

# ALTERNATIVE FINANCING USES

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- Current city regulations
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# Introduction and Purpose

# Introduction and Purpose

## Ordinance 2015-67, Temporary Moratorium on Check Cashing Stores and Pawn Shops

*WHEREAS, the moratorium is intended to allow sufficient time to study the provision of these uses for the citizens of Pompano Beach and to create a long term strategy to ensure adequate access to such services is provided; and,*

*WHEREAS, the moratorium is intended to allow sufficient time to study the provision and location of these uses does not result in an over-concentration of these uses that will result in the blighting or downgrading of the surrounding neighborhood; and*

*WHEREAS, the moratorium is intended to allow sufficient time to study the provision of these uses to ensure that there is a balance between the existing residential uses and the projected demand for and location of these uses;*

- Understand the issues related to these uses (and other alternative financing uses)
  - Understand the secondary effects of these uses
  - Provide an overview of national, state, and local regulations of these uses
- Where are these uses in the City?
  - Are the uses clustered?
- How should city regulate these uses?

# What are *Alternative Financing* Uses

- Payday Loan providers
  - Payday loan is a small, short-term, unsecured, single-payment, consumer loan. The borrower writes a personal check to the lender, with the amount of the check equal to the loan amount plus the finance charge. The lender agrees to hold the check for a specified period of time (usually until the customer's next payday) before depositing it. The term of the loan is typically between seven and thirty days. The payday lending industry began in the mid-1990s, with roughly 200 stores throughout the United States between 2007-2010, storefront loan volume declined to approximately \$30 billion. In 2010, through traditional and online channels, the payday lending industry had an approximate loan volume of \$44.3 billion.<sup>7</sup> Today, the industry shows tremendous growth through online lending.
  - 15 States and the District of Columbia prohibit Payday Lending
- Check cashing facilities
  - Check-cashing outlets cash checks in exchange for a fee that is typically a percentage of the face value of the check. Most of the checks that they cash are paychecks or government-issued checks. Fees charged for cashing these types of checks are a percent of the face value of the check. The number of check-cashing outlets grew rapidly from the early 1980s through the mid-1990s, and more slowly in recent years. The slowdown in growth over the past decade is at least partially attributable to a decline in demand for check-cashing services, as the share of wage payments and government transfer payments made by direct deposit has increased.
- Pawn Shops
  - Pawnshops make small, non-recourse loans collateralized by tangible personal property, such as jewelry, consumer electronics, tools, musical instruments or firearms. Pawnbrokers do not attempt to assess the creditworthiness of their customers; rather, they rely upon the estimated value of the collateral in making their loan decisions.
  - As of 2007, the number of pawnshops in the U.S. was estimated to be between 10,000 and 15,000.

# City's Current Regulations

## Payday Loan and Check Cashing:

- No separate use.
- Both are considered Bank or Financial Institution.
- Allowed in many Zoning Districts including RM-20, RM-30, and RM-45.

## Pawnshop

- Separate Use
- Primarily limited to B-4 Zoning

### 155.4221. COMMERCIAL: RETAIL SALES AND SERVICE USES - PERSONAL SERVICES

#### C. Bank or Financial Institution

##### 1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
								S	S	S		P	P	P	P

M-1	CR	I-1	I-X	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-I
						P				P		P	P	P	P	P

##### 2. Definition

A bank or financial institution is an establishment that provides retail banking services, mortgage lending, or similar financial services to individuals and businesses. This use type also includes those establishments engaged in the on-site circulation of cash money and check-cashing facilities, but does not include bail bond brokers.

### 155.4222. COMMERCIAL: RETAIL SALES AND SERVICE USES - RETAIL SALES

#### L. Pawn Shop

##### 1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
															P

M-1	CR	I-1	I-X	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-I
						P							P	P	P	P

##### 2. Definition

A pawn shop is a business that advances funds to a person on the security of pledged tangible personal property on condition that the pledged property is left in the possession of the pawnbroker until redeemed by the pledger within an established default time period, after which title in unredeemed property vests in the pawnbroker, who may then sell the property.

