advertising structures, parking lots, parking garages, places of amusement, printing and engraving establishments, public buildings, public and private clubs, retail businesses, used car lots, wholesale businesses, microbrewery, microdistillery, day care centers, restaurants, retirement and assisted living facilities, and full medical care nursing homes.
- 3.1(2) Brewpubs (at least 25% of gross building square footage is encompassed as restaurant space and/or tasting room).
- 3.1(3) Accessory structures.
- 3.1(4) Alternative financial services, subject to the requirements listed in Section 3.7 (Use Conditions).

3.2 Uses Permitted on Appeal.

- 3.2(1) Warehouses.
- 3.2(2) Any use complying with the intent of the district not listed in Section 3.1.
- 3.2(3) Establishments that sell or serve intoxicating beverages other than those listed in Section 3.1.
- 3.2(4) Drive-in/drive-thru businesses, not to include financial institutions or pharmacies.
- 3.2(5) Off-site parking lots

3.3 Uses Prohibited.

Uses not specifically permitted.

3.4 Lot Area, Lot Width, Yards and Building Area.

- 3.4(1) No minimum lot area is required, however, off-street parking and loading/unloading requirements shall be observed.
- 3.4(2) Lot Width.
The minimum lot width at the building shall be twenty (20) feet.
- 3.4(3) Yards.
The minimum front yard shall be thirty (30) feet.
No minimum side yard unless the lot is adjacent to a residential district, at which time a ten (10) foot minimum buffer yard.
Rear yards shall be a minimum of twenty-five (25) feet for one story buildings and five (5) feet for each additional story.
A minimum Buffer Yard of twenty-five (25) feet shall be required
(Changed by Ord. 07-30.)

3.5 Height.

Buildings hereafter constructed shall not exceed fifty (50) feet in height.

3.6 Location of Accessory Structures.

- 3.6(1) With the exception of signs, accessory structures shall not be erected in any required front or side yards.
- 3.6(2) Accessory structures shall be located at least ten (10) feet from rear lot lines and five (5) feet from any building on the same lot.

3.7 Use Conditions

- 3.7(1) Alternative financial institutions offering alternative financial services as the primary function shall be limited to one (1) location within a one (1) mile radius. The radial distance of one alternative financial institution shall not be permitted to intersect with the radial distance of another alternative financial institution.

Section 4. (B-4) Central Business District

Intent. To recognize the area of best overall accessibility to all portions of the community, so as to accommodate the widest range of comparison goods stores, specialty shops, business and personal services, or other commercial activities compatible in close grouping and thus suited to shopping by pedestrians.

4.1 Uses Permitted.

- 4.1(1) “Uses Permitted” in B-1, B-2, and B-3 Districts.
- 4.1(2) Places of amusement and assembly, hotels, public garages or other motor vehicle services. Mini-warehouse storage units limited to indoor storage only.
- 4.1(3) Any retail or wholesale business or service.
- 4.1(4) The making of articles to be sold at retail on the premises, provided, however, that any manufacturing shall be restricted to light manufacturing incidental to a retail business or service where the products are sold principally on the premises by the producer to the consumer and where not more than five (5) operatives are employed in such manufacture.
- 4.1(5) Any accessory use or building customarily incidental to the above permitted uses.
- 4.1(6) Apartments, in accordance with Article VII, Subsection 2.1(1).
- 4.1(7) Restaurants.
- 4.1(8) Establishments that sell or serve intoxicating beverages
- 4.1(9) Movie Theaters
- 4.1(10) Drive-in/drive-thru businesses

4.2 Uses Permitted on Appeal.

Any other use, except uses allowed in industrial districts.

4.3 Uses Prohibited.

- 4.3(1) Any use which in the opinion of the Board of Zoning Appeals, would be injurious because of offensive fumes, odors, just or objectionable features hazardous to the community on account of fire, explosion, health or aesthetics even when conducted under adequate safeguards.
- 4.3(2) Alternative financial services

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(Changed by Ord. 07-30.)

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Buildings hereafter constructed shall not exceed seventy (70) feet in height. Buildings that exceed fifty (50) feet in height must do so with the approval of the Planning Commission and follow public notification as prescribed in Article 19 of this Ordinance.

4.6 Location of Accessory Structures.

No restriction

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3.7 Use Conditions

3.7(1) Alternative financial institutions offering alternative financial services as the primary function shall be limited to one (1) location within a one (1) mile radius, measured from all exterior walls of the structure containing the alternative financial service. The radial distance of one alternative financial institution shall not be permitted to intersect with the radial distance of another alternative financial institution.

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- 4.1(3) Any retail or wholesale business or service.
- 4.1(4) The making of articles to be sold at retail on the premises, provided, however, that any manufacturing shall be restricted to light manufacturing incidental to a retail business or service where the products are sold principally on the premises by the producer to the consumer and where not more than five (5) operatives are employed in such manufacture.
- 4.1(5) Any accessory use or building customarily incidental to the above permitted uses.
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Any other use, except uses allowed in industrial districts.

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4.3(2) Alternative financial services

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A minimum Buffer Yard of twenty-five (25) feet shall be required
(Changed by Ord. 07-30.)

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Buildings hereafter constructed shall not exceed seventy (70) feet in height. Buildings that exceed fifty (50) feet in height must do so with the approval of the Planning Commission and follow public notification as prescribed in Article 19 of this Ordinance.

4.6 Location of Accessory Structures.

No restriction

SUBJECT: Ordinance 15-12 (Alternative Financial Services)

DATE: May 14, 2015

ATTENTION: Board of Mayor & Aldermen

DEPARTMENT HEAD: Dara Sanders, City Planner



STAFF MEMORANDUM

Background

In response to concerns expressed by neighborhood residents that the proliferation of alternative financial services (payday loans, check cashing, etc.) may negatively affect property values and increase the rate of crime, the Chattanooga-Hamilton County Regional Planning Agency conducted and published a 2006 analysis (made available to the Planning Commissioners in Dropbox) of the impact of said services on surrounding property values and crime rates, as well as methods used by other municipalities to control the locations of these services. The analysis found evidence that the concentration of alternative financial services in certain areas may have a negative impact on the appreciation of residential property values.

Responding to similar concerns, the Cities of Nashville and Smyrna have recently adopted controls for alternative financial institutions, which include a separation requirement of 1,320 linear feet (0.25 mile) between these businesses and between these businesses and a property zoned for single-family or multi-family purposes. The City of Nashville further adopted a gross floor area limitation of 2,500 square feet for alternative financial services.

The City of Spring Hill currently has three alternative financial businesses, all located on or near Main Street. Staff was asked to review these ordinances and evaluate similar controls in Spring Hill. Approaching the project with the understanding that the analysis found evidence that the concentration of these services may have a negative impact on the appreciation of property values, staff's goal was to find a solution that would allow for the businesses to operate but not cluster in a manner that would create a "concentration" in one or more locations within the City.

The B-3 district is distributed throughout the city limits, with the highest concentration located around the Saturn Parkway/I-65 interchange (as indicated in the attached exhibit). Limiting these services to the B-3 zoning district would work toward preventing a concentration in one or more areas. Working within the existing locations of the B-3 district on the City's current zoning map, staff evaluated the impacts of a radius around existing services and around potential services, and recommends a one-mile radius of separation.

Recommendation

Based on the findings included in in this packet, staff recommends approval of the proposal to limit alternative financial services to the B-3 zoning district, subject to further separation requirements. A summary of these amendments is included in the chart below, with the changes since the work session identified in red text:

Code Section	Proposed Amendment	Purpose
Article III (Definitions)	Add "alternative financial services"	Language is necessary to separate this type of service from traditional financial services provided by banks.

City of Spring Hill, Tenn.

	Include "Flex Loans" in the definition	To incorporate recently adopted State legislation (attached to this report)
Article VII (Business Districts)	Add "alternative financial services" as a permitted use in the B-3 zoning district, subject to use conditions	To allow for alternative financial institutions by-right.
	Add separation requirements between alternative financial services	Adding separation requirements will preclude concentration of services in the B-3 district.
	Define the measurement of separation	To ensure consistency of administration
	Prohibit alternative finance services in the B-4 zoning district	Permitted uses in the B-3 district are also permitted in the B-4 district, unless otherwise stated. Prohibiting alternative financial services in the B-4 will preclude concentration of these services, as discussed in this report.
	Include a note under uses permitted in B-4 regarding the prohibition of alternative financial services	To ensure awareness of the prohibition of this use.

Spring Hill Planning Commission Regular Meeting



TO: Spring Hill Planning Commission
FROM: Dara Sanders, City Planner
MEETING: May 11, 2015
SUBJECT: ADM 15-546 (Alternative Financial Institutions)

ADM 15-546: Submitted by Planning Staff and Mayor Graham. The proposal is to amend various sections of the Zoning Ordinance related to the regulation of alternative financial institutions.

Project description: In response to concerns expressed by neighborhood residents that the proliferation of alternative financial services (payday loans, check cashing, etc.) may negatively affect property values and increase the rate of crime, the Chattanooga-Hamilton County Regional Planning Agency conducted and published a 2006 analysis (made available to the Planning Commissioners in Dropbox) of the impact of said services on surrounding property values and crime rates, as well as methods used by other municipalities to control the locations of these services. The analysis found evidence that the concentration of alternative financial services in certain areas may have a negative impact on the appreciation of residential property values.

Responding to similar concerns, the Cities of Nashville and Smyrna have recently adopted controls for alternative financial institutions, which include a separation requirement of 1,320 linear feet (0.25 mile) between these businesses and between these businesses and a property zoned for single-family or multi-family purposes. The City of Nashville further adopted a gross floor area limitation of 2,500 square feet for alternative financial services.

The City of Spring Hill currently has three alternative financial businesses, all located on or near Main Street. Staff was asked to review these ordinances and evaluate similar controls in Spring Hill. Approaching the project with the understanding that the analysis found evidence that the concentration of these services may have a negative impact on the appreciation of property values, staff's goal was to find a solution that would allow for the businesses to operate but not cluster in a manner that would create a "concentration" in one or more locations within the City.

Nashville and Smyrna are significantly different from Spring Hill, as these cities already have an abundance of concentrated areas with alternative financial services and do not have the large tracts of undeveloped property in prime locations. Therefore, a similar approach of separation requirements could be appropriate but the controls must be tailored specific to Spring Hill.

The City's zoning map has a clear concentration of the B-4 zoning district along Main Street (Highway 31), Saturn Parkway, Port Royal Road, and Miles Johnson Parkway/Kedron Road between Saturn Parkway and Duplex Road. Limiting alternative financial services to the B-4 zoning district would result in a concentration in these areas, which is counterproductive to the intent of the project. Staff then evaluated the possibility of the B-3 zoning district.

The B-3 district is distributed throughout the city limits, with the highest concentration located around the Saturn Parkway/I-65 interchange (as indicated in the attached exhibit). Limiting these services to the B-3 zoning district would work toward preventing a concentration in one or more areas. Working within the existing locations of the B-3 district on the City's current zoning map, staff evaluated the impacts of a radius around existing services and around potential services. As shown in the attached exhibits, staff mapped a 0.25-mile radius (similar to the separation requirements for Nashville and Smyrna), a 0.5-mile radius, a 1-mile radius, and a 1.5-mile radius, with the assumption that no other alternative financial institution could operate within the radius of another and that the radii could not overlap.

The 0.25-mile radius resulted in the possibility for 12 additional locations within the current zoning map of the city limits and a clear concentration of services around the Saturn Parkway/I-65 interchange and the town center, which is counterproductive to the intent of the project. Staff also evaluated the impact of rezoning large, undeveloped tracts of

land in the northeastern and southern areas of the City to B-3, which could allow for a similar number of additional locations and further concentration of services in these areas.

The 0.5-mile radius resulted in the possibility for seven additional locations within the current zoning map of the city limits and a diminished concentration of services around the Saturn Parkway/I-65 interchange and the town center, which remains counterproductive to the intent of the project. Staff also evaluated the impact of rezoning large, undeveloped tracts of land in the northeastern and southern areas of the City to B-3, which could allow for a similar number of additional locations and further concentration of services in these areas.

The 1-mile radius resulted in the possibility for three additional locations based on the current zoning map of the city limits and precluded a concentration of services. Staff also evaluated the impact of rezoning large, undeveloped tracts of land in the northeastern and southern areas of the City to B-3, which could allow for approximately two additional locations and would preclude concentration of services in these areas. Staff’s preference is the 1-mile radius, as it allows for additional services within the city limits but results in an even distribution of these services, which was the goal of this proposal.

The 1.5-mile radius resulted in the possibility for one additional location base on the current zoning map of the city limits and precluded a concentration of services. Staff also evaluated the impact of rezoning large, undeveloped tracts of land in the northeastern and southern areas of the City to B-3, which could allow for only one additional location in the southern region of the city limits.

Proposal: Based on the findings of these exercises, staff has included a proposal to amend Articles III (Definitions) and VII (Provisions Governing Business Districts).

April 27th Work Session: Staff has incorporated three changes to the proposal based on discussion during the work session and with an industry representative. A summary of these amendments is included in the chart below, with the changes since the work session identified in red text:

Code Section	Proposed Amendment	Purpose
Article III (Definitions)	Add “alternative financial services”	Language is necessary to separate this type of service from traditional financial services provided by banks.
	Include “Flex Loans” in the definition	To incorporate recently adopted State legislation (attached to this report)
Article VII (Business Districts)	Add “alternative financial services” as a permitted use in the B-3 zoning district, subject to use conditions	To allow for alternative financial institutions by-right.
	Add separation requirements between alternative financial services	Adding separation requirements will preclude concentration of services in the B-3 district.
	Define the measurement of separation	To ensure consistency of administration
	Prohibit alternative finance services in the B-4 zoning district	Permitted uses in the B-3 district are also permitted in the B-4 district, unless otherwise stated. Prohibiting alternative financial services in the B-4 will preclude concentration of these services, as discussed in this report.
	Include a note under uses permitted in B-4 regarding the prohibition of alternative financial services	To ensure awareness of the prohibition of this use.

Recommendation: Staff recommends forwarding ADM 15-546 to the Board of Mayor and Aldermen with a recommendation for approval.

ARTICLE III
DEFINITIONS (Chg by Ord 15-09)

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- 3.1(2) Brewpubs (at least 25% of gross building square footage is encompassed as restaurant space and/or tasting room).
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- 3.2(1) Warehouses.
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- 3.2(5) Off-site parking lots

3.3 Uses Prohibited.

Uses not specifically permitted.

3.4 Lot Area, Lot Width, Yards and Building Area.

3.4(1) No minimum lot area is required, however, off-street parking and loading/unloading requirements shall be observed.

3.4(2) Lot Width.

