APPENDIX V: Housing and Neighborhood Component

6. Develop and maintain household affordability throughout Austin.

Rising housing and related costs, such as transportation and utilities, are major issues facing Austinites. Low-income, fixed-income, and, increasingly, middle-class households struggle to find housing they can afford, especially in the urban core. Often, the only housing they can afford is not close to their work or schools, and far removed from daily necessities (such as services, shopping, entertainment, recreation, and dining). Better-located housing is often too expensive or does not meet the needs of many families with children. As Austin becomes more diverse—with a growing retired and senior population, an increasing number of smaller households, and others interested in alternatives to sub-urban living—the single-family homes typical of our central neighborhoods may not suit their needs. More significantly, high real estate prices increasingly preclude the possibility of purchasing or renting a house in Central Austin.

In order to meet the market demand of our growing and diversifying population, the range of available housing choices must expand throughout the city. Alternatives to the typical larger-lot single family and garden-style apartments that characterize much of Austin's housing stock are needed, including a greater variety of starter and move-up homes. The introduction and expansion into the market of housing types such as rowhouses, courtyard apartments, bungalow courts, small-lot single-family, garage apartments, and live/work units can meet this emerging demand. The demand for market-rate housing can and should be met by the private sector. The City of Austin can work with private developers, non-profits, the state and federal governments, Travis County and other local governments to help those individuals and families not able to afford market-rate housing, including seniors on a fixed income, people with disabilities, and low-wage workers.

The city's housing stock contributes to unaffordability in other ways. High utility bills can often be addressed by improving how we use water, electricity and natural gas, while the location of homes in relation to different modes of transportation, work, and daily and weekly needs impacts how much households spend on transportation.

To address these issues, a comprehensive approach is needed to define and provide household affordability for Austinites. Such an approach must take into consideration transportation, utilities, and access to daily and weekly needs as essential and inter-related components of household affordability. It should recognize both market-rate affordability and the need for subsidized housing, and include collaboration with Travis County, area school districts, and regional entities (such as Capital Area Council of Governments, Capital Area Metropolitan Planning Organization, and Capital Metropolitan Transportation Authority) to align objectives and achieve maximum investment to promote household affordability.

LEAD
1) Neighborhood Housing and Community Development Office/ Austin Housing Finance Corporation 2) Planning and Development Review Department
PARTNERS
Housing Authority of City of Austin; Health & Human Services Department; Economic Growth and Redevelopment Services Office; Travis County; Austin Independent School District; Capital Area Council of Governments; Capital Area Metropolitan Planning Organization; Capital Metropolitan Transportation Authority; Community Action Network
RELATED VISION COMPONENTS
Prosperous Livable Values and Respects its People
RELATED POLICIES
LUT P3, P5-P8, P10; HN P1-P10, P12, P13, P15; CFS P21; S P3, P4, P11-P13, P20-P21; C P10, P18.
RELATED ACTIONS
LUT A2, A3, A5, A6; HN A1-A11, A16, A18, A23, A24; E A3; CFS A34; S A25-A31; C A13, C A14.

GOALS	
Maintain and increase household affordability in Austin.	
METRICS	BASELINE (2012)
- Gaps in rental and homeownership supply and demand - Median rent by zipcode - Median wage by zipcode - Percent of residents who are cost-burdened or severely cost-burdened (including transportation and utilities) - Percent of residents who are homeless or at risk of homelessness. - Number of affordable units built	

WORK PROGRAM

SHORT TERM (1-3 YEARS)

1. Identify gaps in affordability throughout the city and set numerical targets for housing that is affordable to a variety of households, including workforce, supportive, low-income, families with children, and senior housing.

2. Use the S.M.A.R.T. Housing program as a framework to introduce new tools and strategies to promote affordable housing for moderate, low, and very low-income households, including new regulatory and finance mechanisms, grants, and partnerships with local non-profit intermediary organizations.

3. Promote long-term affordability by:

- Supporting a local community land trust and other shared equity approaches
- Targeting the use of public funds for the lowest-income households, including those who are homeless, at risk of homelessness, or who have other special needs
- Developing new goals, targets, and strategies to promote the distribution of affordable housing in all parts of the city, including incentives for affordable housing in new developments and for the preservation of existing rental units.

4. Ensure new and revised small-area plans include an affordability component addressing preservation of existing and creation of new affordable, supportive, and workforce housing.

ONGOING AND LONG TERM (3+ YEARS)

5. Identify new or expand existing dedicated revenue sources for affordable housing.

6. Examine potential regulatory barriers and policies that impede the provision of household affordability, including infrastructure costs; the costs and benefits of zoning ordinances on housing development; and examine how the City's waste removal fees and other City fees and requirements impact the cost of living for the families of Austin.

7. Develop a community educational campaign to address the issue of affordability, such as loss of existing affordable housing, rising utility and transportation costs, and the need to maintain affordability as part of Austin's quality of life.

