

ORDINANCE NO. 1978

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF EULESS, CHAPTER 84, "UNIFIED DEVELOPMENT CODE", ARTICLE I, "GENERAL PROVISIONS", SECTION 84-7, "DEFINITIONS AND WORD USAGE" BY PROVIDING A DEFINITION OF NON-DEPOSITORY FINANCIAL INSTITUTIONS, CHECK CASHING BUSINESS, PAYDAY ADVANCE/LOAN BUSINESS, AND CAR TITLE LOAN BUSINESS; AMENDING ARTICLE IV, "ZONING DISTRICT REGULATIONS", SECTION 84-84, "PERMITTED USES TABLE" AND SECTION 84-85, "SPECIAL CONDITIONS BY USE TYPE"; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION; AND AN EFFECTIVE DATE.

WHEREAS, the City of Euless ("City"), is a home rule city acting under its charter adopted by the electorate pursuant to article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council is empowered under the Texas Local Government Code to adopt ordinances and rules for the orderly and beneficial operation of City Government and the welfare of the citizens of Euless; and

WHEREAS, the City Council has adopted Chapter 84 of the Euless Code of Ordinance, the Unified Development Code, which regulates and restricts the location and use of buildings, structures and land for trade, industry, residence, and other purposes, and provide for the establishment of zoning districts of such number, shape and area as may be best suited to carry out these regulations; and

WHEREAS, non-depository financial institutions include check cashing businesses, payday/advance loan businesses, and car title loan businesses; and

WHEREAS, the City Council desires to amend Chapter 84 to provide more specific regulations concerning non-depository financial institutions to better address the general health, safety and welfare of the residents of Euless; and

WHEREAS, the City Council has reviewed source materials related to the effects of non-financial institutions and has determined that a proliferation and clustering of non-depository financial institutions in the City of Euless can have a detrimental effect on local property values and economic development within the City {Sources: (1) Alternative Financial Services: Chattanooga, TN", Chattanooga-Hamilton County Regional Planning Agency, 2006: (2) Center for Responsible Lending, online at: www.responsiblelending.org} and can have an unreasonable adverse effect on the citizens of Euless {Source: Baylor, Don; "The Hidden Costs of Payday Lending," Texas Business Review, April 2008}; and

WHEREAS, the Planning and Zoning Commission has conducted a public hearing on November 6, 2012, in conjunction with Case No. 12-13-CC, and has rendered a recommendation to the City Council with respect to this case; and

WHEREAS, City Council has conducted a public hearing on November 13, 2012, has considered the recommendation of the Planning and Zoning Commission, and has determined that the proposed change is in the best interest of the general welfare of the City of Euless; and

WHEREAS, City has complied with all requirements of Chapter 211 of the Local Government Code and all other laws dealing with notice, publication and procedural requirements for the amendments described herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EULESS, TEXAS:

SECTION 1.

Section 84-7 Definitions and word usage paragraph (b) is amended through the addition of the following:

Non-depository financial institution. Any check cashing business, payday advance/loan business, or car title loan business as defined in this section. This definition excludes:

- a. A state or federally chartered bank, savings and loan association or credit union, or pawnshop; and
- b. A convenience store, supermarket, or other retail establishment where consumer retail sales constitute at least seventy-five (75%) of the total gross revenue generated on site.

Check cashing business. An establishment that provides one or more of the following:

- a. An amount of money that is equal to the face of the check or the amount specified in the written authorization for an electronic transfer of money, less any fee charged for the transaction;
- b. An agreement not to cash a check or execute an electronic transfer of money for a specified period of time; or
- c. The cashing of checks, warrants, drafts, money orders, or other commercial paper for compensation by any person or entity for a fee.

Payday advance/loan business. An establishment that makes small consumer loans, usually backed by a postdated check or authorization to make an electronic debit against an existing financial account, where the check or debit is held for an agreed-upon term, or until a customer's next payday, and then cashed unless the customer repays the loan to reclaim such person's check.

Such establishments may charge a flat fee or other service charge and/or a fee or interest rate on the size of the loan amount.

Car title loan business. An establishment that makes small consumer loans that leverage the equity of a car or other vehicle as collateral where the title to such vehicle is owned free and clear by the loan applicant and any existing liens on the car or vehicle cancel the application. Failure to repay the loan or make interest payments to extend the loan allows the lender to take possession of the car or vehicle.