The minimum lot width at the building shall be twenty (20) feet.

3.4(3) Yards.

The minimum front yard shall be thirty (30) feet.

No minimum side yard unless the lot is adjacent to a residential district, at which time a ten (10) foot minimum buffer yard.

Rear yards shall be a minimum of twenty-five (25) feet for one story buildings and five (5) feet for each additional story.

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(Changed by Ord. 07-30.)

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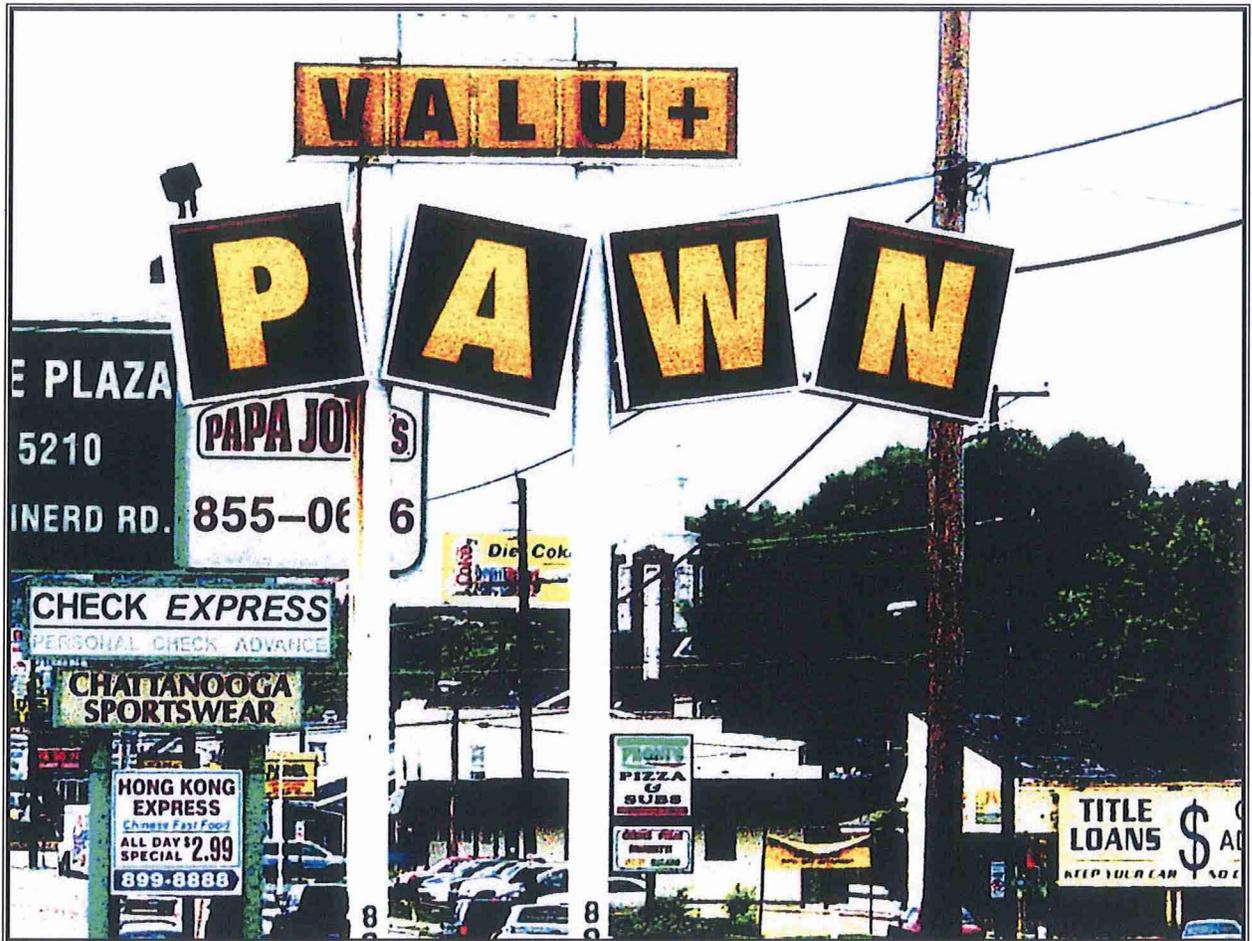
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No restriction

Alternative Financial Services: Chattanooga, Tennessee



Chattanooga-Hamilton County Regional Planning Agency
July 2006

CHATTANOOGA • HAMILTON COUNTY



REGIONAL PLANNING AGENCY
INFORMATION & RESEARCH

Introduction

In the fall of 2004, the Chattanooga City Council Legal and Legislative Committee requested that the Chattanooga Hamilton County Regional Planning Agency research alternative financial services. This request was in response to concerns expressed by neighborhood residents that the proliferation of such businesses may negatively affect property values and increase the rate of crime. This report summarizes current research on the alternative financial business sector, reviews methods that other municipalities have used to control the location of such businesses, and investigates the possible negative secondary effects of alternative financial services on local property values and crime rates.

Background

The following section provides a discussion of the businesses that are the focus of this report as well as a description of the regulatory environment for each in the state of Tennessee.

Alternative Financial Services

The alternative financial services industry is a loose term for non-bank entities providing some type of financial service. Sometimes included in this group (but not this report) are rent-to-own businesses and specialty auto and mortgage lenders. There are a total of 101 alternative financial service businesses in Chattanooga.

Payday advance loans: Payday loans are typically very small consumer loans, usually \$150 to \$300, backed by a postdated check or authorization to make an electronic debit against an existing financial account. The check or debit is held for an agreed-upon term, usually about two weeks or until an applicant's next payday, and then cashed unless the customer repays the loan to reclaim his or her check. If the customer does not have funds for the check to clear, the same process is followed to obtain an additional loan or extend the existing loan, commonly referred to as a rollover or renewal. There are 64 payday loan/check cashing business located in the city of Chattanooga.

The payday advance industry emerged in the 1990s in response to the demand for small, short-term consumer loans. According to fringe banking scholar John Caskey, the rise in payday advance services is attributed to three complementary factors: (1) With the rise of direct deposit, check cashing companies are looking for new business because there are fewer checks to cash; (2) friendly state legislatures allow payday lenders to charge fees that, while moderate in absolute terms, translate into extremely high and profitable annual interest rates; and (3) strong demand is driven by a steady increase in the number of people with impaired credit. In addition, in the 1980s traditional financial institutions exited the small-denomination, short-term credit market, largely due to its high cost structure and deregulation of the industry. Tennessee began regulation of payday advance and check cashing businesses in 1997.

Tennessee has one of the highest rates of payday lending in the country, with several counties and ZIP codes ranking among the most densely crowded with payday lenders in the country (Peterson and Graves, 2004). Chattanooga has five of the top 30 ZIP codes ranked by payday

lending in Tennessee. Peterson and Graves attribute the high concentration of payday lenders in Chattanooga to the laws restricting their operation in neighboring Georgia. Approximately 44 percent of payday advance locations in Chattanooga have begun operation since 2002.

In Tennessee no minimum loan term is specified for cash advances, the maximum loan term is 31 days. Tennessee legislation exempts payday advance services from state *usury* laws that regulate conventional financial institutions (T.C.A. 45-17-118). Usury laws regulate the practice of lending money and charging the borrower interest, especially at an exorbitant or illegally high rate. Regulations authorize payday advance businesses to issue loans up to \$500 and charge a fee equaling the lesser of 15 percent of the face value of the check or \$30.00. Under this formula a one hundred dollar loan with a 14 day term would equal an annual percentage rate (APR) of 391 percent. A loan with an 8-day term would yield an APR of 684%. However, industry advocates point out that a payday loan is designed as a short-term loan with an appropriately scaled fee for the risk involved. Other common fees—like late fees on movie rentals or credit card payments, bounced checks—carry similarly high rates if converted to annual percentages.

Industry analysts estimate that more than 15,000 payday advance locations across America extend about \$25 billion in short-term credit to millions of households experiencing cash-flow shortfalls between paydays. Approximately 44 percent of payday advance locations in Chattanooga have begun operation since 2002. Statewide, between June 2002 and June 2003 payday advance offices increased in number from 1042 to 1186, a 13.8% increase. Between June 2003 and June 2004, the number of offices increased to 1,299, a 9.5% increase.

Consumer advocacy groups argue that payday advance lenders prey on the poor because they generally have few other credit alternatives, and encourage them to get further into debt. The payday lending industry has countered this argument with an industry-sponsored study by Georgetown University's Credit Research Center. The study found that borrowers are typically moderate-income younger families—35 percent are married with children and nearly 25% are single parents. Over half have some education beyond high school. Fully half of all borrowers have household incomes between \$25,000 and \$49,999. The requirement that payday advance customers have a checking account likely reduces the number of low-income customers. The typical borrower is more likely to use consumer credit and have a higher debt to income ratio than the general population, which, as might be expected, leads to credit problems. The study concluded that most borrowers are informed about their alternatives and are aware of the high costs of payday loans, although not always in terms of annual percentage rates. The results of the Georgetown study may be questioned based on the small sample size of participants. Out of 5,400 payday borrowers, 726 denied using payday lending services, and only 427 borrowers actually completed the survey.

The Georgetown study also found that payday borrowers tend to be repeat customers, with 48 percent taking out seven or more total advances in a year, and 22 percent taking 14 or more. Borrowers also tend to roll over or renew the same loan, postponing final payment and accruing significant interest charges; about 40 percent had renewed loans five times or more. These numbers concur with a study by Michael Stegman of the University of North Carolina at Chapel Hill, which found that the practice of payday lending encourages repeat usage and debt rollovers.

Tennessee regulations do not allow a borrower to renew a cash advance transaction with the proceeds of another cash advance transaction *made by the same licensee*. However, this

regulation would not prevent a customer in Tennessee from taking out a new loan with a different licensee, and using the proceeds of the new loan to settle the original loan. This regulation may contribute to the proliferation of payday lenders as consumers switch loans between licensees concentrated in a specific area. Tennessee regulations are designed to prevent debt rollover and to cap the maximum amount a customer can have in outstanding loans from all payday lenders at \$500.

Violations of the regulations do occur. For the year ending December 31, 2002, the Tennessee Department of Financial Institutions Compliance Division conducted a random sample of licensee's transactions in 924 payday advance offices. As a result, 93 licensees made total refunds of \$41,528 to 667 customers for charging excessive or unauthorized fees pursuant to Tennessee Code Annotated § 45-17-115. From January 1 through June 30, 2003, the Department conducted an additional 672 examinations resulting in refunds of \$21,672 to 593 customers.

Title pawn: Title pawn loans are also small consumer loans that leverage the equity value of a car as collateral. The car title must be owned free and clear by the loan applicant; any existing liens on the car cancel the application. Loan terms are often for 30 days, and failure to repay the loan or make interest payments to extend the loan allows the lender to take possession of the car. Tennessee began regulation of title pawn businesses in 1995. Title Pawn businesses are allowed to charge a one time administrative fee of up to 20 percent of the total loan amount, plus 2 percent monthly interest. There are 22 title pawn locations in Chattanooga.



Pawnbroking: Pawnbrokers provide financing based on the value of tangible property brought to a store. Typically, a flat fee is charged for the transaction, and the merchandise is held for an agreed-upon period of time for repayment and reclaiming of property. Upon contract expiration, if the loan is not repaid or extended by an interest payment, the broker assumes ownership of the merchandise and can put it up for resale. Tennessee began regulation of pawnshops in 1988. Pawnshops, like title pawn businesses, are allowed to charge a one time administrative fee of up to 20 percent of the total loan amount, plus 2 percent monthly interest. There are 15 pawnshops located in Chattanooga, with the majority beginning operation prior to 1999.

Pawnshops have existed for centuries. In large part, pawnshops serve the “working poor.” Based on a 1998 study by the Credit Research Center, the majority of pawnshop customers come from the family-raising stage of life, ages 25 to 44 years, when the demands upon household frequently are greater than the income. Pawnshop customers tend to have larger households, marital instability, and less education than the general population. The result is lower incomes and job instability. Similar to payday advance services, pawnshops have incurred public criticism because their rates are higher than those of other lenders who make larger loans.

A criticism of pawnshops is that they act as intermediaries for the trade of stolen goods. In general, research by scholars and journalists suggests three things. First, pawnbrokers do have some role in recycling stolen goods. Second, frequent pawners present the highest likelihood of acting as main agents through which pawnshops acquire stolen goods. Third, the volume and value of stolen goods may be substantially greater than the tiny fractions that have been proposed.

A recent University of Texas study on the role of pawnshops in the trade of stolen goods concludes that the best solution to the problem is the “support of actions to render more efficient monitoring of people and things circulating through pawnshops, secondhand stores, and similar establishments.” The study advocates, “...efficient monitoring of suspicious pawners and goods achieved through strengthened police pawn details, speedier transfer of transaction records from pawnshops to police computers, and accelerated analysis of the data.”

Analysis

Secondary Effects: Property Value

It is perceived that the location of alternative financial services may have a negative impact on local property values. Residents of Chattanooga neighborhoods have expressed concern with the tremendous growth and concentration of alternative financial businesses along area major roads. The following table illustrates the major concentration of alternative financial services along Brainerd Road, Highways 58 and 153, and Rossville Boulevard. In the entire city of Chattanooga, there are 101 alternative financial service locations, with 59 (58 percent) concentrated along four major roads.