8. Identify opportunities for the creation of affordable housing on publicly-owned land and develop partnerships with developers to provide flexible, affordable work space and housing.

9. Support the creation of a "real-time" database of available affordable housing units, services, resources, and incentives to strengthen the process of connecting qualified

buyers and renters with affordable housing to comprehensively lower monthly household expenses.

10. Replicate and adopt best practice models for affordable housing in Texas to make state lawmakers aware of the statutory barriers that impede household affordability, such as the inability of cities to provide property tax relief to low-income renters and the challenges of meeting market demand.

RELATIONSHIP TO OTHER ACTION PROGRAMS:

- Grow and invest in Austin's creative economy. Investing in housing that is affordable for all will help sustain existing and attract new creative business.

- Invest in transportation and other improvements to create a compact and connected Austin. Transportation costs can greatly impact moderate and lower-income households. Diversifying Austin's transportation network and increasing the balance of public transit, walking, and biking networks will reduce and the need to drive and associated transportation costs.

- Continue to grow Austin's economy by investing in our workforce, education system, and entrepreners. Sustainable growth of Austin's economy depends on providing affordable living options for its workforce.

- Revise Austin's development regulations and processes to promote a compact and connected city. Issues that should be addressed in the development code revision include reevaluating the goal of affordability, promoting the creation of flexible standards for the construction and preservation of affordable units, and developing standards for a City-wide approach to development bonus programs.

RELATED CITY INITIATIVES:

- City of Austin 5-Year Consolidated Plan and Annual Action Plan Process (required by the U.S. Department of Housing and Urban Development)

- Development Bonus Initiatives (various)

- S.M.A.R.T. Housing Initiative

- Permanent Supportive Housing Initiative

- Colony Park Sustainable Community Pilot Project

- Mueller redevelopment

- Neighborhood, corridor, and station-area plans

APPENDIX VI: Resolutions

RESOLUTION 971119-34

WHEREAS, the City of Austin has conducted a Project Area Survey as set forth as **Exhibit "A"** to this Resolution for an area east of IH-35 generally along the East 11th and 12th Street's commercial corridors and as required by section 374.014(a) of the Local Government Code (the "Code"); and

WHEREAS, based on the information and data collected in the Project Area Survey the City Council has determined that the area set forth on the attached **Exhibit "B"** to this Resolution (the "Redevelopment Area") is a blighted area and a slum area as required by section 374.014(a) of the Code and as those terms are defined in sections 374.003(3) and (19) of the Code; and

WHEREAS, the City Council desires to move the process of urban renewal forward and understands that prior to expending any HUD Section 108 guaranteed loan funds, the financing agreement, the master plan, and the development plan must receive City Council approval; and

WHEREAS, the City Council desires to take appropriate action to eliminate this slum area and blighted area through the combined action of private enterprise, municipal regulation, and other public action through an approved urban renewal plan; **NOW, THEREFORE**,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

That the City Council declares the Redevelopment Area to be a slum area and a blighted area; and

BE IT FURTHER RESOLVED, that the City Council designates the Redevelopment Area as appropriate for an urban renewal project; and

BE IT FURTHER RESOLVED, that no work may be done by the Austin Revitalization Authority (the "ARA") on the master plan or development plan until the ARA's board of directors is reconstituted; and

BE IT FINALLY RESOLVED, that the City Council directs the City Manager to request any funding allowed under the HUD Section 108 Program and that no money should be released or distributed unless the previously identified steps are met and receive City Council approval.

ADOPTED: November 19, 1997 ATTEST: James E. Aldridge

James E. Aldridge
City Clerk

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RESOLUTION NO. 20120202-015

WHEREAS, community land trusts (CLTs) were created more than 30 years ago in response to the rising cost of housing, limited space for new construction, a growing number of abandoned buildings, and an aging housing stock; and

WHEREAS, the purpose of a CLT is to provide access to land and housing to people who are otherwise denied access, empower residents through involvement and participation in the organization, and permanently preserve affordability of housing; and

WHEREAS, CLTs are successful tools that have been used in other parts of the country to provide affordable housing with more than 200 CLTs nationwide; and

WHEREAS, the Neighborhood Housing and Community Development Department's Fiscal Year 2011-12 Action Plan calls for the exploration and utilization of CLTs to preserve long-term affordability and increase home ownership opportunities; and

WHEREAS, the City of Austin has long-standing partnerships with Community Housing Development Organizations (CHDOs), which are eligible for consideration of community land trust status; and

WHEREAS, the Texas Legislature adopted S.B. 402 in the 82nd Regular Session which became law on January 1, 2012 relating to the local creation of CLTs that may be exempt from taxation of land owned by a designated CLT; **NOW THEREFORE,**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

That the City Manager is directed to work with the Community Development Commission and representatives of community housing development organizations (CHDOs) and other eligible non-profit organizations to implement a process for evaluation and consideration of CHDOs and other non-profit organizations as community land trusts.

