

ORDINANCE #2013- 09

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON CALIFORNIA, APPROVING AMENDMENTS TO THE MUNICIPAL CODE TITLE 19, TO PROVIDE NEW AND REVISED DEFINITIONS FOR PAWNSHOPS, CHECK CASHING BUSINESSES, PRECIOUS METALS EXCHANGES AND SIMILAR USES; AND TO EXCLUDE PAWNSHOPS, CHECK CASHING BUSINESSES, PRECIOUS METALS EXCHANGES FROM THE LIST OF PERMITTED AND CONDITIONALLY PERMITTED USES IN THE CITY OF AMERICAN CANYON

WHEREAS, pawn shops, check cashing businesses, and precious metal exchanges have been identified with increases in criminal activity in areas where they are located; and

WHEREAS, the City Council of the City of American Canyon adopted an urgency moratorium ordinance on October 16, 2012, extended to October 12, 2013 as provided in Section 65858 of the California Government Code, to stop issuance of any permits, licenses or zoning approvals on pawnshops, check cashing businesses and precious metals exchanges and similar uses to allow sufficient time to research the issues; and

WHEREAS, pawnshops, along with precious metals exchanges and check cashing services are places that are known to possess large amounts of cash and therefore, invite opportunities for crime attempts, such as robberies of the facilities or customers. Even if crime attempts fail, it will bring about negative consequences to the surrounding community because it introduces a criminal element to the City that did not previously exist; and

WHEREAS, numerous alternatives for consumers that do not bring negative consequences to the surrounding community to obtain funds to satisfy financial obligations are available without using the services of a pawnshop, precious metals exchange and check cashing business; and

WHEREAS, the availability of alternatives and presence of these specific services near American Canyon makes them unnecessary in our city given the preponderance of research that suggests they bring about negative consequences to the surrounding community; and

WHEREAS, the proposed Municipal Code amendments would provide new and revised use definitions and modify the Commercial zoning district list of permitted uses to prohibit pawnshops, check cashing businesses, and precious metals exchanges within the City of American Canyon; and

WHEREAS, the Planning Commission of the City of American Canyon conducted a public hearing on the matter on November 20, 2013 and unanimously recommended City Council approval of the ordinance; and

WHEREAS, a public hearing was held by the City Council of the City of American Canyon on November 5, 2013 and December 3, 2013 after due notice was given as required by law, at which time oral and documentary evidence was introduced along with the written recommendation of the Community Development Department staff of the City of American Canyon.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON DOES HEREBY ORDAIN, APPROVAL OF AMENDMENTS TO THE MUNICIPAL CODE SECTION 19.05.050 AND SECTION 19.11.040 AS FOLLOWS:

SECTION 1. The adoption of the proposed ordinance is not a project for the purposes of the California Environmental Quality Act (CEQA) as defined by CEQA Guidelines Section 15378 (b)(3) because it does not have "a potential for resulting in either direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment" and therefore is not subject to review under the CEQA.

SECTION 2. American Canyon Municipal Code Section 19.05.050, Commercial Classifications, is hereby amended to add the following definitions in alphabetical order:

Check cashing business as defined in California Civil Code section 1789.31 and as amended from time to time means a retail business owned or operated by a 'check casher' person or entity who engages, in whole or in part, in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. "Check casher" does not include a state or federally chartered bank, savings association, credit union, or industrial loan company. "Check casher" also does 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 fee not exceeding two dollars (\$2) as a service to its customers that is incidental to its main purpose or business.

Coin dealer means any person, firm, partnership, or corporation whose principal business is the buying, selling and trading of coins, monetized bullion, or commercial grade ingots of gold, silver or other precious metals.

Commercial grade ingots means 0.99 fine ingots of gold, silver, or platinum, or 0.925 fine sterling silver art bars and medallions, provided that the ingots, art bars, and medallions are marked by the refiner or fabricator as to their assay fineness.

Pawnbroker means any person, co-partnership, firm, or corporation whose business includes buying, selling, trading, taking in pawn, accepting for sale on consignment, accepting for auctioning, or auctioning secondhand tangible personal property. The key difference between a "pawnbroker" and a "secondhand dealer" is that a pawnbroker loans money for tangible personal property while a secondhand dealer does not.

Pawnbroker does not include:

- Auctioneers
- Coin dealers
- Secondhand dealer

Payday lending business means a retail businesses owned or operated by a 'licensee' as that term is defined in California Financial Code section 23001(d), as amended from time to time who offers, originates, or makes a deferred deposit transaction, who arranges a deferred deposit transaction for a deferred deposit originator, who acts as an agent for a deferred deposit originator, or who assists a deferred deposit originator in the origination of a deferred deposit transaction. However, "licensee" does not include a state or federally chartered bank, thrift, savings association, industrial loan company, or credit union. "Licensee" also does 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 fee not exceeding two dollars (\$2) as a service to its customers that is incidental to its main purpose or business.