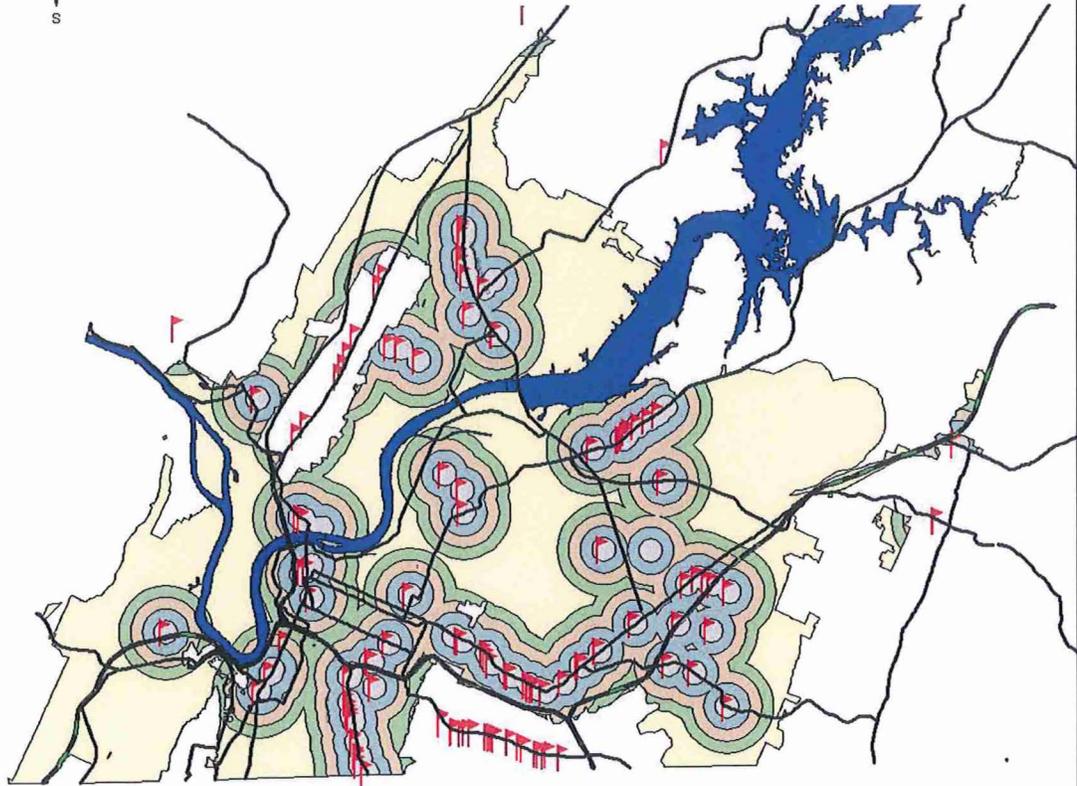
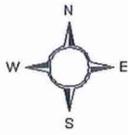
Alternative financial services: concentration on major roads	
	Alternative financial
Chattanooga (total)	101
Brainerd Rd	22
Highway 58	10
Highway 153	9
Rossville Blvd	18

Two methods were used to determine the possible effect of alternative financial services on property value. First, the median appraised value of residential property between 2000 and 2004 was analyzed citywide according to proximity to alternative financial services. Second, single-family property sales from 1990 to 2004 were analyzed citywide and for the four areas with major concentrations of alternative financial services. Single-family property sales were analyzed by the average sales price paid per square foot according to proximity to the alternative financial service locations.

Appraised value

The following map shows the location of the types of businesses in question with a range of buffers in quarter mile increments used to summarize property appraisal data.

Alternative financial services location



- Outside buffer zone
- Buffer zone
 - 1/4 mile
 - 1/2 mile
 - 3/4 mile
 - 1 mile
- Alternative financial service
- Interstate
- Major road



June 2005



The following table illustrates the results of the analysis of the median appraised value of residential property according to proximity to alternative financial service locations. Residential property located within one-quarter mile of alternative financial services had the smallest percentage gain in appraised value between 2000 and 2004, and was 8 percent below the citywide gain.

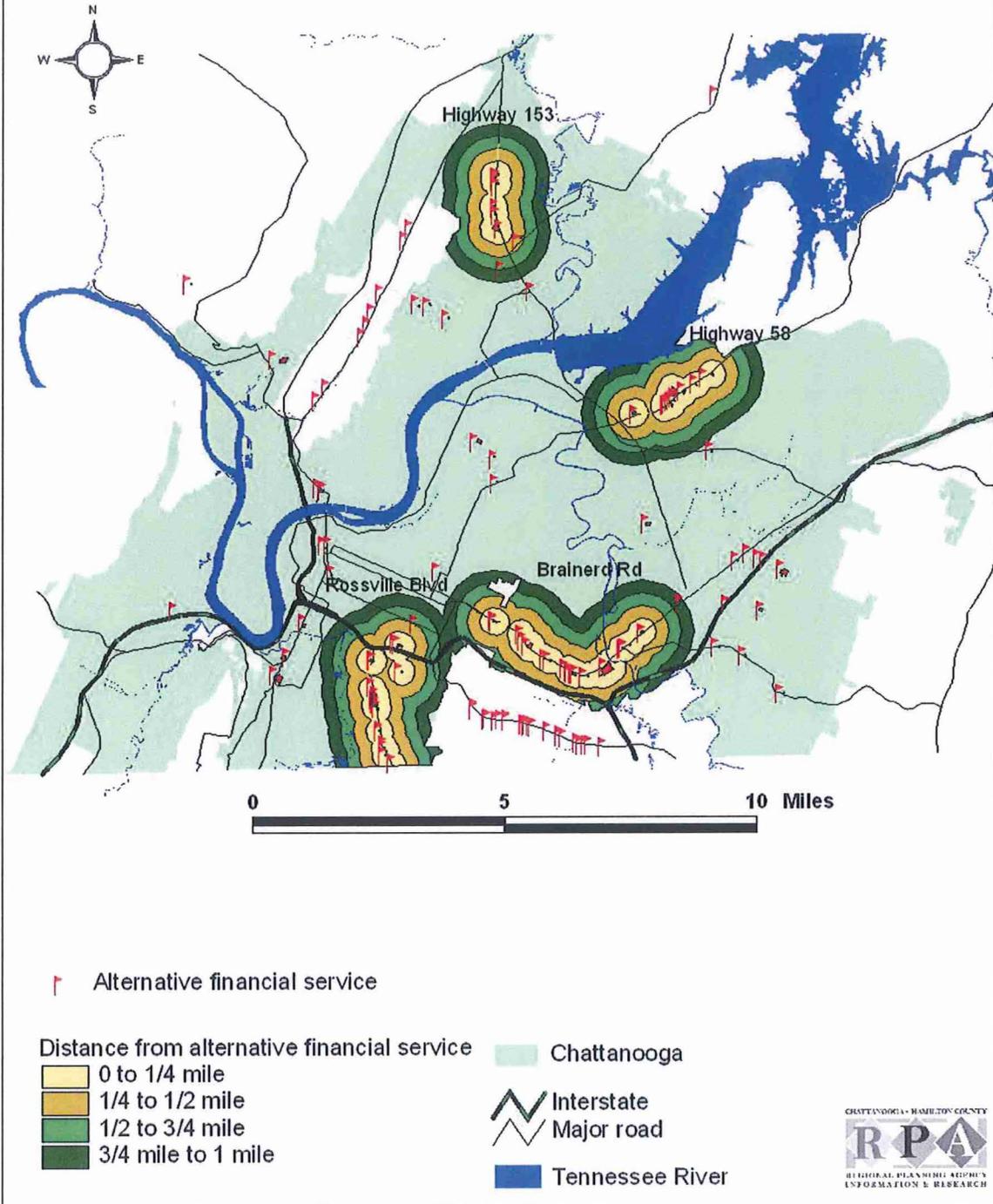
2000-2004 percentage change in the median appraised value of residential property	
0 to 1/4 mile	23%
1/4 to 1/2 mile	27%
1/2 to 3/4 mile	29%
3/4 to 1 mile	33%
> 1 mile	29%
Citywide	31%

Average sales price per square foot

Single-family property sales from 1990 to 2004 were analyzed citywide and for the four areas with major concentrations of alternative financial services, Brainerd Road, Highway 153, Highway 58, and Rossville Boulevard . Single-family property sales were analyzed by the average sales price paid per square foot according to proximity to the alternative financial service locations. The percentage change in the average sales price per square foot is summarized for each area in five-year intervals. Five-year appreciation rates are considered negative if they are 5 percent or more below the citywide average. The results of the analysis show a pattern of increasing negative results for portions of the study areas that are located within a quarter mile of alternative financial services. Brainerd Road, which has the largest number of alternative financial services, shows the clearest pattern of decreasing appreciation rates in relation to the citywide average.

The following map illustrates the location of the study areas. The table on page eleven illustrates the results of the analysis.

Alternative financial services: location and study areas



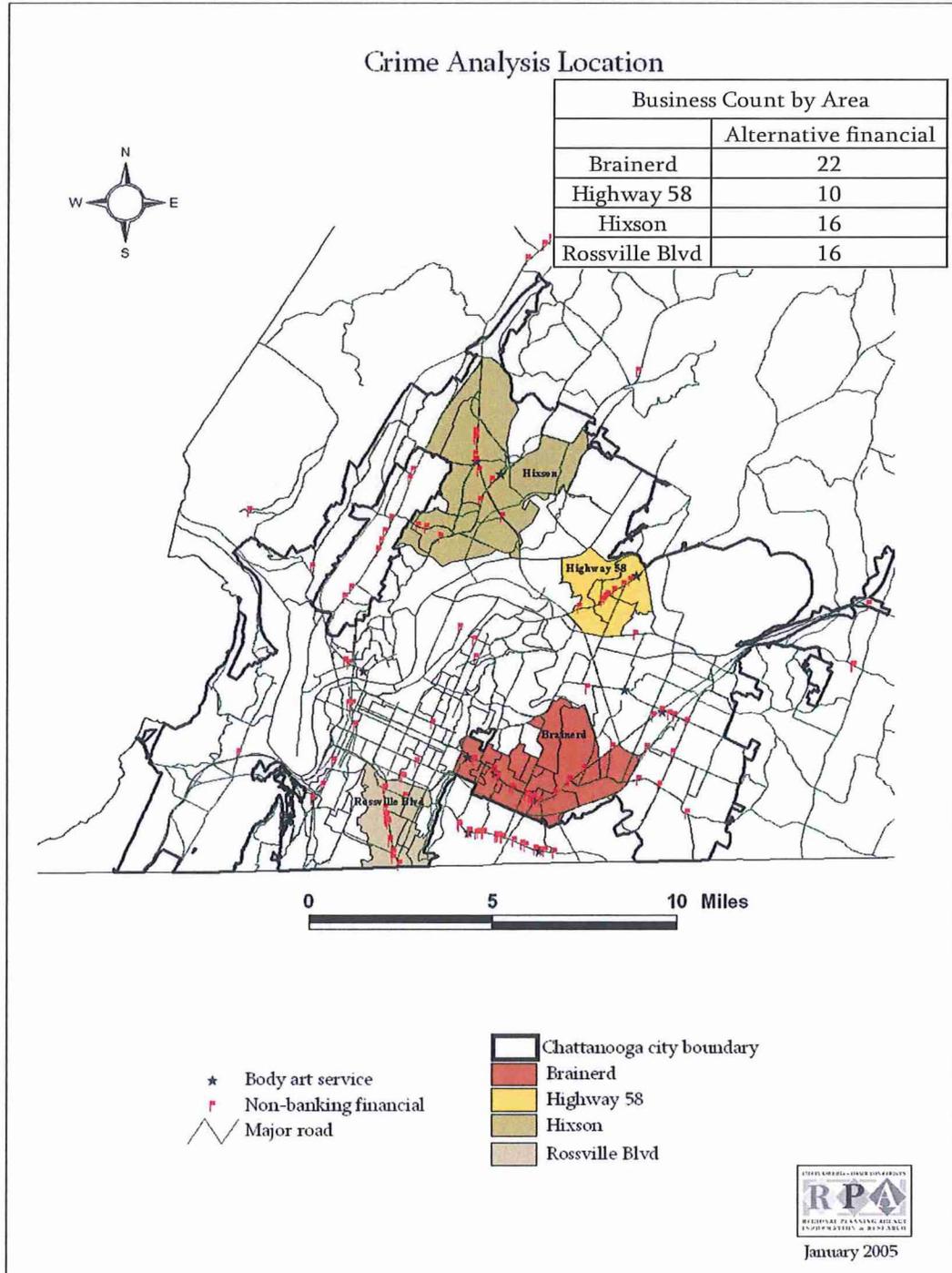
Percentage change in the average sales price per square foot of single family residential property

	1990-1994	1995-1999	2000-2004
Citywide	14%	20%	24%
0 to ¼ mile			
Brainerd	16%	14%	7%
Highway 153	27%	16%	18%
Highway 58	8%	28%	15%
Rossville Blvd	13%	9%	21%
¼ to ½ mile			
Brainerd	13%	36%	18%
Highway 153	15%	24%	21%
Highway 58	12%	15%	21%
Rossville Blvd	10%	13%	-4%
½ to ¾ mile			
Brainerd	22%	11%	23%
Highway 153	15%	21%	21%
Highway 58	12%	10%	8%
Rossville Blvd	4%	7%	26%
¾ to 1 mile			
Brainerd	-16%	17%	20%
Highway 153	22%	8%	20%
Highway 58	12%	14%	6%
Rossville Blvd	18%	32%	36%
	Up to 5% lower, equal to, or greater than the city average		
	5 percent or more below the citywide average		

The results of the analysis of four areas with major concentrations of alternative financial services suggest that the concentration of such businesses may have a negative impact the appreciation of residential property values. However, the valuation of property is complex and there may be other factors that have contributed to the slower rate of appreciation. Further study should include the development of a hedonic pricing model to clarify the relation of AFS clusters to residential property value.

Secondary Effects: Crime

Crime data is presented for four areas with a high concentration of alternative financial services locations (Brainerd, Highway 58, Hixson, and Rossville Blvd). Chattanooga is included to illustrate citywide crime trends.



According to the Tennessee Bureau of Investigation (TBI) some factors known to affect the volume and type of crime occurring from place to place are:

- Variations in composition of the population, particularly youth concentration.
- Stability of population with respect to residents' mobility, commuting patterns, and transient factors.
- Economic conditions, including income, poverty level, and job availability.
- Family conditions with respect to divorce and family cohesiveness.
- Effective strength of law enforcement agencies.
- Policies of other components of the criminal justice system (e.g. prosecutorial, judicial, correctional, and probational).
- Citizens' attitudes toward crime. Crime reporting practices of the citizenry.

Four demographic characteristics (Family Structure, Employment, Household Income, and Poverty) were examined to establish the character of each area. It should be noted that the information is from the 2000 U.S. Census and represents a “snapshot” of area characteristics at a specific point of time.

- The Rossville Boulevard area had the largest percentage of single parent families, the highest unemployment rate, the largest percent of the population in poverty, and the lowest household income.
- The Hixson and Highway 58 areas had the lowest percentage of single parent families, the lowest unemployment rate, the smallest percentage of the population in poverty, and the highest household income.
- Chattanooga and the Brainerd area are in the middle between the Rossville Boulevard area and the Hixson and Highway 58 areas concerning the demographic variables considered.