BE IT FURTHER RESOLVED:

That the City Manager is directed to report back to the City Council on the status of implementation of the process by April 5, 2012 with the intention for the City Council to begin consideration of applications by non-profit organizations for CLT status by April 26, 2012.

ADOPTED: February 2, 2012 **ATTEST:** Shirley A. Gentry

Shirley A. Gentry
City Clerk

RESOLUTION NO. 20100325-053

WHEREAS, the City of Austin receives funding from several sources to finance affordable housing projects including general obligation bonds, community development block grants, and other federal and state grants; and

WHEREAS, the 2009 Austin Housing Market Study determined that those earning below $20,000 in annual income are most at risk of homelessness and showed the greatest need for rental housing among residents with incomes at or below 30 percent of the median family income (MFI); and

WHEREAS, in January, 2010, the Corporation for Supportive Housing analyzed the need for permanent supportive housing and made a recommendation to the Austin/Travis County Reentry Roundtable, Ending Community Homelessness Coalition, and the Mayor's Mental Health Task Force Monitoring Committee that 350 permanent supportive housing units be constructed over the next four years; **NOW, THEREFORE,**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

The city manager is directed to give priority to funding for permanent supportive housing that targets the most vulnerable populations, those residents with annual incomes at or below 30 percent MFI, but continue to fund affordable home ownership, home repair, and rental projects.

BE IT FURTHER RESOLVED:

The city manager is directed to work with the Director of Neighborhood Housing and Community Development, the Director of Health and Human Services, and community stakeholders to develop a comprehensive strategy, based on information gathered on best practices in

other cities, that will include both the construction and operation of 350 permanent supportive housing units over the next four years. Community stakeholders should include both governmental and private-sector entities.

The city manager shall present the comprehensive strategy for the permanent supportive housing units to Council before October 1, 2010 and report annually on the status.

ADOPTED: March 25, 2010 **ATTEST:** Shirley A. Gentry

Shirley A. Gentry
City Clerk

RESOLUTION NO. 20110310-025

WHEREAS, the City of Austin receives funding from several sources to finance affordable housing projects including general obligation bonds, community development block grants, and other federal and state grants; and

WHEREAS, the 2009 Austin Housing Market Study determined that those earning below $20,000 in annual income are most at risk of homelessness and showed the greatest need for rental housing among residents with incomes at or below 30 percent of the median family income (MFI); and

WHEREAS, in January 2010, the Corporation for Supportive Housing analyzed the need for permanent supportive housing and made a recommendation to the Austin/Travis County Reentry Roundtable, Ending Community Homelessness Coalition, and the Mayor's Mental Health Task Force Monitoring Committee that 350 permanent supportive housing units be created over the next four years;

WHEREAS, in March 2010, the City Council passed a resolution directing the City Manager to give priority to funding for permanent supportive housing that targets the most vulnerable populations, those residents with annual incomes at or below 30 percent MFI, but continue to fund affordable home ownership, home repair, and rental projects;

WHEREAS, in order to achieve this goal it is necessary to integrate the work of the Director of Neighborhood Housing and Community Development, the Director of Health and Human Services, and community stakeholders to develop a comprehensive strategy, based on information

gathered on best practices in other cities, that will include both the creation and operation of 350 permanent supportive housing units by year-end 2014; and

WHEREAS, the City Council was briefed on the recommended permanent supportive housing strategy at the City Council meeting on September 30 2010; **NOW, THEREFORE,**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

The City Council hereby adopts the City of Austin Permanent Supportive Housing Strategy as a working document.

BE IT FURTHER RESOLVED:

The City Manager shall facilitate the creation of a Leadership Committee on Supportive Housing Finance to include, but not to be limited to, designated representatives from the Ending Community Homelessness Coalition; the City of Austin; Travis County; Seton; the St. David's Foundation; Central Health; Austin-Travis County Integral Care; the Housing Authority of the City of Austin; Travis County Housing Authority, and the United States Department of Veterans Affairs.

BE IT FURTHER RESOLVED:

Representatives from additional entities not listed should be considered to serve on the Leadership Committee.

BE IT FURTHER RESOLVED:

The Leadership Committee shall work together to review and analyze the report given to Council; and recommend a comprehensive public and

private financing strategy for the City Council to consider for action; and provide Council with quarterly updates on their progress beginning in May 2011.