# General Research and Overview of National and Local Regulations

Including Municipal Zoning Regulations

# Federal Reserve Board's "Determinants of the Locations of Payday Lenders, Pawnshops and Check-Cashing Outlets" (2009)

- This study examines the determinants of the locations payday lenders, pawnshops, and check-cashing outlets.
- Supporters of these uses argue that the firms locate in areas that are inadequately served by banks and other mainstream financial service providers, thereby fulfilling otherwise unmet needs of the residents of these neighborhoods.
- Critics argue that these firms prey upon disadvantaged segments of the population by strategically locating their stores in low-income, high-minority-population neighborhoods.
- Consistent with the prior research, this report found these uses are more prevalent in areas where a large percentage of the population is black or lacks a high school diploma.
- This report found that credit scores are found to be a strong predictor of concentration: counties where a larger percentage of the population has no credit score have a greater density of all three types of uses, while counties where a larger percentage of the population has a credit score that would place them in the subprime category have increased concentrations of both payday lenders and pawnshops.
- This finding suggests that these uses may simply locate where the demand for their services is likely to be greatest because a significant portion of the population does not qualify for more mainstream (and less expensive) forms of credit.

# Federal Reserve Board's "Determinants of the Locations of Payday Lenders, Pawnshops and Check-Cashing Outlets" (2009)

## REFERENCES

- Apgar, William C., Jr. and Christopher E. Herbert. "Subprime Lending and Alternative Financial Service Providers: A Literature Review and Empirical Analysis," Prepared for U.S. Department of Housing and Urban Development, Office of Policy Development and Research by Abt Associates, Inc., Cambridge, MA, 2004.
- Burkey, Mark L. and Scott P. Simkins. "Factors Affecting the Location of Payday Lending and Traditional Banking Services in North Carolina," *Review of Regional Studies*, 34(2), 2004, pp. 191-205
- Caskey, John P. *Fringe Banking: Check-Cashing Outlets, Pawnshops, and the Poor*, Russell Sage Foundation, New York, 1994.
- Caskey, John P. "Fringe Banking a Decade Later," unpublished manuscript, 2003.
- Caskey, John P. "Pawnbroking in America: The Economics of a Forgotten Credit Market," *Journal of Money, Credit and Banking* 23(1), 1991, pp. 85-99.
- Damar, H. Evren. "Why Do Payday Lenders Enter Local Markets? Evidence from Oregon," *Review of Industrial Organization* 34(2), 2009, pp. 173-191.
- Elliehausen, Gregory. "Consumers' Use of High-Price Credit Products: Do They Know What They Are Doing?" Networks Financial Institute At Indiana State University Working Paper 2006-WP-02, May 2006.
- Fellowes, Matt and Mia Mabanta. "Banking on Wealth: America's New Retail Banking Infrastructure and Its Potential for Building Wealth," Brookings Institution, unpublished manuscript, October 2007.
- Graves, Steven M. "Landscapes of Predation, Landscapes of Neglect: A Location Analysis of Payday Lenders and Banks," *The Professional Geographer*, 55(3) 2003, pp. 303-317.
- Shackman, Joshua D. and Glen Tenney. "The Effects of Government Regulations on the Supply of Pawn Loans: Evidence from 51 Jurisdictions in the U.S." *Journal of Financial Services Research*, 30(1), 2006, pp. 69-91.
- Stephens, Inc. *Payday Loan Industry Annual Industry Update*, 2007.
- Temkin, Kenneth and Noah Sawyer. "Analysis of Alternative Financial Service Providers," Prepared for The Fannie Mae Foundation by the Urban Institute Metropolitan Housing and Communities Policy Center, 2004.

# 2006 / 2015 - Military Lending Act

Congress passed the Military Lending Act (MLA) in 2006 with bipartisan support to provide specific protections for active duty service members and their dependents in consumer credit transactions. In particular the Act was intended to help protect all active duty service members and their families from committing to loans with excessive fees and charges. This rule applies to all forms of payday loans, vehicle title loans, refund anticipation loans, deposit advance loans, installment loans, unsecured open-end lines of credit, and credit cards.