Married and Single Parent Families					
	Brainerd	Highway 58	Hixson	Rossville Blvd	Chattanooga
Total	4,153	1,956	4,971	2,141	39,650
Married	62%	68%	78%	54%	65%
Single Parent	38%	32%	22%	46%	35%

Source: U.S Census Summary File 3, Table P34

Employment					
	Brainerd	Highway 58	Hixson	Rossville Blvd	Chattanooga
Labor Force	8,623	3,574	8,903	3,114	76,444
Employed	8,069	3,450	8,618	2,747	70,505
Unemployed	515	114	285	367	5,847
Unemployment rate	5.97%	3.19%	3.20%	11.79%	7.65%

Source: U.S Census 2000 SF-3, Table P43

Household Income					
	Brainerd	Highway 58	Hixson	Rossville Blvd	Chattanooga
Less than \$10,000	12.0%	6.7%	6.5%	23.9%	15.3%
Less than \$20,000	26.8%	20.3%	19.4%	48.6%	31.4%
Less than \$30,000	44.7%	37.3%	34.2%	65.8%	46.9%
Less than \$40,000	59.2%	46.9%	49.2%	77.6%	59.4%
Less than \$50,000	71.5%	62.4%	62.2%	85.1%	69.6%

Source: U.S Census 2000 Summary File 3, Table P52

Poverty					
	Brainerd	Highway 58	Hixson	Rossville Blvd	Chattanooga
Number of persons for whom poverty is determined	15,671	7,036	17,283	8,007	158,612
Number in poverty	2,206	677	1,222	2,264	27,709
Percent of total in poverty	14.1%	9.6%	7.1%	28.3%	17.5%

Source U.S Census 2000 Summary File 3, Table P87

Citywide crime data was provided by the Chattanooga Police Department Crime Analysis Unit for the years 1996 through 2004. The crime statistics prepared from original police department data are meant to identify and represent trends in the crime rate.

To determine overall trends, crimes are grouped and summarized according to whether they are violent crimes (assault, murder, rape, and robbery) or property crimes (auto theft, burglary, and theft). Crime trends are also charted individually to identify each crime type's contribution to overall trends. *Charts of specific crime trends are included in the appendix.*

Crime Rates are calculated as the number of crimes committed per 1000 persons.

- Crime rates generally follow the preceding demographic indicators; The Rossville Boulevard area has the highest crime rates, the Hixson and Highway 58 areas have the lowest, and Chattanooga and the Brainerd area fall in the middle.
- The overall property crime rate increased between 1996 and 2000 in all areas. Between 2000 and 2004, the overall property crime rate decreased in all areas except the Hixson area (+ 14%) and the Highway 58 area (+10%). However, the property crime rate in the Hixson and Highway 58 areas remains lower than the rate in other study areas.
- Between 1996 and 2000, the overall violent crime rate increased in all areas. Brainerd, followed by the Rossville Boulevard area experienced the greatest increase in the violent crime rate during this period. Assault crimes drove the increase in the overall violent crime rate from 1996 to 2000. Assault, murder, and rape are not the types of crime that would typically be associated with alternative financial services. However, robbery could conceivably be associated with the alternative financial sector. From 1996 to 2004, robbery crime rates declined in all areas. Between 2000 and 2004, the overall violent crime rate decreased in all areas. *A table detailing specific crime rates is included in the appendix.*

Property Crime Rate (per 1000 persons)*					
	1996	2000	2004	% Change 1996-2000	% Change 2000-2004
Brainerd	83.9	88.8	85.1	6%	-4%
Highway 58	61.0	71.4	78.4	17%	10%
Hixson	62.8	66.6	76.0	6%	14%
Rossville Blvd	132.0	134.2	125.7	2%	-6%
Chattanooga	87.3	91.8	86.5	5%	-6%

* Includes Burglary, Theft, Auto Theft

Violent Crime Rate (per 1000 persons)*					
	1996	2000	2004	% Change 1996-2000	% Change 2000-2004
Brainerd	18.1	31.1	23.0	72%	-26%
Highway 58	15.3	17.9	16.1	17%	-10%
Hixson	11.4	13.7	12.5	20%	-8%
Rossville Blvd	48.0	70.2	45.3	46%	-36%
Chattanooga	27.0	36.0	24.6	33%	-32%

* Includes Assault, Murder, Rape, and Robbery

Conclusion

Alternative financial services have grown at a rapid rate and seem to be ubiquitous along the major thoroughfares of Chattanooga. It can be argued that they provide necessary financial services to low and moderate-income persons that traditional financial institutions do not provide. Their rapid growth is a testament to consumer demand for such services. On the other hand, the fees that alternative financial services charge translate into what some consider outrageous annual percentage rates. Consumers that are unable to settle their loans in a timely manner may lose personal property or continue to take out loans (from different licensees) or face the possibility of legal action. Additionally, alternative financial services often have gaudy signage and colors that give the perception of a commercial district in decline.

This report examined trends for two specific issues (property value and crime rates) in relation to the location of alternative financial services. This report did not find a negative relationship between the location of study businesses crime rates. However, the rapid growth and concentration of alternative financial services in areas of Chattanooga may be impeding the appreciation of residential property values. The two analyses of property value, single-family sales values from 1990 to 2004 and appraised valued from 2000 to 2004 found evidence that the concentration of alternative financial services in certain areas may have a negative impact on the appreciation of residential property values.

In a report to the Milwaukee Board of Zoning appeals, Christopher Peterson provided expert testimony that "...an excessive concentration of multiple lenders in one community all using the same business technique is likely to harm the public welfare" (Peterson 2003). Peterson continued to describe the impact of alternative financial services on the general public welfare including:

1. Taxpayers costs associated with increased personal bankruptcy filings, delinquent loan collection, and police auctions of personal property
2. The burden and expense imposed on state and municipal law enforcement in policing alternative financial services
3. Economic costs not only on borrowers, but also on those who are forced to absorb their losses -- whether through lost rent payments, personal debts, or even bankruptcy.
4. The alternative financial service business model leads to the tendency for unaesthetic business appearances with aggressive advertisements, large signs, and bold and contrasting colors.

Finally, a report by the St. Louis County Planning Department concluded that "when an area is overdeveloped with several check cashing/loan facilities, there is a perception that there are underlying economic problems within the community. An over concentration of check cashing/loan facilities may serve as an impetus for the economic decline of an area" (St Louis County Planning Department 2002). If local leaders look to the example of other cities to control the proliferation of such businesses, land use control is a local power that may be reasonably exercised to control the location of these types of businesses.

- Christopher Peterson, a law professor at the University of Florida, commented in a recent San Diego Tribune article that more and more cities are turning to zoning laws because land-use policy is one of the few ways local governments can exercise control over high-interest lenders.
- A May 2003 draft report written for the Annie E. Casey Foundation supports the option for communities concerned about the proliferation of payday loan stores in their neighborhoods to work with city lawmakers to change zoning laws.
- The Columbia, South Carolina City Council approved an ordinance requiring cash advance and title loan businesses to get a special exceptions to open a new location (February 11, 2004).
- St. Louis, Missouri amended the zoning ordinance by adding a definition for “Check Cashing Establishment” and by defining zoning districts in which check-cashing establishments may be established.
- Spring Valley, Nevada allows check cashing in commercial zoning districts with a condition to meet a 200-foot separation from residential development and 1,000 feet from another check cashing business.
- On December 16, 2004, the Pittsburgh, Pennsylvania City Council tentatively approved new land use standards to crack down on check-cashing and payday advance outlets, barring them from opening in residential business districts. The new standards allow check cashing and payday advance outlets citywide, but relegate them to industrial zones only. The new standards also prohibit the outlets from being open more than nine hours per day; from being within 500 feet of a residence or 1,000 feet of another outlet or pawnshop; and from allowing bars, chains or other security devices to be viewed from public streets and sidewalks.

The following summarizes a review of the zoning policies of other cities for alternative financial services:

- Zoning – permitted in all commercial zones, no special standards or requirements (Memphis, El Paso, Denver, Nashville, Seattle, Washington)
- Zoning – permitted in medium/ high intensity commercial zones, not permitted in neighborhood commercial zones (Austin, Baltimore, Jacksonville)
- Require Special Permits - (St Louis, St Louis County, Minneapolis, Las Vegas, Chicago, Columbia, Pittsburgh)

The preceding policy recommendations and examples focus on zoning regulations. Design review, lobbying for stronger state regulation and strict enforcement of existing regulations are other options for area lawmakers. Regulations examined from other municipalities often require a special permit for alternative financial services. This requirement allows local government the opportunity to verify that the new business has obtained the proper state license. Local residents also have the opportunity to comment on the location of these types of businesses. A common concern is the concentration of alternative financial services in a geographic area that leads to the perception of a commercial area in decline. The concentration of these types of businesses in a particular area limits the variety of commercial services available to area residents. Finally, given the role that pawnshops play in the transfer of stolen goods it would be prudent to evaluate the police pawn detail in regard to staffing and resources, the transfer of transaction records from pawnshops to police computers, and analysis of the data.

Appendix

I. Business Location

Sources for identifying locations Pawn Shops, Cash Advance, Check Cashing and Title Loan establishments in Hamilton County:

1. Phone directory yellow pages
2. Hamilton County Clerk's Office
3. Tennessee Department of Financial Institutions
4. Chattanooga City Directories

Pawn Shops: 22 identified 15 in Chattanooga. Most started prior to 2000.

1 on Ashland Terrace	Chattanooga
1 on Brainerd Road	Chattanooga
1 on Dodson Avenue	Chattanooga
1 on East 23 rd Street	Chattanooga
1 on East 3 rd Street	Chattanooga
1 on East Main Street	Chattanooga
1 on Glass Street	Chattanooga
2 on Highway 153	Chattanooga
1 on Highway 58	Chattanooga
2 on Lee Highway	Chattanooga
3 on Rossville Blvd	Chattanooga
3 on Dayton Pike	Soddy Daisy
1 on Lee Highway	Unincorporated County
1 on Hixson Pike	Unincorporated County
2 on Ringgold Road	East Ridge

Cash Advance/Title Pawn/Check Cashing: 119 (86 in Chattanooga).

Start Dates:

Before 2000	32
2000-2002	36
2003-2004	24
Unknown	28

1 on Ashland Terrace	Chattanooga
1 on Bonny Oaks	Chattanooga
17 on Brainerd Road	Chattanooga
3 on Broad Street	Chattanooga
1 on Browns Ferry	Chattanooga
2 on Cherokee Blvd	Chattanooga
3 on Dayton Blvd	Chattanooga
1 on East 23 rd Street	Chattanooga
1 on East 28 th Street	Chattanooga
1 on East 48 th Street	Chattanooga
3 on East Brainerd Road	Chattanooga
1 on Elmendorf Street	Chattanooga
2 on Gunbarrel Road	Chattanooga

9 on Highway 153	Chattanooga
10 on Highway 58	Chattanooga
3 on Hixson Pike	Chattanooga
5 on Lee Highway	Chattanooga
1 on Market Street	Chattanooga
1 on Minor Street	Chattanooga
1 on Mountain Creek Road	Chattanooga
1 on Quintus Loop Road	Chattanooga
11 on Rossville Blvd	Chattanooga
3 on Shallowford Road	Chattanooga
1 on Signal Mountain Road	Chattanooga
1 on Tennessee Avenue	Chattanooga
22 on Ringgold Road	East Ridge
5 on Dayton Blvd	Red Bank
2 on Dayton Pike	Soddy Daisy
1 on Depot Street	Soddy Daisy
1 on Dayton Pike	Unincorporated County
2 on Apison Pike	Unincorporated County

II. Examples from other cities with regard to this kind of control

1) Las Vegas, Nevada Zoning Ordinance (Definition)

Financial Institution, Specified. Any business whose primary function is to lend money; to cash checks or other negotiable instruments for a fee, service charge or other consideration; or to provide funds in exchange for the acceptance of a check on a post-dated or deferred-deposit basis. The term includes without limitation a check cashing service, paycheck advance service, and any business primarily providing cash loans, installment loans or cash advances, but does not include a pawn shop.

Ord 5561 1/22/03 Las Vegas

2) St Louis County, Missouri Zoning Ordinance (Definition)

(125) Small Loan Businesses: Establishments which (a) engage in the business of providing money to customers on a temporary basis, wherein such loans are secured by post-dated check, paycheck or car title, or (b) are registered as lenders under state or federal law. The classification does not include a state or federally chartered bank, savings association, credit union, or industrial land company. Further, this classification does not include establishments selling consumer goods, including consumables, where the cashing of checks or money orders is incidental to the main purpose of the business. This classification does include, but is not limited to, check cashing stores, payday loan stores, and car title loan stores.

3) Pittsburgh, Pennsylvania (Ordinance)

No. 23. An Ordinance amending certain portions of the Pittsburgh Code of Ordinances, Title Nine, Zoning, Chapter 911.02 (Use Table) to create a definition for the use of Check Cashing, Chapter 911.04.A (Standards That Apply to Uses Listed in the Use Table) to create standards for the use of Check Cashing, and Chapter 914.02.A (Schedule A) to create parking standards for Check Cashing facilities.

Be it resolved by the Council of the City of Pittsburgh as follows:

Section 1. Amending certain portions of the Pittsburgh Code of Ordinances, Title Nine, Zoning, Chapter 911.02 (Use Table) to create a definition for the use of Check Cashing, Chapter 911.04.A (Standards That Apply to Uses Listed in the Use Table).

A. Amend Chapter 911.02 (Use Table) to include:

Check Cashing means an establishment engaged in some or all of a variety of financial services including cashing of checks, warrants, drafts, money orders or other commercial paper securing the same purpose; deferred deposit of personal checks whereby the check casher refrains from depositing a personal check written by a customer until a specific date; money transfers, payday advances; issuance of money orders; distribution of governmental checks and food stamps; payment of utility bills; issuance of bus passes and tokens; sale of phone cards and similar uses. This use shall not include a state or federally chartered bank, savings association, credit union, industrial loan association, or rental-purchase company and shall not include a retail seller engaged primarily in the business of selling consumer goods, including consumables, to retail

buyers that cashes checks or issues money orders for a minimum flat fee not exceeding \$2.00 as a service to its customers incidental to the main use of the establishment.

B. Amend Chapter 911.02 (Use Table) to include:

Check Cashing as a Use by Special Exception in the NDI (Neighborhood Industrial), HC (Highway Commercial), GI (General Industrial), and UI (Urban Industrial) Zoning Districts.