APPROVED: March 10, 2011 **ATTEST:** Shirley A. Gentry

Shirley A. Gentry
City Clerk

RESOLUTION NO. 20110113-040

WHEREAS, the Comprehensive Housing Market Study, commissioned by the City of Austin in 2009, identified very low-income renters as one of the most underserved populations in the market overall and found that there is a tremendous need for rental housing affordable to those earning 0-30% of the area's median family income; and

WHEREAS, Permanent Supportive Housing is an effective way to help very low-income families with multiple barriers to housing stability by linking a range of support services that enable tenants, especially the able homeless, to live independently and participate in community life; and

WHEREAS, on March 25, 2010, the Austin City Council passed Resolution 20100325-053 directing the City Manager to give priority to the funding of permanent supportive housing and to develop a comprehensive strategy for the construction and operation of 350 permanent supportive housing units over the next four years; and

WHEREAS, on September 30, 2010, to implement this council directive, the City Manager produced the Permanent Supportive Housing Strategy, which identifies community outreach, education, and collaborative two-way communication as critical components to the success of any permanent supportive housing effort; and

WHEREAS, the Austin Neighborhoods Council, which represents approximately 90 neighborhood associations across Austin, has adopted two resolutions supporting 'policies that will increase the quantity and quality of

affordable housing for low and middle-income households throughout the municipality' and 'projects providing housing for the homeless that is dispersed throughout Austin'; and

WHEREAS, a broad community dialogue that includes stakeholders from neighborhoods all across Austin is needed to establish successful approaches for integrating low-income housing throughout the city; **NOW, THEREFORE,**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

That the City Manager is directed to research best practices from other cities on engaging communities and building support for permanent supportive housing projects.

BE IT FURTHER RESOLVED:

The City Manager shall report his findings and recommendations to the Comprehensive Planning and Transportation Subcommittee by March 7, 2011 wherein the committee members will receive public comment and identify a schedule for additional community dialogue. The stakeholder discussion should start no later than March 21, 2011.

ADOPTED: January 13, 2011 **ATTEST:** Shirley A. Gentry

Shirley A. Gentry
City Clerk

RESOLUTION NO. 20091210-044

WHEREAS, the Austin City Council adopted Ordinance 040902-58 establishing the University Neighborhood Overlay (UNO) zoning district, which includes a density bonus based on the provision of affordable housing; and

WHEREAS, in lieu of providing a portion of the on-site affordable housing requirements in UNO, a person may pay into the University Neighborhood District Housing Trust Fund a fee of $0.50 for each square foot of net rentable floor area in a multi-family residential use development; and

WHEREAS, UNO has generated an estimated $1 million available for the provision of affordable housing; and

WHEREAS, the City Council has adopted a number of other density bonuses in other areas of Austin which include an in-lieu fee component, including affordable housing incentives in a central business district (CBD) or downtown mixed use (DMU) zoning district (currently $10/bonus square foot), the Planned Unit Development (PUD) in-lieu donation (currently $6/square foot), and fee-in-lieu payments in the North Burnet Gateway (NBG) Regulating Plan (currently $6/bonus square foot); and

WHEREAS, it is in the interest of the City to appropriately balance the needs of the community and to maintain density bonus programs that reflect current market conditions; **NOW, THEREFORE,**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

The City Manager is directed to work with stakeholders to make recommendations on a potential revision to the calculation of the in-lieu fee for affordable housing in the University Neighborhood Overlay and initiate the necessary code amendments. This potential revision should include a provision to set the in-lieu fee by ordinance with an annual adjustment to reflect current market conditions in a manner and format similar to the in-lieu fees for affordable housing incentives in CBD, DMU, PUD, and NBG zoning districts.

BE IT FURTHER RESOLVED:

The City Council requests both the Planning Commission and the Community Development Commission to consider and make recommendations on the proposed code changes and potential fee adjustments.

ADOPTED: December 10, 2009 **ATTEST:** Shirley A. Gentry

Shirley A. Gentry
City Clerk

RESOLUTION NO. 041202-59

WHEREAS, the City of Austin ("City") and Catellus Austin, LLC ("Catellus") have entered into a Master Development Agreement ("MDA") for Catellus to redevelop the former Robert Mueller Municipal Airport site, now known as Mueller, which includes an affordable housing requirement; and

WHEREAS, over the past eight years the City and the community have anticipated a significant affordable housing program for the Mueller redevelopment, and Catellus shares this vision; and

WHEREAS, the MDA commits Catellus to achieving an overall affordable housing goal of 25% of residential units (at 80% median family income for owner-occupied units and at approximately 60% median family income for rental units) generally evenly dispersed throughout the development in accordance with the MDA and indistinguishable from adjacent "market rate" units, while still balancing all of the other goals of both the City and Catellus for Mueller; and

WHEREAS, the City and Catellus desire to continue a dialogue to examine what current additional tools, and future additional tools, exist to develop more affordable housing at Mueller, both in overall numbers of affordable units and in the level of affordability achieved; and

WHEREAS, Catellus is committed to using diligent, good faith efforts to work with Austin Housing Finance Corporation ("AHFC") to achieve greater levels of affordability in excess of the above requirements; and

WHEREAS, Catellus will use commercially reasonable efforts to work with AHFC to identify and explore greater third party participation opportunities in the affordable housing program at Mueller, including exploring financial institution affordable housing incentives and using affordable housing experience as a builder selection criterion; and

WHEREAS, the following community groups may be included to provide the widest possible affordable housing program at Mueller: RMMA Plan Implementation Advisory Commission, Community Development Commission, including Housing Subcommittee, and other community housing organizations, Real Estate Council of Austin and other builder/real estate organizations; **NOW; THEREFORE,**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

SECTION 1. That the following strategies for reporting Catellus' performance on its commitment to affordable housing are approved as part of the City's Mueller affordable housing program:

A. Catellus will semi-annually report its progress on the Mueller affordable housing program to the City's Community Development Commission, which will be incorporated into the City's Consolidated Planning Process.