- Originally adopted in 2006 / Updated in 2015
- Applies to active-duty military personnel.
- Caps annual interest rates for consumer credit to military borrowers at 36 percent including all fees and charges, credit insurance premiums and other ancillary charges.
- Prohibits lender from securing a consumer credit loan to a military borrower with a personal check, debit authorization, wage allotment, or title to a vehicle.
- Requires written and oral disclosure of interest rates and payment obligations before loan is issued.
- Lenders cannot require that borrowers waive their right to legal recourse under any law, including the Service members Civil Relief Act.
- 2015 Update extends MLA protections, including the 36 percent Military Annual Percentage Rate (MAPR) cap, to a wider range of credit products, including credit cards.
- 2015 Update modifies the MAPR to include fees for credit-related ancillary products sold in connection with the credit transaction, finance charges associated with consumer credit, and certain application and participation fees.
- Also, for credit cards, the MAPR excludes certain fees if bona fide and reasonable.
- Prohibits all rollovers, renewals or refinances of payday loan transactions or other deferred presentment transactions by creditors other than banks, thrifts or credit unions.

# 2013 - Florida's Check Cashing Database

- FL SS Ch. 560, Money Services Businesses, regulates Check Cashing (cashing payment instruments ) and Deferred Presentment Providers (payday loan lenders).
- In 2008 Ch. 560 was significantly updated to incorporate recommendations from the Senate Interim Project 2008-101, "Regulation of Money Services Businesses," the Office of Financial Regulation.
  - From Senate Staff report: *"Currently, Florida ranks first in the nation with respect to the total number of MSB firms, branches, and vendors (approximately 35,000) registered with the state regulator, the Office of Financial Regulation (office). In recent years, an increasing number of state and federal law enforcement actions have been taken against MSBs. Many of these actions have targeted those entities attempting to avoid the payments of state and federal taxes and workers' compensation premiums. Check cashers, in particular, can be used, knowingly or unknowingly, as facilitators of fraudulent insurance activity or money laundering activities."*
- In 2013 the Florida Legislature passed House Bill 217 which requires check cashers to log check cashing data into a statewide database for any check cashed in excess of \$1,000.
- House Bill 217 was a result of a 2011 program by Florida's Chief Financial Officer, who convened the Money Service Business Facilitated Workers' Comp Fraud Work Group. This group consisted of regulators, Office of Financial Regulation, law enforcement, and industry stakeholders to study the issue of workers' compensation premium fraud, with particular regard to the role that check cashers play in facilitating the fraudulent schemes.
- The work group made a number of findings and recommendations, including the establishment of a statewide, real-time database for regulators and law enforcement to quickly and effectively detect and deter workers' compensation premium fraud. The work group recommended that the database interface with the Secretary of State's database for verifying corporate registration records and with the Department of Financial Services' database for verifying workers' compensation coverage.

# 2015 - U.S. Department of the Treasury's Financial Crimes Enforcement Network's Geographic Targeting Order

- Beginning on August 3, 2015 and ending on January 30, 2016
- Requiring check cashers located in Broward and Miami-Dade counties to obtain and record identifying information about persons cashing Federal tax refund checks in excess of \$1,000
- South Florida has become a hotbed for stolen identity tax refund fraud. In a typical scheme, the criminal files a fraudulent tax return after stealing a victim's identity and then cashes the refund check at a local check casher. The criminal typically cashes the check using fake identification in an attempt to evade law enforcement.
- *"For the past several years, the State of Florida and IRS Criminal Investigation have seen a significant increase in Stolen Identity Refund Fraud cases," said Richard Weber, Chief, IRS Criminal Investigation. "One common thread in many investigations was the ability of criminals to cash tax refund checks with little fear of repercussion. Using this information from countless investigations, we felt that more needed to be done on the front end to prevent this type of crime from happening and to make it more difficult for criminals to successfully steal a person's identity. By issuing this Geographic Targeting Order, the Treasury Department has put a roadblock in the path of those who would steal another person's identity. This GTO will make it difficult for these criminals to reap the rewards of their actions and the end result will be fewer losses to the U.S. Treasury and taxpayers.*