C. Amend Chapter 911.04.A (Standards That Apply to Uses Listed in the Use Table) to include Check Cashing

The following standards shall apply to all Check Cashing uses:

(a) Check Cashing facilities shall not be open for business to customers for more than nine (9) hours within any twenty-four (24) hour period and shall not be open for business on Sundays;

(b) The building housing a Check Cashing facility shall not be located within five hundred (500) feet from any residential use as measured from the center point of the subject building;

(c) The building housing a Check Cashing facility shall not be located within one thousand (1,000) feet from another Check Cashing facility, a Pawn Shop, or a facility containing mechanical or electronic devices, machines, tables or apparatus of any kind used for playing games of skill or amusement, as a primary or accessory use, as measured from the center point of the subject building;

(d) A Check Cashing use shall not be conducted as a unit of another business and shall be financed and conducted as a separate business unit, however, this shall not prevent a check cashing facility from leasing part of the premises of another business for the conduct of check cashing activities on the same premises;

(e) A Check Cashing facility may not accept money or currency for deposit or act as agent for persons, firms, partnerships, associations or corporations to hold money or currency in escrow for others for any purpose, however, a check cashing facility may act as agent for the issuer of money orders or travelers checks;

(f) The applicant is required to be licensed as a Check Cashier with the Commonwealth of Pennsylvania Department of Banking;

(g) Not more than one place of business may be operated under the same Commonwealth of Pennsylvania Department of Banking license;

(h) A licensee may not contract with another individual or business entity to manage the Check Cashing facility, not including persons employed to operate the facility;

(i) Check cashing facilities shall not issue tokens to be used in lieu of money for the purchase of goods or services from any enterprise;

(j) The use of bars, chains, or similar security devices that are visible from a public street or sidewalk shall be prohibited.

Ordained and enacted into a law in Council December 20, 2004.
Gene Ricciardi
President
Attest: Linda M. Johnson-Wasler
City Clerk
Mayors Office December 29, 2004.
Approved: Tom Murphy
Mayor

4) Tempe, Arizona (Separation Requirements)

Section 3-423 Use Separation Requirements.

1. *Deferred Presentment Companies*, also known as Pay Day Loan, shall not be located on a *lot* within 1,320 feet, measured by a straight line in any direction, from the lot line of another *deferred presentment company*. The requirements in this section shall also apply to *deferred presentment companies*, which are ancillary to another existing or permitted use.

State law reference – A.R.S. Title 6, Chapter 12.1, Deferred Presentment Companies

2. *Auto Title Loan* businesses shall not be located on a *lot* within 1,320 feet, measured by a straight line in any direction, from the lot line of another *auto title loan*. The requirements in this section shall also apply to *auto title loan* businesses, which are ancillary to another existing or permitted use.

5) City of North Las Vegas (Ordinance)

ORDINANCE NO. 2262

AN ORDINANCE AMENDING TITLE 17 OF THE MUNICIPAL CODE OF THE CITY OF NORTH LAS VEGAS, RELATING TO ZONING (ZOA-07-06); AMENDING SECTIONS 17.12.020, 17.20.100, 17.20.110, 17.20.120, 17.20.130, 17.20.140, 17.20.210 and 17.28.050 TO ADD DEFERRED DEPOSIT LOAN AND SHORT-TERM LOAN DEFINITIONS AND ALLOW AUTO TITLE LOAN, DEFERRED DEPOSIT LOAN, AND SHORT-TERM LOAN AS SPECIAL USES AND TO REQUIRE SEPARATION DISTANCES BETWEEN THE USES AND OTHER LAND-USES, AND PROVIDING FOR OTHER MATTERS PROPERLY RELATED THERETO.

THE CITY COUNCIL OF THE CITY OF NORTH LAS VEGAS DOES ORDAIN THAT TITLE 17 BE AMENDED AS FOLLOWS:

17.12.020 Definitions.

“Auto Title Loan” See “Automobile Pawnbroker” Section 5.10.010

“Cash Advance Services” See “Deferred Deposit Loan”

“Check Cashing” See “Deferred Deposit Loan”

“Deferred Deposit Loan” means any establishment that provides to the customer an amount of money that is equal to the face value of the check or the amount specified in the written authorization for an electronic transfer of money, less any fee charged for the transaction, and where there is an agreement not to cash the check or execute an electronic transfer of money for a specified period of time. This term does not include a retail seller engaged primarily in the business of selling consumer goods, including consumables, to retail buyers that cash checks, issue money orders, or money transfers for a minimum flat fee as a service that is incidental to its main purpose or business.

“Short-term Loan” is an establishment providing loans to individuals that charges an annual percentage rate of more than 40 percent and requires the loan to be paid in full in less than one year. This term does not include a loan offered or made to a person based on the person’s anticipated federal income tax refund.

“Payday Advance” See “Deferred Deposit Loan”

“Payday Loan” See “Deferred Deposit Loan”

17.20.100 Neighborhood Commercial District (C-1)

C. Special Uses Subject to Section 17.24.020.

Auto Title Loan
Deferred Deposit Loan
Short-term Loan

17.20.110 General Commercial District (C-2)

C. Special Uses Subject to Section 17.24.020.

Auto Title Loan
Deferred Deposit Loan
Short-term Loan

17.20.120 General Service Commercial District (C-3)

C. Special Uses Subject to Section 17.24.020

Auto Title Loan
Deferred Deposit Loan
Short-term Loan

17.20.130 Business Park Industrial District (M-1)

C. Special Uses Subject to Section 17.24.020

Auto Title Loan
Deferred Deposit Loan
Short-term Loan

17.20.140 General Industrial District (M-2)

C. Special Uses Subject to Section 17.24.020

Auto Title Loan
Deferred Deposit Loan
Short-term Loan

17.20.210E Commercial/Retail Subdistrict (R-A/CR)

3. Special Uses Subject to Section 17.24.020

Auto Title Loan
Deferred Deposit Loan
Short-term Loan

17.20.210F Office Subdistrict (R-A/OFF)

3. Special Uses Subject to Section 17.24.020

Auto Title Loan
Deferred Deposit Loan
Short-term Loan

17.20.210H.1 Focus Area Subdistrict (R-A/FA)

3. Special Uses Subject to Section 17.24.020

Auto Title Loan
Deferred Deposit Loan
Short-term Loan

17.28.050 Procedure for Special Use Permit.

B. Application for Special Use Permit.

6. Application for Deferred Deposit Loan, Short-Term Loan, or Auto Title Loan.

a. Proof of Proximity Distance Compliance Required.

If an applicant desires to file a special use permit application for a Deferred Deposit Loan, Short-Term Loan or Auto Title Loan establishment, the City shall not accept, nor set for hearing such request unless the applicant provides to the City the following with the application: a notarized statement by the applicant that the location of the proposed Deferred Deposit Loan, Short-Term

Loan or Auto Title Loan establishment complies with the proximity distance requirements as provided below; and a survey plat prepared by a Nevada Licensed Professional Land Surveyor showing that the proposed Deferred Deposit Loan, Short-Term Loan or Auto Title Loan establishment is separated from the following types land uses as provided below; or a request for a waiver of the proximity distance requirement as provided herein.

b. Proximity Distance Requirements:

(1) The proposed Deferred Deposit Loan, Short-Term Loan, or Auto Title Loan establishment must be at a distance greater than one thousand feet (1,000 ft.) from all existing or approved Deferred Deposit Loan, Short-Term Loan, or Auto Title Loan establishments, unless a waiver is approved pursuant to NLVMC 17.28.050(B)(6)(d). Such distance shall be measured utilizing the shortest direct line distance between the primary public entrance of all other existing or approved Deferred Deposit Loan, Short-Term Loan, or Auto Title Loan establishments.

(2) The proposed Deferred Deposit Loan, Short-Term Loan, or Auto Title Loan establishment must be at a distance greater than two hundred (200 ft.) from any developed residential district. For purposes of this section, “developed residential district” means a parcel of land zoned for residential use in which construction for at least one residential unit has begun on the date the applicant applied for the special use permit.

c. Floor Area Requirements for Deferred Deposit Loan, Short-Term Loan, or Auto Title Loan Use.

The building or portion thereof that is dedicated to the Deferred Deposit Loan, Short-Term Loan, or Auto Title Loan establishment must have a minimum size of 1,500 square feet of building floor area.

d. Waiver of Title 17 Proximity Distance Requirements for Deferred Deposit Loan, Short-Term Loan, or Auto Title Loan Use.

Waiver permitted for NLVMC 17.28.050(B)(6)(b)(1) only. Findings Required. A waiver of the one thousand (1,000) foot proximity distance requirement between a proposed Deferred Deposit Loan, Short-Term Loan, or Auto Title Loan establishment, and any other existing or approved Deferred Deposit Loan, Short-Term Loan, or Auto Title Loan establishment may be granted by the planning commission upon finding that an “adequate barrier” exists between a Deferred Deposit Loan, Short-Term Loan or Auto Title Loan establishment location. An “adequate barrier” is defined as: an improved drainage facility, Clark County Interstate 215, US Interstate 15, other constructed roadway with a minimum width of one hundred twenty (120) feet, or a topographical feature which prevents vehicular and pedestrian access between a Deferred Deposit Loan, Short-Term Loan, or Auto Title Loan establishment. A topographical feature does not include any building, wall, fence or other man-made structure. The boundary limits of these streets, freeways and freeway crossovers are as defined by the official city of North Las Vegas, Nevada Department of Transportation and Clark County right-of-way maps for such roadways, respectively.

SECTION 2: NON-INFRINGEMENT OF RIGHTS. The City Council of the City of

North Las Vegas has been informed by the City Attorney as to the constitutionality of this ordinance and based upon such information we are adopting this ordinance in good faith with a reasonable belief that the actions taken by the City of North Las Vegas are not in violation of any rights, privileges, or immunities secured by the laws providing for equal rights of citizens or persons.

SECTION 3: SEVERABILITY. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall in no way affect the validity and enforceability of the remaining provisions of this Ordinance.

SECTION 4: EFFECTIVE DATE. This Ordinance shall become effective after its passage by the City Council of the City of North Las Vegas and, after such passage by the City Council, publication once by title in a newspaper qualified pursuant to the provisions of Chapter 238 of NRS, as amended from time to time.

SECTION 5: PUBLICATION. The City Clerk shall cause this Ordinance, immediately following its adoption, to be published once by title, together with the names of the Councilmen voting for or against passage, in a newspaper qualified pursuant to the provisions of Chapter 238 of NRS, as amended from time to time.

PASSED AND ADOPTED THIS 3rd day of May, 2006.

AYES: Mayor Montandon, Mayor Pro Tempore Robinson, Council Members Smith and Eliason

NAYS: None

ABSTAIN: None

ABSENT: Councilman Buck

APPROVED:

/s/ Michael L. Montandon

MICHAEL L. MONTANDON, MAYOR

ATTEST:

/s/ Karen L. Storms

KAREN L. STORMS, CMC, CITY CLERK

Appendix

I. Business Location

Sources for identifying locations Pawn Shops, Cash Advance, Check Cashing and Title Loan establishments in Hamilton County:

1. Phone directory yellow pages
2. Hamilton County Clerk's Office
3. Tennessee Department of Financial Institutions
4. Chattanooga City Directories

Pawn Shops: 22 identified 15 in Chattanooga. Most started prior to 2000.

1 on Ashland Terrace	Chattanooga
1 on Brainerd Road	Chattanooga
1 on Dodson Avenue	Chattanooga
1 on East 23 rd Street	Chattanooga
1 on East 3 rd Street	Chattanooga
1 on East Main Street	Chattanooga
1 on Glass Street	Chattanooga
2 on Highway 153	Chattanooga
1 on Highway 58	Chattanooga
2 on Lee Highway	Chattanooga
3 on Rossville Blvd	Chattanooga
3 on Dayton Pike	Soddy Daisy
1 on Lee Highway	Unincorporated County
1 on Hixson Pike	Unincorporated County
2 on Ringgold Road	East Ridge

Cash Advance/Title Pawn/Check Cashing: 119 (86 in Chattanooga).

Start Dates:

Before 2000	32
2000-2002	36
2003-2004	24
Unknown	28

1 on Ashland Terrace	Chattanooga
1 on Bonny Oaks	Chattanooga
17 on Brainerd Road	Chattanooga
3 on Broad Street	Chattanooga
1 on Browns Ferry	Chattanooga
2 on Cherokee Blvd	Chattanooga
3 on Dayton Blvd	Chattanooga
1 on East 23 rd Street	Chattanooga
1 on East 28 th Street	Chattanooga
1 on East 48 th Street	Chattanooga
3 on East Brainerd Road	Chattanooga
1 on Elmendorf Street	Chattanooga
2 on Gunbarrel Road	Chattanooga

9 on Highway 153	Chattanooga
10 on Highway 58	Chattanooga
3 on Hixson Pike	Chattanooga
5 on Lee Highway	Chattanooga
1 on Market Street	Chattanooga
1 on Minor Street	Chattanooga
1 on Mountain Creek Road	Chattanooga
1 on Quintus Loop Road	Chattanooga
11 on Rossville Blvd	Chattanooga
3 on Shallowford Road	Chattanooga
1 on Signal Mountain Road	Chattanooga
1 on Tennessee Avenue	Chattanooga
22 on Ringgold Road	East Ridge
5 on Dayton Blvd	Red Bank
2 on Dayton Pike	Soddy Daisy
1 on Depot Street	Soddy Daisy
1 on Dayton Pike	Unincorporated County
2 on Apison Pike	Unincorporated County

II. Examples from other cities with regard to this kind of control

1) Las Vegas, Nevada Zoning Ordinance (Definition)

Financial Institution, Specified. Any business whose primary function is to lend money; to cash checks or other negotiable instruments for a fee, service charge or other consideration; or to provide funds in exchange for the acceptance of a check on a post-dated or deferred-deposit basis. The term includes without limitation a check cashing service, paycheck advance service, and any business primarily providing cash loans, installment loans or cash advances, but does not include a pawn shop.

Ord 5561 1/22/03 Las Vegas

2) St Louis County, Missouri Zoning Ordinance (Definition)

(125) Small Loan Businesses: Establishments which (a) engage in the business of providing money to customers on a temporary basis, wherein such loans are secured by post-dated check, paycheck or car title, or (b) are registered as lenders under state or federal law. The classification does not include a state or federally chartered bank, savings association, credit union, or industrial land company. Further, this classification does not include establishments selling consumer goods, including consumables, where the cashing of checks or money orders is incidental to the main purpose of the business. This classification does include, but is not limited to, check cashing stores, payday loan stores, and car title loan stores.

3) Pittsburgh, Pennsylvania (Ordinance)

No. 23. An Ordinance amending certain portions of the Pittsburgh Code of Ordinances, Title Nine, Zoning, Chapter 911.02 (Use Table) to create a definition for the use of Check Cashing, Chapter 911.04.A (Standards That Apply to Uses Listed in the Use Table) to create standards for the use of Check Cashing, and Chapter 914.02.A (Schedule A) to create parking standards for Check Cashing facilities.

Be it resolved by the Council of the City of Pittsburgh as follows:

Section 1. Amending certain portions of the Pittsburgh Code of Ordinances, Title Nine, Zoning, Chapter 911.02 (Use Table) to create a definition for the use of Check Cashing, Chapter 911.04.A (Standards That Apply to Uses Listed in the Use Table).