B. The Mueller affordable housing program will become part of the City's Annual Consolidated Plan, thus providing formal accountability.

C. The following community groups may be included in the discussion of the Mueller affordable housing program:

i. RMMA Plan Implementation Advisory Commission.

ii. Community Development Commission, including Housing Subcommittee.

iii. Other community housing organizations.

iv. Real Estate Council of Austin.

v. Other builder/real estate organizations.

SECTION 2. That Catellus' commitment to use diligent, good faith efforts to work with AHFC to increase both the levels and degree of affordable housing at Mueller, including reviewing the following City programs, is approved as part of the City's Mueller affordable housing program:

A. Tax credits for single or multi-family development.

B. Special needs housing grants.

C. Cooperative housing models for homeownership that serve families between 50-65% median family income and rental housing that serves families at or below 50% median family income.

D. Down payment assistance.

E. Mortgage Credit Certificates.

F. Rental Housing Development Assistance.

G. Bond Financing.

H. Housing Trust Fund, S.M.A.R.T. Housing™ Capital Improvement Funds, or other federal resources or funding included in the City of Austin Consolidated Plan.

SECTION 3. That Catellus' commitment to use diligent, good faith efforts to work with AHFC to increase both the levels and degree of affordable housing at Mueller, including reviewing the following tools and strategies, is approved as part of the City's Mueller affordable housing program:

A. Models for home-ownership that serves families, both initial and subsequent occupants, at 50-60% median family income.

B. Models for rental units, which make and retain at least some units available, at or below 50% median family income.

C. Programs targeted at special needs populations, especially elderly and severely developmentally disabled.

D. Creative models for equity generation systems to qualify families/individuals in the affordable units.

E. Investigate establishing appropriate legal entities, such as land trust models, that could hold and manage affordable housing units and thereby maintain affordability.

SECTION 4. That Catellus' commitment to use commercially reasonable efforts to work with AHFC to identify and explore greater third party participation opportunities in the affordable housing program at Mueller, including exploring affordable housing incentives from financial institutions and using affordable housing experience as a builder selection criterion, is approved as part of the City's Mueller affordable housing program.

ADOPTED: December 2 **, 2004** **ATTEST:** Shirley A. Brown

Shirley A. Brown
City Clerk

ORDINANCE NO. 20110818-075

AN ORDINANCE ADDING A NEW CHAPTER 4-12 TO TITLE 4 OF THE CITY CODE RELATING TO THE REGISTRATION OF CREDIT ACCESS BUSINESSES; PROVIDING A PENALTY UP TO $500 FOR EACH OFFENSE; AND INCLUDING A DEFENSE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Title 4 *(Business Regulation and Permit Requirements)* of the City Code is amended to add a new Chapter 4-12 to read:

CHAPTER 4-12. CREDIT ACCESS BUSINESSES.

ARTICLE 1. GENERAL PROVISIONS.

§ 4-12-1 DEFINITIONS.

In this chapter:

(A) CERTIFICATE OF REGISTRATION means a certificate of registration issued by the Director under this chapter to the owner or operator of a credit access business.

(B) CONSUMER means an individual who is solicited to purchase or who purchases the services of a credit access business.

(C) CREDIT ACCESS BUSINESS has the same meaning as defined in Section 393.601 of the Texas Finance Code.

(D) DEFERRED PRESENTMENT TRANSACTION has the same meaning as defined in Section 393.601 of the Texas Finance Code.

(E) DIRECTOR means, for purposes of this chapter, the Director of the department designated by the city manager to enforce and administer this Chapter.

(F) EXTENSION OF CONSUMER CREDIT has the same meaning as defined in Section 393.001 of the Texas Finance Code.

(G) MOTOR VEHICLE TITLE LOAN has the same meaning as defined in Section 393.601 of the Texas Finance Code.

(H) OWNER means, for purposes of this chapter, any person who directly or indirectly owns a credit access business. For publicly traded companies, the term means any person who directly or indirectly owns or controls 10% or more of the outstanding shares of stock in the credit access business.

(I) PERSON means, for purposes of this chapter, any individual, corporation, organization, partnership, association, financial institution, or any other legal entity, but does not include the City.

(J) REGISTRANT means a person issued a certificate of registration for a credit access business under this chapter and includes all owners and operators of the credit access business identified in the registration application filed under this chapter.