# National Regulations (page 1 of 2)

City	Definitions/terminology	Dispersal, setback, and density requirements
<b>Blue Springs, Missouri</b> <sup>127</sup>	Short Term Loan Service	1,500 feet between uses; 200 feet from residential areas; 1,500 feet from schools, parks, and city limits; 1 per 4,500 population
<b>Clark County, Nevada</b> <sup>129</sup>	Check cashing	1,000 feet between uses; 250 feet from residential areas
<b>Clayton, Ohio</b> <sup>130</sup>	Payday loan business, title loan business	1,000 feet between uses; 1,000 feet from residential areas; 1,000 feet from schools, places of worship, and places selling alcohol
<b>Irving, Texas</b> <sup>142</sup>	Non-depository financial institutions, check cashing business, payday advance/loan business, car title loan business	1,000 feet between uses; 200 feet from residential areas; 500 feet from major highways
<b>Kansas City, Missouri</b> <sup>143</sup>	Short-term loan establishment	One mile between uses; 1,000 feet from landmark and historic districts
<b>Layton City, Utah</b> <sup>144</sup>	Title loan, payday loan, deferred deposit lending	1,500 feet between uses; 1 per 10,000 population

City	Definitions/terminology	Dispersal, setback, and density requirements
<b>Cuyahoga Falls, Ohio</b> <sup>135</sup>	Advance or payday loan	1,000 feet between uses; 1 per 10,000 population
<b>Des Moines, Iowa</b> <sup>136</sup>	pawnbroker, delayed deposit services business	1/2 mile between uses; 250 feet from residential areas
<b>Fairview Heights, Illinois</b> <sup>137</sup>	Consumer Installment Loan Business	Maximum of 2
<b>Gladstone, Missouri</b> <sup>138</sup>	Payday loan business, title loan business	5,280 feet between uses; 200 feet from residential areas
<b>Greenbay, Wisconsin</b> <sup>139</sup>	Payday loan business, title loan business	5,000 feet between uses; 150 feet from residential areas
<b>Greenville, South Carolina</b> <sup>140</sup>	Check cashing establishment	
<b>Hellertown, Pennsylvania</b> <sup>141</sup>	Check cashing business	1,000 feet between uses; 1,000 feet from traditional banks
<b>North Kansas City, Missouri</b> <sup>156</sup>	Car title lenders, check cashing lenders, pay day lenders	
<b>North Las Vegas, Nevada</b> <sup>157</sup>	Deferred deposit loan, short-term loan, auto title loan, pawn shop	2,500 feet between payday loan uses; three miles between auto title lenders; 500 feet from residential areas
<b>Norwalk, California</b> <sup>158</sup>	Payday loan establishments	1,320 feet between uses; maximum of 8

# National Regulations (page 2 of 2)

City	Definitions/terminology	Dispersal, setback, and density requirements
<b>Cleveland, Ohio</b> <sup>131</sup>	Check cashing business	1,000 feet between uses; 1 per 20,000 population
<b>Clinton, Mississippi</b> <sup>132</sup>	Alternative financial services provider, pawn shops, check cashing businesses, cash for title stores, tax refund anticipation loan offices	500 feet between uses; 500 feet from residential areas; 500 feet from places of worship, schools, hospitals, parks, and playgrounds
<b>Clive, Iowa</b> <sup>133</sup>	Pawnbrokers, delayed deposit services	1,000 feet between uses; 1,000 feet from residential areas; 1,000 feet from day cares, schools, places of worship, and parks; 1,000 feet from adult businesses
<b>Columbia, South Carolina</b> <sup>134</sup>	Non-depository personal credit institutions	3,000 feet between uses
<b>Overland Park, Kansas</b> <sup>162</sup>	Payday loan business, title loan business	5,280 feet between uses; 200 feet from residential areas
<b>Pima County, Arizona</b> <sup>163</sup>	Non-chartered financial institution	1,320 feet between uses; 500 feet from residential areas