A. Amend Chapter 911.02 (Use Table) to include:

Check Cashing means an establishment engaged in some or all of a variety of financial services including cashing of checks, warrants, drafts, money orders or other commercial paper securing the same purpose; deferred deposit of personal checks whereby the check casher refrains from depositing a personal check written by a customer until a specific date; money transfers, payday advances; issuance of money orders; distribution of governmental checks and food stamps; payment of utility bills; issuance of bus passes and tokens; sale of phone cards and similar uses. This use shall not include a state or federally chartered bank, savings association, credit union, industrial loan association, or rental-purchase company and shall not include a retail seller engaged primarily in the business of selling consumer goods, including consumables, to retail

buyers that cashes checks or issues money orders for a minimum flat fee not exceeding \$2.00 as a service to its customers incidental to the main use of the establishment.

B. Amend Chapter 911.02 (Use Table) to include:

Check Cashing as a Use by Special Exception in the NDI (Neighborhood Industrial), HC (Highway Commercial), GI (General Industrial), and UI (Urban Industrial) Zoning Districts.

C. Amend Chapter 911.04.A (Standards That Apply to Uses Listed in the Use Table) to include Check Cashing

The following standards shall apply to all Check Cashing uses:

(a) Check Cashing facilities shall not be open for business to customers for more than nine (9) hours within any twenty-four (24) hour period and shall not be open for business on Sundays;

(b) The building housing a Check Cashing facility shall not be located within five hundred (500) feet from any residential use as measured from the center point of the subject building;

(c) The building housing a Check Cashing facility shall not be located within one thousand (1,000) feet from another Check Cashing facility, a Pawn Shop, or a facility containing mechanical or electronic devices, machines, tables or apparatus of any kind used for playing games of skill or amusement, as a primary or accessory use, as measured from the center point of the subject building;

(d) A Check Cashing use shall not be conducted as a unit of another business and shall be financed and conducted as a separate business unit, however, this shall not prevent a check cashing facility from leasing part of the premises of another business for the conduct of check cashing activities on the same premises;

(e) A Check Cashing facility may not accept money or currency for deposit or act as agent for persons, firms, partnerships, associations or corporations to hold money or currency in escrow for others for any purpose, however, a check cashing facility may act as agent for the issuer of money orders or travelers checks;

(f) The applicant is required to be licensed as a Check Cashier with the Commonwealth of Pennsylvania Department of Banking;

(g) Not more than one place of business may be operated under the same Commonwealth of Pennsylvania Department of Banking license;

(h) A licensee may not contract with another individual or business entity to manage the Check Cashing facility, not including persons employed to operate the facility;

(i) Check cashing facilities shall not issue tokens to be used in lieu of money for the purchase of goods or services from any enterprise;

(j) The use of bars, chains, or similar security devices that are visible from a public street or sidewalk shall be prohibited.

Ordained and enacted into a law in Council December 20, 2004.
Gene Ricciardi
President
Attest: Linda M. Johnson-Wasler
City Clerk
Mayors Office December 29, 2004.
Approved: Tom Murphy
Mayor

4) Tempe, Arizona (Separation Requirements)

Section 3-423 Use Separation Requirements.

1. *Deferred Presentment Companies*, also known as Pay Day Loan, shall not be located on a *lot* within 1,320 feet, measured by a straight line in any direction, from the lot line of another *deferred presentment company*. The requirements in this section shall also apply to *deferred presentment companies*, which are ancillary to another existing or permitted use.

State law reference – A.R.S. Title 6, Chapter 12.1, Deferred Presentment Companies

2. *Auto Title Loan* businesses shall not be located on a *lot* within 1,320 feet, measured by a straight line in any direction, from the lot line of another *auto title loan*. The requirements in this section shall also apply to *auto title loan* businesses, which are ancillary to another existing or permitted use.

5) City of North Las Vegas (Ordinance)

ORDINANCE NO. 2262

AN ORDINANCE AMENDING TITLE 17 OF THE MUNICIPAL CODE OF THE CITY OF NORTH LAS VEGAS, RELATING TO ZONING (ZOA-07-06); AMENDING SECTIONS 17.12.020, 17.20.100, 17.20.110, 17.20.120, 17.20.130, 17.20.140, 17.20.210 and 17.28.050 TO ADD DEFERRED DEPOSIT LOAN AND SHORT-TERM LOAN DEFINITIONS AND ALLOW AUTO TITLE LOAN, DEFERRED DEPOSIT LOAN, AND SHORT-TERM LOAN AS SPECIAL USES AND TO REQUIRE SEPARATION DISTANCES BETWEEN THE USES AND OTHER LAND-USES, AND PROVIDING FOR OTHER MATTERS PROPERLY RELATED THERETO.

THE CITY COUNCIL OF THE CITY OF NORTH LAS VEGAS DOES ORDAIN THAT TITLE 17 BE AMENDED AS FOLLOWS:

17.12.020 Definitions.

“Auto Title Loan” See “Automobile Pawnbroker” Section 5.10.010

“Cash Advance Services” See “Deferred Deposit Loan”

“Check Cashing” See “Deferred Deposit Loan”

“Deferred Deposit Loan” means any establishment that provides to the customer an amount of money that is equal to the face value of the check or the amount specified in the written authorization for an electronic transfer of money, less any fee charged for the transaction, and where there is an agreement not to cash the check or execute an electronic transfer of money for a specified period of time. This term does not include a retail seller engaged primarily in the business of selling consumer goods, including consumables, to retail buyers that cash checks, issue money orders, or money transfers for a minimum flat fee as a service that is incidental to its main purpose or business.

“Short-term Loan” is an establishment providing loans to individuals that charges an annual percentage rate of more than 40 percent and requires the loan to be paid in full in less than one year. This term does not include a loan offered or made to a person based on the person’s anticipated federal income tax refund.

“Payday Advance” See “Deferred Deposit Loan”

“Payday Loan” See “Deferred Deposit Loan”

17.20.100 Neighborhood Commercial District (C-1)

C. Special Uses Subject to Section 17.24.020.

Auto Title Loan
Deferred Deposit Loan
Short-term Loan

17.20.110 General Commercial District (C-2)

C. Special Uses Subject to Section 17.24.020.

Auto Title Loan
Deferred Deposit Loan
Short-term Loan

17.20.120 General Service Commercial District (C-3)

C. Special Uses Subject to Section 17.24.020

Auto Title Loan
Deferred Deposit Loan
Short-term Loan

17.20.130 Business Park Industrial District (M-1)

C. Special Uses Subject to Section 17.24.020

Auto Title Loan
Deferred Deposit Loan
Short-term Loan

17.20.140 General Industrial District (M-2)

C. Special Uses Subject to Section 17.24.020

Auto Title Loan
Deferred Deposit Loan
Short-term Loan

17.20.210E Commercial/Retail Subdistrict (R-A/CR)

3. Special Uses Subject to Section 17.24.020

Auto Title Loan
Deferred Deposit Loan
Short-term Loan

17.20.210F Office Subdistrict (R-A/OFF)

3. Special Uses Subject to Section 17.24.020

Auto Title Loan
Deferred Deposit Loan
Short-term Loan

17.20.210H.1 Focus Area Subdistrict (R-A/FA)

3. Special Uses Subject to Section 17.24.020

Auto Title Loan
Deferred Deposit Loan
Short-term Loan

17.28.050 Procedure for Special Use Permit.

B. Application for Special Use Permit.

6. Application for Deferred Deposit Loan, Short-Term Loan, or Auto Title Loan.

a. Proof of Proximity Distance Compliance Required.

If an applicant desires to file a special use permit application for a Deferred Deposit Loan, Short-Term Loan or Auto Title Loan establishment, the City shall not accept, nor set for hearing such request unless the applicant provides to the City the following with the application: a notarized statement by the applicant that the location of the proposed Deferred Deposit Loan, Short-Term

Loan or Auto Title Loan establishment complies with the proximity distance requirements as provided below; and a survey plat prepared by a Nevada Licensed Professional Land Surveyor showing that the proposed Deferred Deposit Loan, Short-Term Loan or Auto Title Loan establishment is separated from the following types land uses as provided below; or a request for a waiver of the proximity distance requirement as provided herein.

b. Proximity Distance Requirements:

(1) The proposed Deferred Deposit Loan, Short-Term Loan, or Auto Title Loan establishment must be at a distance greater than one thousand feet (1,000 ft.) from all existing or approved Deferred Deposit Loan, Short-Term Loan, or Auto Title Loan establishments, unless a waiver is approved pursuant to NLVMC 17.28.050(B)(6)(d). Such distance shall be measured utilizing the shortest direct line distance between the primary public entrance of all other existing or approved Deferred Deposit Loan, Short-Term Loan, or Auto Title Loan establishments.

(2) The proposed Deferred Deposit Loan, Short-Term Loan, or Auto Title Loan establishment must be at a distance greater than two hundred (200 ft.) from any developed residential district. For purposes of this section, “developed residential district” means a parcel of land zoned for residential use in which construction for at least one residential unit has begun on the date the applicant applied for the special use permit.

c. Floor Area Requirements for Deferred Deposit Loan, Short-Term Loan, or Auto Title Loan Use.

The building or portion thereof that is dedicated to the Deferred Deposit Loan, Short-Term Loan, or Auto Title Loan establishment must have a minimum size of 1,500 square feet of building floor area.

d. Waiver of Title 17 Proximity Distance Requirements for Deferred Deposit Loan, Short-Term Loan, or Auto Title Loan Use.

Waiver permitted for NLVMC 17.28.050(B)(6)(b)(1) only. Findings Required. A waiver of the one thousand (1,000) foot proximity distance requirement between a proposed Deferred Deposit Loan, Short-Term Loan, or Auto Title Loan establishment, and any other existing or approved Deferred Deposit Loan, Short-Term Loan, or Auto Title Loan establishment may be granted by the planning commission upon finding that an “adequate barrier” exists between a Deferred Deposit Loan, Short-Term Loan or Auto Title Loan establishment location. An “adequate barrier” is defined as: an improved drainage facility, Clark County Interstate 215, US Interstate 15, other constructed roadway with a minimum width of one hundred twenty (120) feet, or a topographical feature which prevents vehicular and pedestrian access between a Deferred Deposit Loan, Short-Term Loan, or Auto Title Loan establishment. A topographical feature does not include any building, wall, fence or other man-made structure. The boundary limits of these streets, freeways and freeway crossovers are as defined by the official city of North Las Vegas, Nevada Department of Transportation and Clark County right-of-way maps for such roadways, respectively.

SECTION 2: NON-INFRINGEMENT OF RIGHTS. The City Council of the City of

North Las Vegas has been informed by the City Attorney as to the constitutionality of this ordinance and based upon such information we are adopting this ordinance in good faith with a reasonable belief that the actions taken by the City of North Las Vegas are not in violation of any rights, privileges, or immunities secured by the laws providing for equal rights of citizens or persons.

SECTION 3: SEVERABILITY. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall in no way affect the validity and enforceability of the remaining provisions of this Ordinance.

SECTION 4: EFFECTIVE DATE. This Ordinance shall become effective after its passage by the City Council of the City of North Las Vegas and, after such passage by the City Council, publication once by title in a newspaper qualified pursuant to the provisions of Chapter 238 of NRS, as amended from time to time.

SECTION 5: PUBLICATION. The City Clerk shall cause this Ordinance, immediately following its adoption, to be published once by title, together with the names of the Councilmen voting for or against passage, in a newspaper qualified pursuant to the provisions of Chapter 238 of NRS, as amended from time to time.

PASSED AND ADOPTED THIS 3rd day of May, 2006.

AYES: Mayor Montandon, Mayor Pro Tempore Robinson, Council Members Smith and Eliason

NAYS: None

ABSTAIN: None

ABSENT: Councilman Buck

APPROVED:

/s/ Michael L. Montandon

MICHAEL L. MONTANDON, MAYOR

ATTEST:

/s/ Karen L. Storms

KAREN L. STORMS, CMC, CITY CLERK



State of Tennessee

PUBLIC CHAPTER NO. 969

SENATE BILL NO. 1988

By Southerland

Substituted for: House Bill No. 1757

By Sexton, Ryan Williams

AN ACT to amend Tennessee Code Annotated, Title 45, relative to the Flexible Credit Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 45, is amended by adding the following as a new, appropriately designated chapter:

45-12-101. This chapter shall be known and may be cited as the "Flexible Credit Act."

45-12-102. As used in this chapter, unless the context otherwise requires:

(1) "Commissioner" means the commissioner of financial institutions or the commissioner's designee;

(2) "Control" means possession, direct or indirect, of the power to direct or cause the direction of management and policies of a person, whether through the ownership of voting securities by contract or otherwise; provided, that no individual shall be deemed to control a person solely on account of being a director, officer, or employee of the person. For purposes of this subdivision (2), a person who, directly or indirectly, owns, controls, holds the power to vote, or holds proxies representing twenty-five percent (25%) or more of the then outstanding voting securities issued by another person, is presumed to control the other person. For purposes of this subdivision (2), the commissioner may determine whether a person, in fact, controls another person;

(3) "Controlling person" means any person in control of a licensee;

(4) "Department" means the department of financial institutions;

(5) "Flex loan" means a loan made pursuant to a flex loan plan;

(6) "Flex loan plan" means a written agreement subject to this chapter between a licensee and a customer establishing an open-end credit plan under which the licensee contemplates repeated noncommercial loans for personal, family, or household purposes, that:

(A) May be unsecured or secured by personal property;

(B) May be without fixed maturities or limitation as to the length of term; and

(C) Are subject to prepayment in whole or in part at any time without penalty;

(7) "Licensee" means a person licensed to offer flex loans pursuant to this chapter; and

(8) "Person" means an individual, group of individuals, partnership, association, corporation, or any other business unit or legal entity.

45-12-103.

(a) No person shall engage in the business of making flex loans unless the person is licensed to make flex loans pursuant to this chapter. A person shall be deemed to be engaged in the business of making flex loans in this state if the person induces a consumer, while located in this state, to enter into a flex loan plan in this state through the use of the Internet, facsimile, telephone, or other means. A separate license shall be required for each location from which the business of making flex loans is conducted.

(b) Any nonresident person seeking a license under this chapter shall furnish the commissioner with the name and address of a resident of this state upon whom notices or orders issued by the commissioner, or process affecting a licensee under this chapter, may be served. The nonresident licensee shall promptly notify the commissioner in writing of every change in its designated agent for service of process, and the change shall not become effective until approved by the commissioner.

45-12-104.