(K) STATE LICENSE means a license to operate a credit access business issued by the Texas Consumer Credit Commissioner under Chapter 393 of the Texas Finance Code.

§ 4-12-2 PURPOSE.

The purpose of this chapter is to protect the welfare of the citizens of the City by monitoring credit access businesses in an effort to reduce abusive and predatory lending practices.

§ 4-12-3 through § 4-12-9 (RESERVED).

ARTICLE 2. REGISTRATION OF CREDIT ACCESS BUSINESSES.

§ 4-12-10 REGISTRATION REQUIRED.

A person may not operate or conduct business as a credit access business without a valid certificate of registration. A certificate of registration is required for each credit access business.

§ 4-12-11 REGISTRATION APPLICATION.

(A) To obtain a certificate of registration for a credit access business, a person must submit an application on a form provided for that purpose to the Director. The application must contain the following:

(1) the name, street address, mailing address, facsimile number, and telephone number of the registrant;

(2) the business or trade name, street address, mailing address, facsimile number, and telephone number of the credit access business;

(3) the names, street addresses, mailing addresses, and telephone numbers of all owners of the credit access business and other persons with a financial interest in the credit access business, and the nature and extent of each person's interest in the credit access business;

(4) a copy of a current, valid state license held by the credit access business pursuant to Section 393 of the Texas Finance Code;

(5) a copy of a current, valid certificate of occupancy showing that the credit access business is in compliance with Title 25 of the City Code of Ordinances;

(6) a non-refundable application fee of $50; and

(7) if a publicly traded company, the name of the registered agent for service of process in Texas.

(B) A Registrant shall notify the Director within 45 days after any material change in the information contained in the application for a certificate of registration, including, but not limited to, any change of address and any change in the status of the state license held by the applicant or registrant.

§ 4-12-12 ISSUANCE AND DISPLAY OF CERTIFICATE OF REGISTRATION; PRESENTMENT UPON REQUEST.

(A) The Director shall issue to the Registrant a certificate of registration for each location upon receiving a completed application under Section 4-12-11 *(Registration Application)*.

(B) A certificate of registration issued under this section must be conspicuously displayed to the public in the credit access business. The certificate of registration must be presented upon request to the Director or the Director's designee for examination.

§ 4-12-13 EXPIRATION AND RENEWAL OF CERTIFICATE OF REGISTRATION.

(A) A certificate of registration expires on the earlier of:

(1) one year after the date of issuance; or

(2) the date of expiration, revocation, or other termination of the registrant's state license.

(B) A certificate of registration may be renewed by making application in accordance with Section 4-12-11 *(Registration Application)*. A registrant shall apply for renewal at least 30 days before the expiration of the registration.

§ 4-12-14 NONTRANSFERABILITY.

A certificate of registration for a credit access business is not transferable.

§ 4-12-15 through § 4-12-19 (RESERVED).

ARTICLE 3. MISCELLANEOUS REQUIREMENTS FOR CREDIT ACCESS BUSINESSES.

§ 4-12-20 MAINTENANCE OF RECORDS.

(A) A credit access business shall maintain a complete set of records of all extensions of consumer credit arranged or obtained by the credit access business, which must include the following information:

(1) the name and address of the consumer;

(2) the principal amount of cash actually advanced;

(3) the fees charged by the credit access business to arrange or obtain an extension of consumer credit; and

(4) the documentation used to establish a consumer's income under Section 4-12-21 *(Restrictions on Extensions of Consumer Credit)*.

(B) A credit access business shall maintain a copy of each written agreement, between the credit access business and a consumer, evidencing an extension of consumer credit (including, but not limited to, any refinancing or renewal granted to the consumer).

(C) A credit access business shall maintain and file on a quarterly basis with the Director copies of all quarterly reports filed with the Texas Consumer Credit Commissioner as required by Chapter 393 of the Texas Finance Code.

(D) The records required to be maintained by a credit access business under this section must be retained for at least three years and made available for inspection and copying by the City upon request during the usual and customary business hours of the credit access business.

§ 4-12-21 RESTRICTIONS ON EXTENSIONS OF CONSUMER CREDIT.

(A) The cash advanced under an extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining in the form of a deferred presentment transaction may not exceed twenty percent (20%) of the consumer's gross monthly income.

(B) The cash advanced under an extension of consumer credit that a credit access business obtains for a consumer, or that the credit access business assists a

consumer in obtaining, in the form of a motor vehicle title loan may not exceed the lesser of:

(1) three percent (3%) of the consumer's gross annual income; or

(2) seventy percent (70%) of the retail value of the motor vehicle.

(C) A credit access business shall use a paycheck, bank statement, IRS Form W-2 from the previous tax year, the previous year's tax return, a signed letter from an employer, or other similar documentation establishing income to determine a consumer's income.