City	Definitions/terminology	Dispersal, setback, and density requirements
<b>Madison, Wisconsin</b> <sup>147</sup>	Auto title loan, payday loan	5,000 feet between uses
<b>Manassas, Virginia</b> <sup>148</sup>	Short-term loan establishment, high impact business	750 feet from residential areas; 750 feet from adult businesses; 750 feet from places of worship, schools, parks, libraries, and ball fields
<b>Mesa, Arizona</b> <sup>149</sup>	Pawn shops, non-chartered financial institutions	1,200 feet between uses; 1,200 feet from schools
<b>Mesquite, TX</b> <sup>150</sup>	Non-depository institutions, alternative financial establishments, car title loan business, check cashing business, money transfer business, payday advance or loan business	1,000 feet between uses; 200 feet from residential areas; 500 feet from major highways
<b>American Fork, Utah</b> <sup>124</sup>	Check cashing business, payday loan business, title loan business, deferred deposit lender	5,280 feet between uses; 1 per 10,000 population
<b>Avondale, Arizona</b> <sup>125</sup>	Non-chartered financial services, pawnshops	1,320 feet between uses; 1,320 feet from adult business, bars, and night clubs

# Florida Municipal Regulations

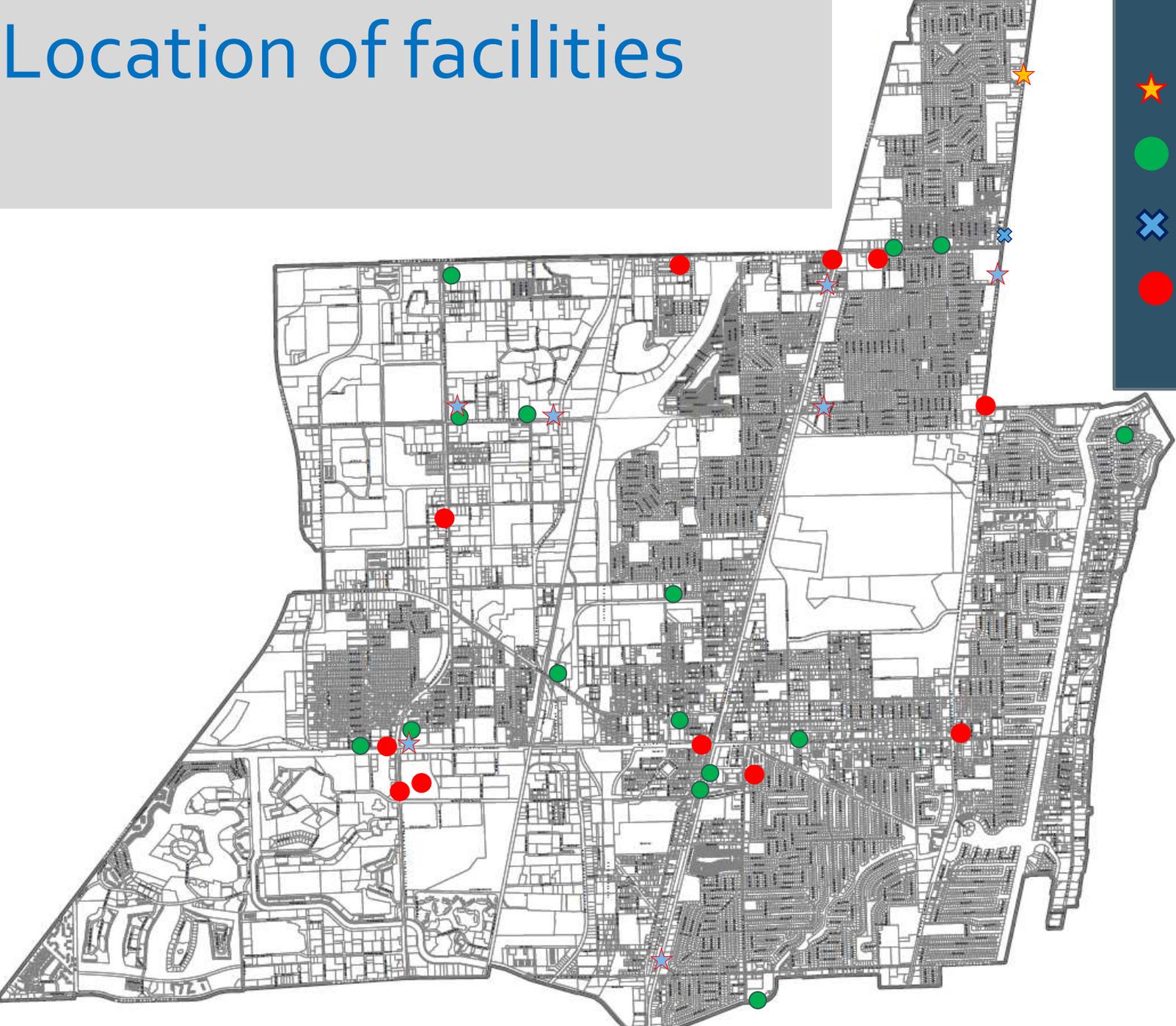
City	Use	Regulation
Boca Raton	Check Cashing, Pawn Shops	"Problematic uses" means commercial retail and service uses such as pawn shops, check cashing centers and blood plasma centers which are typically characterized by poorly maintained facilities, loitering and other indices of neighborhood deterioration or urban blight.
