BILL NO. B-30

ORDINANCE NO. 2014-34


WHEREAS, on November 19, 2002, by Resolution No. 2002-379, the City Council adopted the 2025 Fresno General Plan and on that date, by Resolution No. 2002-378, certified Master Environmental Impact Report ("MEIR") No. 10130 (State Clearinghouse No. 2001071097) which evaluated the potentially significant adverse environmental impacts of the General Plan's goals, objectives, and policies; and,

WHEREAS, Text Amendment Application No. TA-14-001 was initiated by the Fresno City Council pursuant to Fresno Municipal Code Section 12-401-A; and

WHEREAS, the Fresno City Council adopted Resolution No. 2013-199 on November 21, 2013 initiating said text amendment; and

WHEREAS, the Fresno County Airport Land Use Commission, at its hearing of April 7, 2014, found the text amendment to be consistent with airport land use plans and recommended approval of the text amendment; and

WHEREAS, pursuant to the provisions of Section 402, Article 4, Chapter 12, of the Fresno Municipal Code, the Planning Commission of the City of Fresno held a hearing on the 21st day of May, 2014, to consider Text Amendment Application No. TA-14-001 and related Environmental Assessment No. TA-14-001, during which the Commission solicited testimony,
considered the environmental assessment, and recommended to the Council of the City of Fresno approval of the text amendment application as evidenced in Planning Commission Resolution No. 13284; and,

WHEREAS, the Council of the City of Fresno, on the 26th day of June 2014, held a public hearing and received the recommendation of the Planning Commission, considered the information in the staff report, and solicited testimony from the public on this matter.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

1. The Council finds in accordance with its own independent judgment that there is no possibility that Text Amendment Application No. TA-14-001 would have significant effects on the environment pursuant to Section 15061(b) (3) of the California Environmental Quality Act Guidelines. Accordingly, the Council adopts Environmental Assessment No. TA-14-001, dated May 1, 2014.

2. The Council finds that the adoption of the proposed text amendment, as recommended by the Planning Commission, is in the best interest of the City of Fresno.

3. The Council of the City of Fresno hereby approves Text Amendment Application to amend the Fresno Municipal Code as set forth below:

SECTION 1. Chapter 12-220.3.B of the Fresno Municipal Code is amended to add a new part, to be numbered and to read as follows:

   [15.1. Payday Lending Establishments, subject to FMC 12-306.N.17.]

SECTION 2. Chapter 12-222.3.B of the Fresno Municipal Code is amended to add a new part, to be numbered and to read as follows:
SECTION 3. Chapter 12-231.3.B of the Fresno Municipal Code is amended to add a new part, to be numbered and to read as follows:

SECTION 4. Chapter 12-105.P of the Fresno Municipal Code is amended to add a new part, to be numbered and to read as follows:

SECTION 5. Chapter 12-306.N.17 of the Fresno Municipal Code is amended to read as follows:

17. [PAYDAY LENDING ESTABLISHMENTS. The location and operation of Payday Lending Establishments shall be subject to and shall comply with all of the restrictions and conditions set forth in this Section, in addition to those restrictions and conditions that may be imposed on a Payday Lending Establishment under or pursuant to other provisions of the Fresno Municipal Code or any other applicable federal, state, or local laws, regulations, or policies.

[a. Discontinuance and Termination.

Any Payday Lending Establishment whether existing or subsequently granted under this Section that voluntarily discontinues active operation for more than ninety consecutive days, does not maintain a valid city business license for more than ninety consecutive days, or ceases to be licensed by the State of California under the California Deferred Deposit Transaction Law, as may be amended, shall result in a termination of the conditional use permit or use. The Licensee shall be notified by the Director of the termination of the conditional use permit, or any other right of use related to the Payday Lending Establishment, and shall be informed of the Licensee’s right to appeal the Director’s decision. The process used in Section 12-405-E (“Revocation of Rights”) of this Code, as may be amended, shall apply. For existing Payday Lending Establishments that originally did not need a special permit to lawfully operate, the same revocation process shall apply except that it shall be for a revocation of rights for use as a Payday Lending Establishment instead of a revocation of rights granted under a special permit.]
b. Zone Districts

1) Payday Lending Establishments approved on or after the effective date of this ordinance shall be limited to the C-4, C-6 and CC zone districts, subject to a Conditional Use Permit and subject to the provisions of FMC 12-405.

