

**RESOLUTION NO. 2506-09**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF WINDSOR  
UPHOLDING THE APPEAL BY CHECK INTO CASH, INC AND THEREBY  
OVERTURNING THE DETERMINATION OF THE PLANNING COMMISSION THAT  
ORDINANCE 2008-247 ESTABLISHING A MORATORIUM ON CERTAIN USES  
INCLUDING CHECK CASHING BUSINESSES IS APPLICABLE TO A REQUEST TO  
RELOCATE THE CHECK INTO CASH, INC. BUSINESS  
LOCATED AT 9018 BROOKS ROAD SOUTH  
(FILE NO. APP 09-31)**

**WHEREAS**, the Town of Windsor Town Council approved Ordinance No. 2008-247 on November 5, 2008 as an urgency ordinance establishing an immediate moratorium regarding certain types of businesses generally identified as “Personal Services – Restricted” in the zoning ordinance, and including check cashing businesses, bail bonds businesses, pawn shops, smoke shops and tattoo parlors; and

**WHEREAS**, Ordinance No. 2008-247 states the following: “In accordance with the authority granted to the Town of Windsor under Government Code Section 65858, from and after the date of this Ordinance, no use permit, variance, building permit and/or any other applicable entitlement for use, including, but not limited to the issuance of a business registration, shall be approved or issued for the operation of a check cashing business, bail bond businesses, pawn shop, smoke shop and tattoo parlor, and no such business shall be established, expanded, relocated, and/or issued an entitlement within the Town of Windsor for a period of 22 months and 15 days. This moratorium shall not apply to the renewal of a business registration for existing bail bond businesses, check cashing businesses, pawn shops, smoke shops and tattoo parlors in the Town, provided the renewal seeks to maintain the business in its existing location.”; and

**WHEREAS**, per Administrative Notice of Decision No. 14-05, Check Into Cash, Inc. received approval of a minor use permit to operate a check cashing facility at 9018 Brooks Road South (File No. MUP 04-55) on January 20, 2005; and

**WHEREAS**, on April 6, 2009 the Planning Department received a letter from Leigh Anne Hollis, Deputy General Counsel for Check Into Cash, Inc., in which Check Into Cash, Inc. requested approval to relocate its existing business at 9018 Brooks Road South to an alternate location within the same commercial center. In this letter, Check Into Cash, Inc, stated that its primary services are “deferred deposit transactions” and not check cashing services, and therefore the moratorium is not applicable to Check Into Cash, Inc.’s relocation request; and

**WHEREAS**, the Planning Department considered the April 6, 2009 letter from Check Into Cash, Inc. and determined that the moratorium did, in fact, apply to Check Into Cash, Inc., and that relocation of the existing facility could not be approved under the moratorium; and

**WHEREAS**, Check Into Cash, Inc. appealed the determination of the Planning Director to the Planning Commission; and

**WHEREAS**, the Planning Commission held a duly noticed public hearing to consider the appeal on May 26, 2009, at which time all interested parties were given an opportunity to be heard; and  
**WHEREAS**, the Planning Commission, in Resolution No. 568-09, denied the appeal thereby

upholding the determination of the Planning Director; and

**WHEREAS**, Check into Cash, Inc. appealed the decision of the Planning Commission to the Town Council; and

**WHEREAS**, the Town Council held a duly noticed public hearing to consider the appeal on July 15, 2009, at which time all interested parties were given an opportunity to be heard; and


**WHEREAS**, the Town Council makes the following findings related to the appeal:

1. The "Check Into Cash" business is determined to be a use subject to Ordinance No. 2008-247. However, it is not the intent of the Town Council to prohibit minor relocation or expansion of businesses legally established prior to the enactment of the moratorium.
2. "Minor relocation or expansion" shall mean relocation or expansion on the same property and under same ownership as the existing business. For the purpose of this resolution, "expansion" shall not exceed 50% of the existing floor area.
3. Minor relocation or expansion is subject to approval procedures as specified in the zoning ordinance.

**NOW, THEREFORE, BE IT RESOLVED** that the Town Council hereby makes the findings recited above and upholds the appeal, thereby overturning the determination of the Planning Commission and approving a request by Check Into Cash, Inc. to relocate its existing facility at 9018 Brooks Road South.

**PASSED, APPROVED, AND ADOPTED** this 15th day of July 2009, by the following vote:

**AYES: COUNCILMEMBERS ALLEN, FUDGE, SALMON AND MAYOR GOBLE**  
**NOES: NONE**  
**ABSTAIN: NONE**  
**ABSENT: COUNCILMEMBER SCHOLAR**

  
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**ROBIN R. GOBLE, MAYOR**

**ATTEST:**

  
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**MARIA DE LA O, TOWN CLERK**