(a) To qualify for a license to make flex loans, an applicant shall meet the following requirements:

(1) The applicant has a tangible net worth that comprises tangible assets less liabilities of not less than fifty thousand dollars (\$50,000) for each location; and

(2) The financial responsibility, financial condition, business experience, character, and general fitness of the applicant shall reasonably warrant the belief that the applicant's business will be conducted lawfully and fairly. In determining whether this qualification has been met, and for the purpose of investigating compliance with this chapter, the commissioner may review and approve:

(A) The relevant business records and the capital adequacy of the applicant;

(B) The competence, experience, integrity and financial ability of any person who is a director, officer, or ten percent (10%) or more shareholder of the applicant or who owns or controls the applicant; and

(C) Any record, on the part of the applicant or any person referred to in subdivision (a)(2)(B), of any criminal activity; any fraud or other act of personal dishonesty; any act, omission or practice that constitutes a breach of a fiduciary duty; or any suspension, removal or administrative action by any agency or department of the United States or any state, from participation in the conduct of any business.

(b) The requirements set forth in subsection (a) are continuing in nature.

45-12-105.

Each application for a license shall be in writing and made under oath or affirmation to the commissioner, in a form prescribed by the commissioner, and shall include the following:

(1) The legal name, residence and business address of the applicant and, if the applicant is a partnership, association, or corporation, of every member, officer, managing employee and director thereof;

(2) The location in this state where the registered agent of the applicant shall be located; provided, "registered agent of the applicant" includes a person designated by the applicant for accepting notices or orders by the commissioner, or process affecting the applicant, pursuant to § 45-12-103; and

(3) Other data and information the commissioner may require with respect to the applicant, and its directors, trustees, officers, members, managing employees or agents.

45-12-106.

(a) Each application for a license shall be accompanied by:

(1) A filing fee of five hundred dollars (\$500), which shall not be subject to refund but which, if the license is granted, shall constitute the license fee for the first license year or part thereof; provided, however, if a supervision fee is established pursuant to § 45-1-118, the commissioner shall require applicants under this chapter to, instead, pay the nonrefundable supervision fee in place of the filing fee. The filing fee or supervision fee shall be applicable to each location;

(2) An audited financial statement, including, but not limited to, a balance sheet, a statement of income or loss, and a statement of changes in financial position, for the immediately preceding fiscal year end, prepared in accordance with generally accepted accounting principles by a certified public accountant or public accounting firm, neither of which is affiliated with the applicant. For a newly created entity, the commissioner may accept only a balance sheet prepared by a certified public accountant or public accounting firm, neither of which is affiliated with the applicant, accompanied by a projected income statement demonstrating that the applicant will have adequate capital after payment of start-up costs; and

(3) A surety bond, issued by an insurer regulated under title 56 and not affiliated with the applicant, in the amount of twenty-five thousand dollars (\$25,000) for each location. However, in no event shall the aggregate amount of the surety bond required for a single licensee exceed two hundred thousand dollars (\$200,000). In lieu of the surety bond, the applicant shall file an irrevocable letter of credit, in the amount of the surety bond, issued by any federally insured bank, savings bank or credit union, none of which is affiliated with the applicant. The surety bond or irrevocable letter of credit shall be in a form satisfactory to the commissioner and shall be payable to the commissioner for the benefit of any person who is injured pursuant to a flex loan plan by the fraud, misrepresentation, breach of contract, financial failure or violation of any provision of this chapter by a licensee. In the case of a surety bond, the aggregate liability of the surety bond shall not exceed the principal sum of the surety bond. In the case of an irrevocable letter of credit, applicants shall obtain letters of credit for terms of not less than three (3) years and renew the letters of credit annually. If the licensee fails to pay a person or the commissioner as required by this chapter, then a person may bring suit against the licensee directly on the surety bond or irrevocable letter of credit in any court of competent jurisdiction, or the commissioner may bring suit in the chancery court of Davidson County on behalf of those persons, in either one (1) or successive actions. The surety bond or irrevocable letter of credit shall be maintained by the licensee for not less than three (3) years following the expiration, revocation, or surrender of the licensee's license.

(b)(1) The commissioner is authorized to require an applicant for a license to consent to a criminal history records check and to provide with the application fingerprints in a form acceptable to the commissioner. The commissioner may require such consent and fingerprints from any individual who is a director, officer, or ten percent (10%) or more shareholder of the applicant or who owns or controls the applicant, as well as from any other individual associated with the applicant as is reasonably necessary to meet the purposes of this chapter. Refusal of any person to consent to a criminal history records check or to provide fingerprints pursuant to this subsection (b) constitutes grounds for the commissioner to deny the applicant a license.

(2) Any criminal history records check conducted pursuant to this subsection (b) shall be conducted by the Tennessee bureau of investigation, the federal bureau of investigation, or both, and the results of the criminal history records check shall be forwarded to the commissioner. All costs incurred in conducting the criminal history records check shall be paid by the applicant, in addition to any other fees required by this chapter.

45-12-107.

(a) Upon the filing of an application in a form prescribed by the commissioner, accompanied by the fee and documents required in § 45-12-106, the commissioner shall investigate to ascertain whether the requirements prescribed by § 45-12-104 have been satisfied. If the commissioner finds that the requirements have been satisfied, and approves the documents, the commissioner shall issue to the applicant a license to engage in the business of making flex loans in this state.

(b) The license shall be kept conspicuously posted in the place of business of the licensee.

(c) A license issued pursuant to this chapter shall remain in force and effective through the remainder of the year ending December 31 after its date of issuance unless earlier surrendered, suspended or revoked pursuant to this chapter.

45-12-108.

(a) If the commissioner determines that an applicant is not qualified to receive a license, the commissioner shall notify the applicant in writing that the application has been denied, stating the basis for denial.

(b) If the commissioner denies an application, or if the commissioner fails to act on an application within ninety (90) days after the filing of a properly completed application, the applicant may make a written demand to the commissioner for a hearing before the commissioner on the question of whether the license should be granted.

(c) Any hearing on the denial of a license shall be conducted pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. In the hearing, the burden of proving that the applicant is entitled to a license shall be on the applicant. A decision of the commissioner following any hearing on the denial of a license is subject to review under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

45-12-109.

(a) Licenses issued pursuant to this chapter shall expire on December 31. Each license may be renewed for the ensuing twelve-month period upon application by the license holder showing continued compliance with the requirements of § 45-12-104 and the payment to the commissioner annually, between November 1 and December 31, of a license renewal fee of five hundred dollars (\$500). If a supervision fee is established pursuant to § 45-1-118, the commissioner shall require licensees under this chapter, to instead, pay the nonrefundable supervision fee in place of the license renewal fee.

(b) A licensee making timely and complete application for renewal of its license shall be permitted to continue to operate under its existing license until its application is approved or denied.

(c) The commissioner may establish a biennial license arrangement for the filing of the application for license renewal, but in no case shall the license fee or supervision fee, if established pursuant to § 45-1-118, be payable for more than one (1) year at a time.

45-12-110.

(a) A license issued pursuant to this chapter is not transferable or assignable.

(b)(1) The prior written approval of the commissioner is required for the continued operation of a flex loan business whenever a change in control of a licensee is proposed. The commissioner may require information deemed necessary to determine whether a new application is required. Reasonable and actual costs incurred by the commissioner in investigating a change of control request shall be paid by the person requesting approval.

(2) Whenever control is acquired or exercised in violation of this section, the license shall be deemed revoked as of the date of the unlawful acquisition of control. The licensee or its controlling person shall surrender the license to the commissioner on demand.

(c) A licensee shall notify the department five (5) days before any change in the licensee's principal place of business, branch office or name.

45-12-111.

(a) Notwithstanding any other statutory limitation, a licensee authorized to make flex loans under this chapter may charge and collect interest, fees, and charges in a manner consistent with this section.

(b) A licensee may charge and collect a periodic interest rate not to exceed twenty-four percent (24%) per annum.

(c)(1) In addition to the periodic interest rate authorized under subsection (b), a licensee may also charge and collect a customary fee to defray the ordinary costs of opening, administering, and terminating a flex loan plan, including, but not limited to, costs associated with:

(A) Underwriting and documenting the account;

(B) Securing and maintaining account information;

(C) Validating customer information;

(D) Offering electronic and phone access to accounts;

(E) Processing account transactions;

(F) Responding to customer inquiries;

(G) Providing periodic billing statements;

(H) Inspection, verification, and protection of collateral and establishment, perfection, and release of the security interest; and

(I) All other services or activities conducted by the licensee under the flex loan plan.

(2) The customary fee shall not be deemed interest for any purpose of law and shall not exceed a daily rate of seven-tenths of one percent (0.7%) of the average daily principal balance in any billing cycle.

(d) No flex loan plan under this chapter shall have an outstanding principal balance in excess of four thousand dollars (\$4,000) at any time.

(e) Any flex loan plan under this chapter shall require payment on or before the due date of each billing cycle in an amount sufficient to reduce any outstanding principal balance by at least three percent (3%) per calendar month.

(f)(1) In the event a customer defaults under the terms of a flex loan plan and the licensee refers the customer's account to an attorney, including a regular salaried employee of the licensee, for collection, the licensee may:

(A) If the flex loan plan so provides, charge and collect from the customer a reasonable attorney's fee; and

(B) If the flex loan plan, or in the case of secured plans, the security agreement or similar instrument, so provides, recover from the customer all collection and court costs, including, in the case of secured plans, all costs of enforcing the security agreement or similar instrument actually incurred by the licensee, including those incurred on appeal.

(2) A licensee may charge and collect interest following default of the customer or judgment in favor of the licensee at the periodic rate permitted by this section.

(3) Disposition of property after default shall occur in a commercially reasonable manner in accordance with title 47, chapter 9, part 6.

(g) If a check is returned to a licensee from a payer financial institution due to insufficient funds, no licensee shall have the authority to assess a handling charge against the maker or drawer of the returned check.

45-12-112.

(a) A licensee shall provide each prospective customer, before consummation of a flex loan plan, a written explanation, in clear, understandable language, of the interest, fees, and charges to be charged by the licensee. The style, content and method of executing the required written explanation shall comply with federal truth-

in-lending laws and shall contain a statement that the customer may prepay the unpaid balance in whole or in part at any time without penalty. The commissioner may promulgate rules establishing additional requirements in order to assure complete and accurate disclosure of the interest, fees, and charges to be charged by a licensee under a flex loan plan.

(b) The account-opening statement for any flex loan plan shall include, along with other state or federal law requirements:

(1) A next-business-day customer's right of rescission for any requested draw under the flex loan plan; and

(2) A notice informing the customer that complaints may be made to the department, including the department's telephone number and address.

(c) The account-opening statement for any flex loan plan shall not require or provide the licensee the authority to require the customer to draw the full amount of credit available under a flex loan plan at any time.

(d) A licensee shall provide customers with a periodic billing statement in compliance with federal truth-in-lending laws.

(e) If two (2) or more customers having the same residence are authorized to obtain extensions of credit under the flex loan plan, the statement of provisions of the plan shall be provided to one (1) of the customers as may be designated in the plan, and the billing statements required by law shall be rendered to such customer.

45-12-113.

(a) Each licensee shall keep and use in its business any books, accounts and records the commissioner may require to effectuate this chapter and the rules promulgated pursuant to this chapter. Every licensee shall preserve the books, accounts and records for at least two (2) years. Any licensee, after receiving the prior written approval of the commissioner, may maintain records at a location within or outside this state.

(b) No licensee shall engage in unfair or deceptive acts, practices or advertising in the conduct of the licensed business.

(c)(1) No customer may have outstanding more than one (1) flex loan plan under this chapter at any one (1) time. Each licensee shall inquire of any customer seeking a flex loan plan under this chapter regarding the customer's outstanding flex loan plans.

(2) If the customer represents in writing that the customer has no outstanding flex loan plans, a licensee may offer the customer a flex loan plan.

(3) If the customer represents in writing that the customer has one (1) or more outstanding flex loan plans, a licensee shall not offer a flex loan plan to the customer until the customer represents to the licensee in writing that the customer qualifies to open a new flex loan plan in accordance with this subsection (c).

(4) Each licensee may rely on a written representation of a customer regarding the existence of any outstanding indebtedness with any other lender other than the licensee receiving the representation.

(d) A licensee shall not use any device or agreement, including agreements with affiliated licensees, with the intent to obtain greater charges than otherwise would be authorized by this chapter.

(e) A licensee shall comply with any state or federal law, rule, or regulation applicable to any business authorized or conducted under this chapter, including, but not limited to, the federal Truth in Lending Act, compiled in 15 U.S.C. §1601 et seq., the federal Equal Credit Opportunity Act, compiled in 15 U.S.C. §§ 1691-1691f, and the federal Fair Debt Collection Practices Act, compiled in 15 U.S.C. § 1692 et seq.

(f)(1) No flex loan plan subject to this chapter shall:

(A) Provide that the law of a jurisdiction other than this state applies;

(B) Provide that the customer consents to the jurisdiction of another state or foreign country;

(C) Fix venue; or

(D) Waive any provision of this chapter.

(2) Any provision described in subdivision (f)(1) that is contained in a flex loan plan subject to this chapter shall be void and not enforceable as a matter of public policy.

45-12-114.

The business of making flex loans in accordance with this chapter shall not be subject to or controlled by any other statute governing the imposition of interest, fees or loan charges, including, but not limited to, § 47-14-104. A licensee shall not have the powers enumerated in this chapter without first complying with the law regulating the particular transaction involved, but licensees legally exercising any of the powers set forth in this chapter shall not be deemed in violation of §§ 47-14-112, 47-14-115, and 47-14-117.

45-12-115.

(a) The commissioner may promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, for the enforcement of this chapter. A copy of any rule adopted by the commissioner shall be mailed to the principal place of business of each license holder at least thirty (30) days before the date it takes effect.

(b) To assure compliance with this chapter, the commissioner may examine the relevant business, books and records of any licensee. Further, for the purposes of discovering violations of this chapter and determining whether persons are subject to this chapter, the commissioner may examine or investigate persons licensed under this chapter and persons reasonably suspected by the commissioner of conducting business that requires a license under this chapter by exercising authority that includes, but is not limited to, the power to summon witnesses and examine them under oath or affirmation, and to compel the production of books and records that may be relevant to the examination or investigation.

(c)(1) A licensee or unlicensed person subject to the licensing requirements of this chapter, that is examined or investigated in accordance with this chapter, shall pay to the commissioner the reasonable and actual expenses of the investigation or examination. The expenses shall be payable in addition to all other fees, taxes and costs required by law.

(2) If a supervision fee is established pursuant to § 45-1-118, then licensees who pay the supervision fee will no longer be required to pay examination expenses pursuant to this subsection (c) for examinations that occur after payment of the supervision fee.

45-12-116.