2) Notwithstanding the provisions of FMC 12-405-D-2, whenever the rights granted by a Conditional Use Permit for a Payday Lending Establishment are discontinued for a continuous period of ninety (90) days, the Conditional Use Permit shall be considered terminated.

c. Conditions

Any Conditional Use Permit for a Payday Lending Establishment shall incorporate the following additional conditions:

(1) Payday Lending Establishments shall be separated by at least 1,320 feet (0.25 mile) as measured directly from property line to property line from any parcel on which an existing Payday Lending Establishment is located or on which a conditional use permit for a Payday Lending Establishment has been approved which has not been terminated or revoked pursuant to 12-405-D or 12-405-E.

(2) Payday Lending Establishments shall hold, maintain and be in compliance with a valid license issued by the State of California under the California Deferred Deposit Transaction Law, as may be amended.

(3) Payday Lending Establishments shall hold, maintain and be in compliance with a Business License issued pursuant to Section 7-1001 through 7-1301, as may be amended.

SECTION 6. The Department of Development and Resource Management is directed to incorporate the provisions of this ordinance into any proposed comprehensive update of the zoning ordinance.
SECTION 7. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its final passage.

* * * * * * * * * * * * *

STATE OF CALIFORNIA )
COUNTY OF FRESNO ) ss.
CITY OF FRESNO )

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the 24th day of July, 2014.

AYES : Baines, Brand, Olivier, Quintero, Xiong, Brandau

NOES : None

ABSENT : Caprioglio

ABSTAIN : None

Mayor Approval: ________________ N/A , 2014

Mayor Approval/No Return: ________________ August 04 , 2014

Mayor Veto: ________________ N/A , 2014

Council Override Vote: ________________ N/A , 2014

YVONNE SPENCE, CMC
City Clerk

BY: __________________________
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY’S OFFICE

BY: __________________________
Talia Kolluri-Barbick, Deputy
Dated:

TKB: cgj[62964cg/ORD]10/10/14

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July 24, 2014

TO: MAYOR ASHLEY SWEARENGIN
FROM: YVONNE SPENCE, CMC
City Clerk

SUBJECT: TRANSMITTAL OF COUNCIL ACTION FOR APPROVAL OR VETO

At the Council meeting of 7/24/14, Council adopted the attached Bill No. B-30 and Ordinance No. 2014-34, entitled Amending the FMC to establish zoning and use regulations for payday lending. File No. 14-179, by the following vote:

Ayes: Baines, Brand, Olivier, Quintero, Xiong, Brandau
Noes: None
Absent: Caprioglio
Abstain: None

Please indicate either your formal approval or veto by completing the following sections and executing and dating your action. Please file the completed memo with the Clerk’s office on or before August 4, 2014. In computing the ten day period required by Charter, the first day has been excluded and the tenth day has been included unless the 10th day is a Saturday, Sunday, or holiday, in which case it has also been excluded. Failure to file this memo with the Clerk’s office within the required time limit shall constitute approval of the ordinance, resolution or action, and it shall take effect without the Mayor’s signed approval.

Thank you.

APPROVED/NO RETURN: _____

VETOED for the following reasons: (Written objections are required by Charter; attach additional sheets if necessary.)

______________________________
Ashley Swearengin, Mayor

COUNCIL OVERRIDE ACTION:
Ayes: 
Noes: 
Absent: 
Abstain: 

Date: __________________________

Date: __________________________