Dania Beach	Check Cashing, Pawn Shops	2,500 ft separation from similar use
Daytona Beach	Check Cashing, Pawn Shops	Prohibited in North Ridgewood Overlay District
Deerfield Beach	Check Cashing	Conditional Use in B-3 Zoning
Fort Walton Beach	Non-Chartered Financial Institutions	Within Downtown Design Overlay District, 1,000 ft separation from similar use
Holly Hill	Check Cashing	Prohibited on property on or within 250 ft of LPGA Blvd
Hollywood	Check Cashing, Pawn Shops	1,000 ft separation from similar use
Hollywood	Check cashing store, payday loans, Pawn Shops	Prohibited Use in North Federal Highway Commercial Zoning District
Lauderhill	Check cashing / Payday loan store	Prohibited Use
North Miami	Check Cashing	200 ft separation from residential use
North Miami	Check Cashing, Pawn Shops	Problematic uses mean commercial retail and service uses including, but not limited to, day labor, tattoo parlors, body piercing, pawn shops, check cashing centers and blood plasma centers which are typically characterized by poorly maintained facilities, loitering and other indicates of neighborhood deterioration or urban blight.
Orange County	Check Cashing, Pay Day Loans, Pawn Shops	Prohibited in South Orange Avenue Corridor Overlay District, Conway Road Corridor Overlay District, State Road 436/State Road 50 Corridor Overlay District
Orlando	Check Cashing, Pay Day Loans, Pawn Shops	Prohibited in Semoran Gateway Special Plan, Conway Road Special Plan, and Semoran Blvd. Special Plan
West Palm Beach	Check Cashing	Prohibited in Coleman Park districts
West Palm Beach	Pawn Shop	Requires approval by Planning and Zoning Board