(a) The commissioner may, after notice and hearing, suspend or revoke any license if the commissioner finds that the licensee has knowingly or through lack of due care:

(1) Failed to pay any fees, expenses, or costs imposed by the commissioner under the authority of this chapter;

(2) Has committed any fraud, engaged in any dishonest activities or made any misrepresentations;

(3) Has violated any provision of this chapter, any rule issued pursuant to this chapter, or any other law in the course of the licensee's dealings as a licensee;

(4) Has made a false statement in the application for the license or failed to give a true reply to a question in the application; or

(5) Has demonstrated incompetency or untrustworthiness to act as a licensee.

(b) If the reason for revocation or suspension of a licensee's license at any one (1) location is of general application to all locations operated by a licensee, the commissioner may revoke or suspend all licenses issued to a licensee.

(c) A hearing shall be held on written notice given at least twenty (20) days prior to the date of the hearing and shall be conducted in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

45-12-117.

If, after notice and opportunity for a hearing, the commissioner finds that a person has violated this chapter, or any rule issued pursuant to this chapter, the commissioner may take the following actions or any combination of such actions:

(1) Order the person to cease and desist violating the chapter or any rule promulgated pursuant to this chapter;

(2) Require the refund of any fees collected by the person in violation of this chapter; or

(3) Order the person to pay to the commissioner a civil penalty of not more than one thousand dollars (\$1,000) for each transaction in violation of this chapter or for each day that a violation occurs or continues.

45-12-118.

(a) The commissioner, after notice and opportunity for a hearing, may censure, suspend for a period not to exceed twelve (12) months, or bar a person from any position of employment, management or control of a licensee, if the commissioner finds that the:

(1) Censure, suspension, or bar is in the public interest and that the person has committed or caused a violation of this chapter or any rule or order of the commissioner; or

(2) Person has been:

(A) Convicted or pled guilty to, or pled nolo contendere to, any crime; or

(B) Held liable in any civil action by final judgment, or any administrative judgment by any public agency, if the criminal, civil or administrative judgment involved any offense reasonably related to the qualifications, functions, or duties of a person engaged in the business of making flex loans pursuant to this chapter.

(b) Persons suspended or barred under this section are prohibited from participating in any business activity of a licensee and from engaging in any business activity on the premises where a licensee is conducting its business. This subsection (b) shall not be construed to prohibit suspended or barred persons from having their personal transactions processed by a licensee.

45-12-119.

(a) The commissioner may enter into a consent order at any time with any person to resolve any matter arising under this chapter. A consent order shall be signed by the person to whom it is issued, or a duly authorized representative, and shall indicate agreement to the terms contained in the order. A consent order need not constitute an admission by any person that any provision of this chapter, or any rule or order promulgated or issued under this chapter has been violated, nor need it constitute a finding by the commissioner that the person has violated this chapter, or any rule or order promulgated or issued under this chapter.

(b) Notwithstanding the issuance of a consent order, the commissioner may seek civil or criminal penalties concerning matters encompassed by the consent order.

(c) In cases involving extraordinary circumstances requiring immediate action, the commissioner may take any enforcement action authorized by this chapter without providing the opportunity for a prior hearing, but shall promptly afford a subsequent hearing upon an application to rescind the action taken that is filed with the commissioner within twenty (20) days after receipt of the notice of the commissioner's emergency action.

45-12-120.

(a) Any person aggrieved by the conduct of a licensee under this chapter in connection with the licensee's regulated activities may file a written complaint with the commissioner who may investigate the complaint.

(b) In the course of the investigation of the complaint, the commissioner may:

(1) Subpoena witnesses;

(2) Administer oaths;

(3) Examine any individual under oath or affirmation; and

(4) Compel the production of records, books, papers, contracts or other documents relevant to the investigation.

(c) If any person fails to comply with a subpoena of the commissioner under this chapter or to testify concerning any matter about which the person may be interrogated under this chapter, the commissioner may petition any court of competent jurisdiction for enforcement.

(d) The license of any licensee under this chapter who fails to comply with a subpoena of the commissioner may be suspended pending compliance with the subpoena.

(e) The commissioner shall have exclusive administrative power to investigate and enforce any and all complaints relating to the business of making flex loans filed by any person that are not criminal in nature.

45-12-121.

Within fifteen (15) days of the occurrence of any one (1) of the events listed in subdivisions (1)–(6), a licensee shall file a written report with the commissioner describing the event and its expected impact on the activities of the licensee in this state:

(1) The filing for bankruptcy or reorganization by the licensee;

(2) The institution of revocation or suspension proceedings against the licensee by any state or governmental authority;

(3) The denial of the opportunity to engage in the business of making loans by any state or governmental authority;

(4) Any felony indictment of the licensee or any of its directors, officers or principals;

(5) Any felony conviction of the licensee or any of its directors, officers or principals; and

(6) Other events that the commissioner may determine and identify by rule.

45-12-122.

(a) Each licensee shall file an annual report with the commissioner on the date of the renewal application required in § 45-12-109 containing the following information:

(1) The names and addresses of persons owning a controlling interest in each licensee;

(2) The location of all places of business operated by the licensee and the nature of the business conducted at each location;

(3) The names and addresses of all affiliated entities regulated under this title doing business in this state;

(4) An audited financial statement, including, but not limited to, a balance sheet, statement of income or loss, and statement of changes in financial position, for the immediately preceding fiscal year end, prepared in accordance with generally accepted accounting principles by a certified public accountant or public accounting firm, neither of which is affiliated with the licensee; and

(5) If the licensee is a corporation, the names and addresses of its officers and directors; if the licensee is a partnership, the names and addresses of the partners; or if the licensee is a limited liability company, the names and addresses of the board of governors or managers of the limited liability company.

(b) If the licensee holds two (2) or more licenses or is affiliated with other licensees, a composite report may be filed, but may not be required.

(c) The reports shall be filed in a form that may reasonably be required by the commissioner and shall be sworn to by a responsible officer of the licensee.

(d) The information submitted by licensees pursuant to this section shall be afforded the same degree of confidentiality by the department and the commissioner as is applicable to reports filed by industrial loan and thrift companies pursuant to § 45-5-503.

(e) The commissioner shall prepare and submit to the governor and general assembly, annually, an analysis and recapitulation of the reports for the preceding calendar year for the purpose of reflecting the general results of operations under this chapter.

45-12-123.

(a) In addition to any other powers conferred upon the commissioner by law, the commissioner is authorized to require persons subject to this chapter to be licensed through a multi-state automated licensing system. Pursuant to this authority, the commissioner may:

(1) Promulgate rules that are reasonably necessary for participation in, transition to, or operation of a multi-state automated licensing system;

(2) Establish relationships or enter into agreements that are reasonably necessary for participation in, transition to, or operation of a multi-state automated licensing system. The agreements may include, but are not limited to, operating agreements, information sharing agreements, interstate cooperative agreements and technology licensing agreements;

(3) Require that applications for licensing under this chapter and renewals of such licenses be filed with a multi-state automated licensing system;

(4) Require that any fees required to be paid under this chapter be paid through a multi-state automated licensing system;

(5) Establish deadlines for transitioning licensees to a multi-state automated licensing system. The commissioner has the authority to deny any applications or renewal applications not filed with a multi-state automated licensing system after such deadlines have passed, notwithstanding any dates established elsewhere in this chapter; provided, however, the commissioner shall provide reasonable notice of any transition deadlines to licensees; and

(6) Take such further actions as are reasonably necessary to give effect to this section.

(b) Nothing in this section shall authorize the commissioner to require a person who is not subject to this chapter to submit information to, or to participate in, a multi-state automated licensing system that is operated, or participated in, pursuant to this chapter.

(c) Notwithstanding this section, the commissioner retains full authority and discretion to license persons under this chapter and to enforce this chapter to its fullest extent. Nothing in this section shall be deemed to be a reduction or derogation of that authority and discretion.

(d) Applicants for and holders of licenses issued under this chapter shall pay all costs associated with submitting an application to or transitioning a license to a multi-state automated licensing system, as well as all costs required by a multi-state automated licensing system for maintaining and renewing any license issued by the commissioner on a multi-state automated licensing system.

45-12-124.

The commissioner is authorized to use a multi-state automated licensing system as an agent for channeling information, whether criminal or noncriminal in nature, whether derived from or distributed to the United States department of justice or any other state or federal governmental agency, or any other source, that the commissioner is authorized to request from, or distribute to, under this chapter.

45-12-125.

In order to promote more effective regulation and reduce regulatory burden through supervisory information sharing:

(1) The requirements under any federal or state law regarding the privacy or confidentiality of any information or material provided to a multi-state automated licensing system, and any privilege arising under federal or state law, including the rules of any federal or state court with respect to such information or material, shall continue to apply to the information or material after the information or material has been disclosed to a multi-state automated licensing system. The information or material may be shared with all state and federal regulatory officials with consumer credit oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal or state law, including the protection available under § 45-1-120;

(2) For purposes of subdivision (1), the commissioner is authorized to enter into agreements or sharing agreements with other governmental agencies, the Conference of State Bank Supervisors, or other associations representing governmental agencies as established by rule or order of the commissioner;

(3) Information or material that is subject to a privilege or confidential under subdivision (1) shall not be subject to:

(A) Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or any agency of the federal government or the respective state; or

(B) Subpoena, discovery, or admission into evidence in any private civil action or administrative process, unless with respect to any privilege held by a multi-state automated licensing system applicable to such information or material, the person to whom such information or material pertains waives that privilege, in whole or in part, in the discretion of such person;

(4) This section shall supersede any inconsistent provisions of title 10, chapter 7, part 5 pertaining to the records open to public inspection; and

(5) This section shall not apply with respect to information or material relating to publicly adjudicated disciplinary and enforcement actions against persons subject to this chapter that is included in a multi-state automated licensing system for access by the public.

45-12-126. The department may, in the department's sole discretion, allocate a portion of the total amount collected in fees pursuant to §§ 45-12-106 and 45-12-109 to the Tennessee financial literacy commission, created by § 49-6-1702.

SECTION 2. If any provision of this act or the application thereof to any licensee or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared severable.

SB 1988

SECTION 3. For the purpose of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2015, the public welfare requiring it.

SENATE BILL NO. 1988

PASSED: April 15, 2014



RON RAMSEY
SPEAKER OF THE SENATE



BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 19th day of May 2014



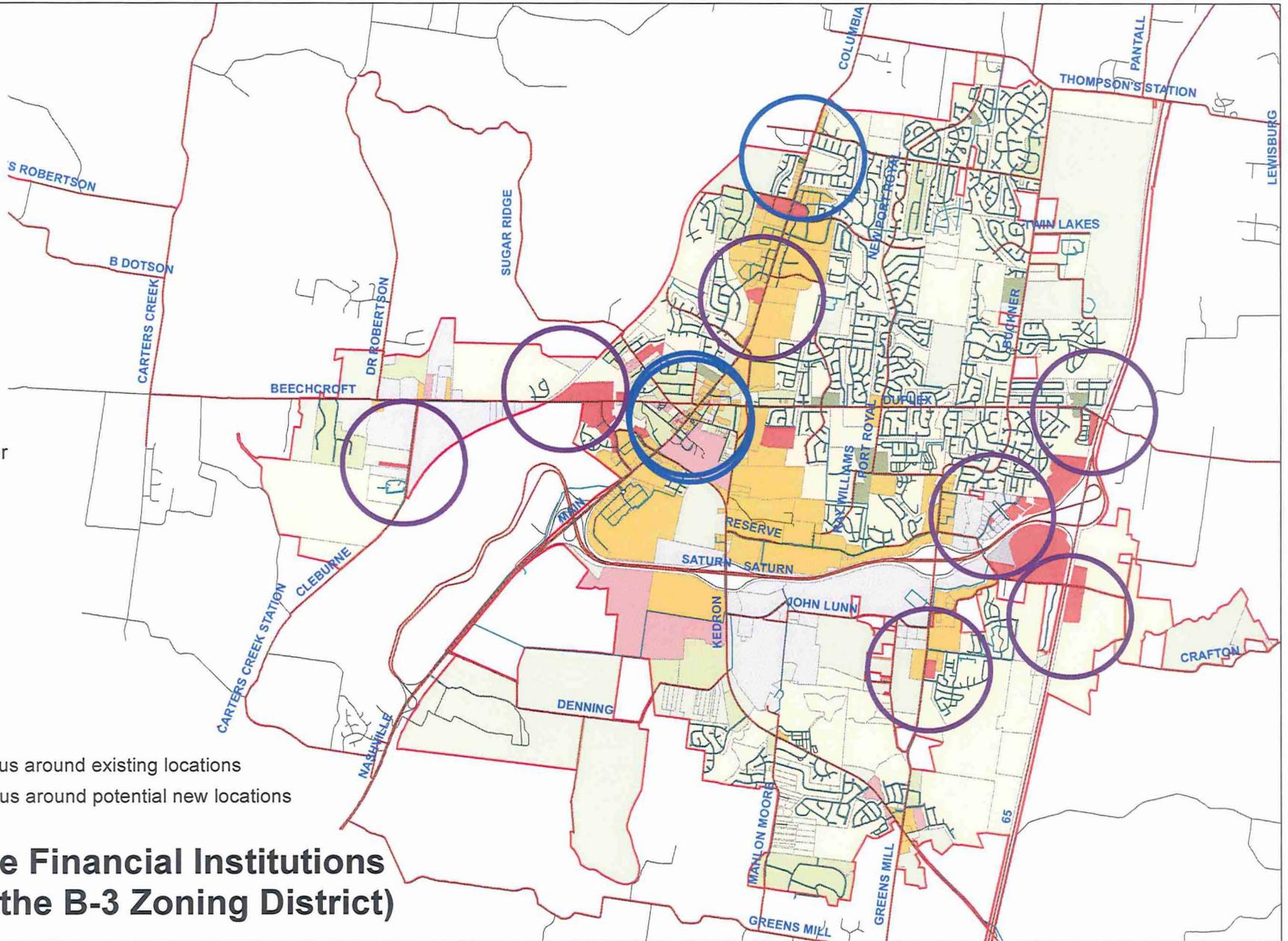
BILL HASLAM, GOVERNOR

Legend
zoning
ZType

- AG
- B-1
- B-2
- B-3
- B-4
- F-1
- M-1
- M-2
- PUD-Commer
- R-1
- R-2
- R-2 PUD
- R-4
- R-5
- R-6

- 0.5 Mile Radius around existing locations
- 0.5 Mile Radius around potential new locations

**Alternative Financial Institutions
(Limited to the B-3 Zoning District)**



Legend

zoning

ZType

- AG
- B-1
- B-2
- B-3
- B-4
- F-1
- M-1
- M-2
- PUD-Commer
- R-1
- R-2
- R-2 PUD
- R-4
- R-5
- R-6

- 1 Mile Radius around existing locations
- 1 Mile Radius around potential new locations

Alternative Financial Insititutions (Limited to the B-3 Zoning District)