(D) An extension of consumer credit that a credit access business obtains for a consumer or that the credit access business assists a consumer in obtaining and that provides for repayment in installments may not be payable in more than four installments. Proceeds from each installment must be used to repay at least twenty-five percent (25%) of the principal amount of the extension of consumer credit. An extension of consumer credit that provides for repayment in installments may not be refinanced or renewed.

(E) An extension of consumer credit that a credit access business obtains for a consumer or that the credit access business assists a consumer in obtaining and that provides for a single lump sum repayment may not be refinanced or renewed more than three times. The minimum payment due to refinance or renew an extension of consumer credit arranged or obtained by a credit access business must reduce by at least twenty-five percent (25%) the principal amount of the extension of consumer credit such that the extension of credit is paid in full after a maximum of three renewals or refinances.

(F) For purposes of this section, an extension of consumer credit that is made to a consumer within seven business days after a previous extension of consumer credit has been paid by the consumer will constitute a refinancing or renewal.

§ 4-12-22 REFERRAL TO CONSUMER CREDIT COUNSELING.

A credit access business shall provide a form, to be prescribed by the Director, to each consumer seeking assistance in obtaining an extension of consumer credit which references non-profit agencies that provide financial education and training programs and agencies with cash assistance programs. The form will also contain information regarding extensions of consumer credit.

§ 4-12-23 OFFENSE AND PENALTY.

(A) A person who violates any section of this chapter commits a Class C misdemeanor punishable by a fine not to exceed $500.

(B) Each day that a violation occurs is a separate offense.

(C) The penalties provided for in Subsection (A) are in addition to any other remedies available under City ordinance or state law.

(D) A culpable mental state is not required for a violation of this chapter and need not be proved.

§ 4-12-24- DEFENSE.

It is a defense to prosecution under this chapter that at the time of the alleged offense the person was not required to be licensed by the State of Texas as a credit access business pursuant to Chapter 393 of the Texas Finance Code.

PART 2. A credit access business that possesses a state license issued pursuant to Chapter 393 of the Texas Finance Code on the effective date of this ordinance shall file a registration application and pay the fee required under this chapter within thirty days of the effective date of this ordinance.

PART 3. This ordinance takes effect on January 1, 2012.

PASSED AND APPROVED

§
§
August 18, 2011 §

Lee Leffingwell
Mayor

APPROVED:

Karen M. Kennard
City Attorney

ATTEST:

Shirley A. Gentry
City Clerk

RESOLUTION NO. 20110818-079

WHEREAS, the City Council of the City of Austin, and the citizens it represents, are deeply concerned about the harmful effects of alternative financial service business practices, including payday lenders and auto title lenders, in the City of Austin and elsewhere in the state of Texas; and

WHEREAS, in the state of Texas there are over 2,800 of these unlicensed and unregulated lending storefronts draining over $600 million in loan fees and lost assets from our communities every year; and

WHEREAS, these businesses in our local community promise "easy credit" that in fact hurt consumers with annual interest rates often between 300% and 500%, and loan terms that pull people deeper into debt; and

WHEREAS, 15 states have adopted a 36% or lower annual percentage rate cap for these small loans, and the federal government has adopted a similar rate cap for payday and auto title loans to military personnel based on a Department of Defense finding that these loans, "undermine military readiness, harm the morale of troops and their families, and add to the cost of fielding an all-volunteer fighting force"; and

WHEREAS, the City of Austin does not have the authority to regulate interest rates, but does have land use authority; and

WHEREAS, the City Council believes there is a public benefit to restricting locations of payday and auto title lenders to reduce the negative impact on consumers in our community; **NOW, THEREFORE,**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

The City Council initiates code amendments to City Code Title 25 (*Land Development Code*) and directs the City Manager to process code amendments to regulate the location and use of buildings and land for alternative financial services businesses in a manner substantially consistent with the purpose and objectives of the attached Exhibit A.

ADOPTED: August 18, 2011 **ATTEST:** Shirley A. Gentry

Shirley A. Gentry
City Clerk

EXHIBIT A

Add the following new definition to Commercial Uses Described:

Alternative Financial Services Businesses use is the use of a site for the provision of check cashing, payday advance or loan, money-transfer, or motor vehicle title loan services, or a credit access business as defined in this section.

1. This definition excludes:
    a. A state or federally chartered bank, savings and loan association or credit union, or a pawnshop, and;
    b. A convenience store, supermarket, or other retail establishment where consumer retail sales constitute at least 75% of the total gross revenue generated on site.
2. *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.
3. *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 based on the size of the loan amount.
4. *Car title loan business.* An establishment that makes small consumer loans that leverage the equity value 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.
5. *Credit Access Business* as defined in Section 393.601 of the Texas Finance Code.