SECTION 2.

Section 84-84 Permitted uses table (Table 4A) is amended through the addition of the following:

SIC Code	Primary Use	Residential									Commercial			Industrial			Parking Group Table 5-A	Special Condition Section 84-85	
		R-1C	R-1	R-1L	R-1A	R-2	R-3	R-4	R-5	MH	C-1	C-2	TX 10	LI	I-1	I-2			
6099 or 614*	Nondepository financial institution as defined in Sec 84-7.														S	S	S	8	ak

Section 84-84 Permitted uses table (Exhibit A "TX-121" – 121 Gateway District Use Table) is amended through the addition of the following:

SIC Code	Primary Use	Parking Group Table 5-A	Special Condition Sec. 84-85
6099 or 614*	Nondepository financial institution as defined in Sec 84-7	8	

SECTION 3.

Section 84-85 Special conditions by use type is amended through the addition of the following:

(ak) *Non-depository financial institution.* No non-depository financial institution as defined in Section 84-7 may be located within 1,000 feet of another non-depository financial institution; or within 500 feet of the right-of-way of Airport Freeway/SH 183 or SH 121, or Eules Boulevard/SH 10 or FM 157/Industrial Boulevard; or within 500 feet of any zoning which allows residential uses by right.

- (a) Measurement. For purposes of this section, measurement shall be made in a straight line, without regard to intervening structures or objects:

1. From the nearest portion of the property line of the premises where the existing business is located to the nearest portion of the property line of the premises where the new business is proposed;
 2. From the nearest portion of the right-of-way line of Airport Freeway/SH 183 or SH 121, or Euless Boulevard/SH 10 or FM 157/Industrial Boulevard to the property line of the premises where the new business is proposed; or
 3. From the nearest portion of any zoning classification which permits residential uses by right to the property line of the premises where the new business is proposed.
- (b) Non-conformity. A non-depository financial institution that existed and was lawfully constructed, located and operating on the date of this Section 84-85(ah), and that does not conform to zoning district and/or separation distance standards adopted herein shall be deemed a non-conforming use and may continue in operation subject to the provisions in Article III of Chapter 84 and the provisions set forth below:
1. If a non-depository financial institution ceases operations at a particular location, a new certificate of occupancy shall not be issued for a new non-depository financial institution at that location without first complying with all the requirements of this Section 84-85(ah).
 2. The ability to continue a non-conforming non-depository financial institution shall cease and such use shall terminate whenever either of the following occur:
 - i. A certificate of occupancy for a change of owner, occupant, tenant, or business is required.
 - ii. The certificate of occupancy for the use is relinquished, canceled, or terminated in accordance with other applicable ordinances.

SECTION 4.

CUMULATIVE CLAUSE. This Ordinance shall be cumulative of all provisions of the City Code and other ordinances of the City of Euless, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of other ordinances, in which event the conflicting provisions of the other ordinances are hereby repealed.

SECTION 5.

SEVERABILITY CLAUSE. It is hereby declared to be the intention of the City Council of the City of Euless that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase.

SECTION 6.

SAVINGS CLAUSE. That the Code of Ordinances, City of Euless, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance. All rights and remedies of the City of Euless are expressly saved as to any and all violations of the provisions of any ordinances affecting the regulation of non-depository financial institutions, check cashing businesses, payday advance/ loan businesses and car title loan businesses within the City which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 7.

PENALTY FOR VIOLATION. Any person, firm, or corporation violating any of the terms and provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in accordance with Chapter 1, "General Provisions," Section 1-12, "General Penalty," Euless Code of Ordinances. Each such violation shall be deemed a separate offense and shall be punishable as such hereunder.

SECTION 8.

PUBLICATION. The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Euless, in compliance with the provisions of Article II, Section 12, of the City Charter.

SECTION 9.

EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its passage and publication, as provided by the Euless City Charter and the laws of the State of Texas.

PRESENTED AND PASSED ON FIRST AND FINAL READING at a regular meeting of the Euless City Council on November 13, 2012, by a vote of ____ayes, ____nays, and ____abstentions.

APPROVED:

Mary Lib Saleh, Mayor

ATTEST:

Kim Sutter, TRMC, City Secretary

APPROVED AS TO FORM:

Wayne Olson, City Attorney