Precious Metal Exchange commonly referred to as "Cash for Gold", means the operation of a gold and silver business, either stand alone or in conjunction with the operation of a retail store (e.g. jewelry store, or other similar store) which results in 20% or more of their gross business receipts being derived from the purchase of gold or silver jewelry or other similar items from a non-wholesale source (including, but not limited to art objects, flatware, tableware or other personal household items). Gold and silver dealer does not include:

- Auctioneers
- Coin dealers

Secondhand dealer means a retail use where any person, co-partnership, firm or corporation in possession of a valid secondhand dealer's license (California Finance Code, Section 2100) whose business includes buying, selling, trading, accepting for sale on consignment, accepting for auctioning or auctioning secondhand tangible personal property. A secondhand dealer who buys secondhand tangible personal property would be required to obtain a license from the Police Chief and file reports pursuant to California Business and Professions Code Sections 21625-21647. Secondhand dealer does not include:

- Auctioneers
- Coin dealers
- Pawnbroker

Tangible personal property means all secondhand property including but not limited to: clothing, jewelry, personal property which bears a serial number or personalized initials or inscription which is purchased by a second hand dealer; or, which, at the time it is acquired by the second-hand dealer bears evidence of having had a serial number or personalized initials or inscription. Tangible personal property also includes new or used motor vehicles. Tangible personal property does not include new goods or merchandise purchased from a bona fide manufacturer or distributor or wholesaler of such new goods or merchandise, or coins, monetized bullion, or commercial grade ingots of precious metals.

SECTION 3. American Canyon Municipal Code Section 19.05.050, Commercial Classifications, is hereby amended to revise the following definitions in alphabetical order:

Bank savings and loan: a financial institution including federally-chartered banks, savings and loan associations, industrial loan companies, and credit unions that provides retail banking services to individuals and businesses. This classification does not include payday lending businesses or check cashing businesses. This classification includes only those institutions engaged in the on-site circulation of cash money.

1. Drive-up service: provision of banking services accessible to persons who remain in their automobiles.
2. Walk-up service: provision of banking services to persons at a walk-up window or automated teller machine

Pawnshop means a business engaged in conducting, managing, or carrying on the business of pawnbroking or loaning money, which includes buying, selling, taking in pawn tangible personal property given or deposited as security for a loan.

SECTION 4. American Canyon Municipal Code Section 19.11.040: Commercial Uses in the Neighborhood and Community Commercial zoning districts Table 1 is hereby amended to include the following uses:

**Table 1
Permitted and Conditionally Permitted Uses¹**

Community Commercial and Neighborhood Commercial Districts

Use Classification	Zoning District		Related Provision
	CN	CC	
Commercial			
Adult-entertainment business	-	P	
Animal sales and services			
- Boarding kennel	-	C	
- Grooming	P	P	
- Medical care	P	P	
- Retail sales	P	P	
Bank, savings and loan	P	P	
Bookstores	P	P	
Building materials and services	-	C	
Catering	P	P	
Check cashing business	-	-	
Coin Dealer	P	P	
Commercial printing	-	P	
- Limited printing	P	P	
Communication services	-	P	
Drugstores	P	P	
Eating and drinking establishments	P	P	
- Adjacent to residential use or zoning district	C	C	
Entertainment, indoor	C	P	
- Amusement center	C	C	
- Gaming	-	C	
Food sales	P	P	
Funeral and interment services	-	C	
Gas stations and automobile service facilities	C	C	
Grocery and drug stores	P	P	
Health services	P	P	
Household good sales	P	P	
Laboratory	-	P	
Lodging services	-	P	
Long-term care facility	-	P	
Maintenance and repair services	-	P	
Mini-storage/public storage facility	-	-	
Nursery	P	P	
Offices, business and professional	P	P	
On-premises liquor consumption	-	C	
- Tasting room	-	C	
Outdoor sales and displays	-	P	
Overnight accommodations, lodging services	-	P	GP Policy 1.15
Pawnshops	-	-	
Payday lending business	-	-	
Personal improvement services	C	C	
- Night use	P	P	
Personal services	P	P	
Precious Metal Exchange	-	-	
Professional and medical offices	P	P	
Public safety facility	C	P	
Recycling collection center	P	P	
Restaurant and delicatessens	C	C	
Retail food sales	C	C	

- Convenience store	P	P	
- Liquor store	C	P	
Retail sales	P	P	
- Limited	-	-	
- Visitor oriented	P	P	
Vehicle/equipment sales	-	-	
- Automobile rental	-	C	
- Automobile washing	-	C	
- Service stations	C	C	
Vehicle/equipment repair and service	-	C	GP Policy 1.15
Vehicle/equipment leasing and rental	-	C	GP Policy 1.15
Wholesaling, commercial	-	P	GP Policy 1.15
Video rental	P	P	

SECTION 5: Severability. If any section, sub-section, subdivision, paragraph, clause or phrase in this Ordinance, or any part thereof, is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections or portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, sub-section, subdivision, paragraph, sentence clause or phrase of this Ordinance, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases may be declared invalid or unconstitutional.

SECTION 6: The Mayor shall sign this Ordinance and the City Clerk shall attest thereto and shall within fifteen days of its adoption cause a summary of it to be published in a newspaper and circulated in the City and thereupon and thereafter this Ordinance shall take effect and be in force according to law.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council on the 17th day of December 2013, by the following vote:

MAYOR GARCIA: yg
VICE MAYOR JOSEPH: yg
COUNCIL MEMBER BENNETT: yg
COUNCIL MEMBER LEARY: yg
COUNCIL MEMBER RAMOS BENNETT: yg

Leon Garcia
Leon Garcia, Mayor

ATTEST:
Rebekah Barr
Rebekah Barr, MMC, City Clerk

APPROVED AS TO FORM:
William D. Ross
William D. Ross, City Attorney