Amend the Financial Services Commercial Uses Described definition:

Financial Services use is the use of a site for the provision of financial and banking services. This use includes banks, savings and loan institutions, stock and bond brokers, loan and lending activities, and similar services. <u>This excludes uses described in ALTERNATIVE FINANCIAL SERVICES BUSINESSES.</u>

Add a new section to regulate Alternative Financial Services Businesses uses:

Alternative Financial Services Businesses

1. Except as provided in Subsection 2, an alternative financial services business is a permitted use in a CS zoning district and is a conditional use in an LR or DMU zoning district.

2. An alternative financial service business may not be located on a lot:

   a. That is within one thousand (1,000) feet of a lot containing another credit access business.

   b. That is within two hundred (200) feet from a lot zoned or used for residential purposes.

   c. That is within five hundred (500) feet of the rights-of-way of Interstate Highway 35, U.S. Highway 183, U.S. Highway 290, Texas State Highway Loop 360, Texas State Highway Loop 1, and Texas State Highway 45.

   d. That is within the East Austin Overlay District, Waterfront Overlay District, or the University Neighborhood Overlay District.

3. An alternative financial service business shall be situated only within a freestanding building and shall not be co-located in the same structure as other uses.

RESOLUTION NO. 20100930-025

WHEREAS, in December 2009, the Federal Deposit Insurance Corporation (FDIC) estimated that more than 20% of households (146,000 households) in the Austin-Round Rock Metropolitan Statistical Area (MSA) are "underbanked" and rely on alternative financial services, including non-bank money orders, non-bank check cashing, payday lending, or pawn shop lending; and

WHEREAS, racial and ethnic minorities, as well as lower-income households, were significantly more likely to be underbanked, according to the 2009 FDIC study; and

WHEREAS, the 2006-2008 American Community Survey 3-year Estimates found 13% of the total MSA population lived in poverty, and 22.8% of African Americans and 19.2% of Hispanics in the MSA lived in poverty; and

WHEREAS, a 2008 report by the Center for Financial Services Innovation estimated that 38% of the underbanked borrow to pay basic living expenses; and

WHEREAS, in 2008 the country's largest publicly-traded payday lending institution, QC Holdings, reported that its average loan over 2005-2008 was close to $360 with a term of 16 days and a fee of approximately $53 – a 400% annual percentage rate; and

WHEREAS, according to the Corporation for Enterprise Development, substantial research evidence indicates that building a household's assets

"increases economic security, encourages initiative and risk-taking, increases economic confidence, increases home and business ownership, increases financial skills, strengthens families and communities, and improves the prospects of future generations"; and

WHEREAS, United Way Capital Area and PeopleFund launched the Bank on Central Texas program in June 2010 to create public awareness of the importance of being banked, promote access to financial products tailored for the underbanked or unbanked, and provide financial education and capacity building for the underbanked and unbanked; and

WHEREAS, a 2009 Center for Financial Services Innovation report indicated that workers enrolling in a direct deposit program can reduce transaction costs associated with converting paychecks into cash or money orders, can increase personal safety by not carrying large amounts of cash, and can build savings opportunities through their interactions with financial institutions; and

WHEREAS, on average 90% of City of Austin workforce is paid through direct deposit; **NOW, THEREFORE,**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

The City Council accepts the invitation of the United Way Capital Area and PeopleFund to become a community partner and leader in the Bank on Central Texas (BOCT) effort. The City Manager will designate a liaison from the city staff to collaborate on BOCT programs.

BE IT FURTHER RESOLVED:

The City Council directs the City of Austin to participate in the BOCT Employer Campaign, a program designed to highlight the commitments to and successes of financial empowerment programs of the largest employers in Central Texas.

As its first public commitment, the City Council directs the City Manager to use all necessary effort consistent with legal requirements to achieve a 98% electronic wage payment rate by September 30, 2011. Among these efforts, the City Manager should work with employees receiving paper checks to identify their individual barriers to receiving an electronic wage payment, and where appropriate:

1. Offer financial coaching to the employee, either through the City's Human Resources Department or in conjunction with existing programs offered by community organizations; and

2. Identify financial products through the BOCT program that may benefit the employee, whether they are BOCT accounts, prepaid card accounts, or more traditional bank or credit union accounts.

The City Manager should also develop procedures to encourage new employees to enroll in electronic wage payment.

The City Manager will present the interim results of this initiative to Council by April 30, 2011 and the final results of the year-long effort by October 15, 2011.

BE IT FURTHER RESOLVED:

Over the course of Fiscal Year 2010-2011, the City Manager will work with BOCT leaders to help identify solutions to bring the electronic wage payment rate as close to 100% as is legitimately possible consistent with legal requirements within a reasonable but accelerated timeline.

BE IT FURTHER RESOLVED:

The City Manager will work with BOCT to create other Employer Campaign programs that can be offered to city employees and which serve as a leadership model for other Central Texas employers. These programs should be presented to the City Council for its review by April 30, 2011.

ADOPTED: September 30, 2010 **ATTEST:** Shirley A. Gentry

Shirley A. Gentry
City Clerk