# Location of Uses in Pompano Beach

A focus on Corridors

# Location of facilities

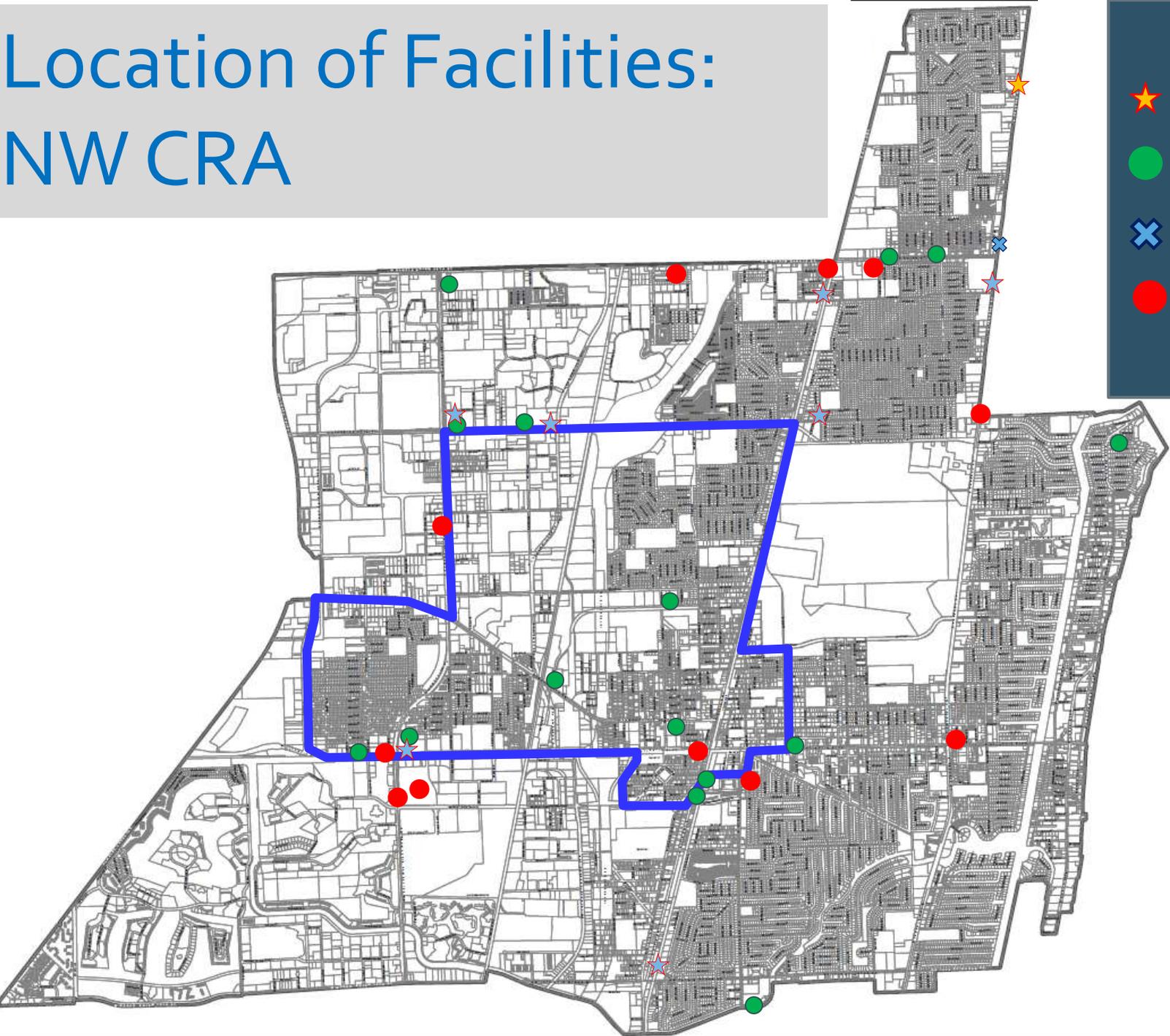
- Legend**
- ★ Pawn Shop
  - Check Cashing Facility
  - ✕ Pay Day Loan
  - Check Cashing Facility & Pay Day Loan



# Location of Facilities: NW CRA

**Legend**

- ★ Pawn Shop
- Check Cashing Facility
- ✕ Pay Day Loan
- Check Cashing Facility & Pay Day Loan





# Corridors: North / South

Powerline Road



Dixie Highway



Federal Highway



## Legend

-  Pawn Shop
-  Check Cashing Facility
-  Pay Day Loan
-  Check Cashing Facility & Pay Day Loan

# Corridors: Clusters

1. Sample Rd; Dixie Highway to Federal Highway
2. Copans Rd; Powerline Road to Andrews Avenue
3. Intersection of Atlantic Boulevard & Powerline Road
4. Intersection of Atlantic Boulevard & Dixie Highway

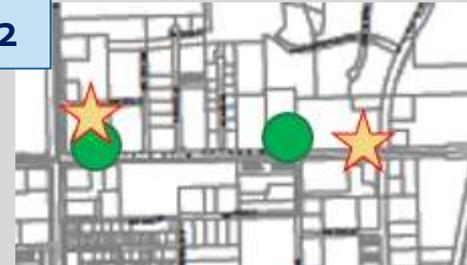
## Legend

- ★ Pawn Shop
- Check Cashing Facility
- ✕ Pay Day Loan
- Check Cashing Facility & Pay Day Loan

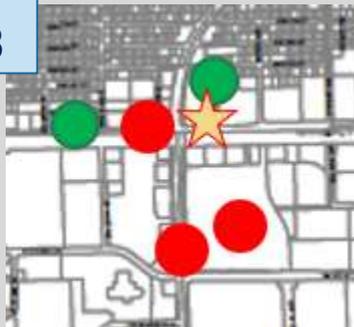
#1



#2



#3



#4



# Outcomes and Recommendations

# Outcomes

- There is a wealth of research detailing the problematic impacts of alternative financing uses
- There is a wealth of research detailing the tendency of these uses to locate in blighted areas and in adjacency to vulnerable populations (low-income, minority, or military)
- Mapping of the location of these uses indicate they are clustered in four primary locations in the city, three of which are in or directly adjacent to the NW CRA

# Recommendations

- Create a new use called “Check Cashing or Payday Loan Store”
  - Modify definition of Bank to exclude these uses
- Prohibit Check Cashing or Payday Loan Stores from AOD and DPOD
  - Pawn Shops are already prohibited
- Require separation of 1,000 ft between all uses i.e.
  - A Check Cashing Store would need to be 1,000 ft from another Check Cashing Store, a Payday Loan Store, and a Pawn Shop

155.3703. ATLANTIC BOULEVARD OVERLAY DISTRICT (AOD)

C. Modified Use Standards

2. Prohibited Uses

a. Prohibited Principal Uses.

xvi. Check Cashing or Payday Loan Store

## § 155.4221. COMMERCIAL: RETAIL SALES AND SERVICE USES – PERSONAL SERVICES

### C. BANK OR FINANCIAL INSTITUTION

#### 2. Definition

A bank or financial institution is an establishment that provides retail banking services, mortgage lending, credit union services, or similar financial services to individuals and businesses. ~~This use type also includes those establishments engaged in the on-site circulation of cash money and check cashing facilities, but does not include bail bond brokers.~~ Accessory uses may include automated teller machines (ATMs) and facilities providing drive-through service. This use does not include a business commonly referred to as a check cashing store or payday loan store.

### M. CHECK CASHING OR PAYDAY LOAN STORE

#### 1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
												S	S	P	P

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RP UD	PC D	PD TO	LA C	PD I
													P		P	P

#### 2. Definition

A check cashing or payday loan store is an establishment subject to regulation by FL SS Chapter 560, Money Services Businesses, and that provides check cashing and/or deferred presentment transactions.

#### 3. Standards

A check cashing or payday loan store shall be located at least 1,000 feet from another check cashing or payday loan store or from a pawn shop.

## § 155.4222. COMMERCIAL: RETAIL SALES AND SERVICE USES – RETAIL SALES

### L. PAWN SHOP

#### 3. Standards

A pawn shop shall be located at least 1,000 feet from another pawn shop or from a check cashing or payday loan store.

# ALTERNATIVE FINANCING USES

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Karen Friedman, AICP, Principal Planner

November 2015