



CITY OF SAINT PAUL
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Date: January 20, 2017
To: Neighborhood Planning Committee
From: Tony Johnson (651-266-6620) and Allan Torstenson (651-266-6579)
Subject: Alternative Financial Establishment Text Amendments

Background

In 2009 the City Council passed resolution 09-1349 directing the Planning Commission to study and recommend zoning code amendments regarding currency exchanges. The study was initiated after the City Council became aware that businesses operating in the same manner as currency exchanges and offering payday loans were circumventing regulations that applied to currency exchanges by obtaining licenses from the Minnesota Department of Commerce for consumer small loan companies, industrial loan and thrifts, and regulated loan companies.

In 2010 the City Council adopted an ordinance revising the zoning code regulation of currency exchanges by creating a broader use category, *alternative financial establishment*, with a definition largely based on state definitions (attached) for *currency exchange*, *consumer small loans* and *consumer short term loans*, although these loan types are not specifically called out. The definition starts with very broad criteria that apply to almost any financial institution and specifically includes consumer small loan companies, currency exchanges, industrial loan and thrifts, and regulated loan companies. These four Department of Commerce license types allow businesses to operate in a manner similar to currency exchanges and/or offer payday loans. The definition then provides specific exceptions for certain types of businesses such as banks and credit unions.

The definition in Zoning Code Sec. 65.511, *alternative financial establishment*, adopted in 2010 was intended to ensure that all businesses that operate in a manner similar to currency exchanges and/or offer payday loans are subject to the regulations in this section. However, businesses with an industrial loan and thrift license or with a regulated loan company license may operate without offering payday loans and check cashing, and might just offer other financial products and services. Industrial loan and thrift companies can offer a particularly broad array of financial services other than payday lending and check cashing.

An unintended consequence of the broad construction of the current definition in Zoning Code Sec. 65.511, *alternative financial establishment*, is that it included at least one business (Getten Credit Company) that apparently did not offer the type of loans and services this

section is intended to regulate. This created zoning problems for Getten, and they have been forced to discontinue their St. Paul operation. The director of a neighborhood development corporation that provides pass-through loans to businesses and home owners expressed concern that they might also fall under the definition of *alternative financial establishment* because there is no specific exception for them in the definition.

In December 2015 the City Council passed a resolution (attached) directing the Planning Commission to study and recommend zoning code amendments so that businesses that do not operate in the same manner as a currency exchange and do not offer payday loans are not unreasonably regulated as alternative financial establishments.

Proposed Amendment

Simplify Zoning Code Sec. 65.511, *alternative financial establishment*, to make it easier to read and understand. Rather than a complex definition that starts with very broad criteria that apply to almost any financial institution and then providing specific exceptions for certain types of businesses, amend the definition so that it applies to the specific financial services and products this section is intended to regulate. This would allow businesses that are licensed as regulated lenders or industrial loan and thrifts and do not offer payday loans or check cashing to fall under the zoning standards for another land use category as determined by the zoning administrator. This would typically be banks and credit unions because of the similarity in the financial services they offer. Some businesses with a regulated lender license may be more similar to other uses because they offer financing for specific goods such as appliances or solar panels. Neighborhood development corporations do not have the license types and do not provide the financial services and products specified in the amended definition, so they would clearly not fall under the definition.

Recommendation for Committee Action

Staff recommends that the Neighborhood Planning Committee forward the following amendments to Zoning Code § 65.511, *alternative financial establishment*, to the Planning Commission to release for public review and schedule a public hearing.

NOTE: Existing language to be deleted is shown by ~~strikeout~~. New language to be added is shown by underlining. [Drafting notes are in brackets.]

Sec. 65.511. Alternative financial establishment.

~~A business person, firm, association, corporation or partnership engaged in the business or service of check cashing or making loans to be repaid in one (1) lump sum or in installments over a set period of time, either collateralized or not, for which there is a fee or service charge, or interest received, including but not limited to loans collateralized by personal check, payroll check, wage assignment or personal property title, or collateralized with the promise to relinquish possession of any personal property upon default. Alternative financial establishment includes but is not limited to~~ defined and licensed by the Minnesota

~~Department of Commerce as a consumer small loan companyies, currency exchanges, industrial loan and thrifts, and or regulated loan companyies, as defined and licensed by the Minnesota Department of Commerce. Alternative financial establishment does not include federal or state chartered banks, credit unions, or savings banks, nor does it include a person, firm, association, corporation or partnership that provides the service of cashing checks, drafts, money orders, or travelers checks for a fee, incidental to the person's primary business and the charge for cashing a check or draft does not exceed one dollar (\$1.00) or one (1) percent of the value of the check or draft, whichever is greater. makes consumer small loans, or makes consumer short-term loans.~~

Standards and conditions:

- (a) The alternative financial establishment shall be located at least one hundred fifty (150) feet from any lot in a residential district ~~or lot occupied with a one-, two-, or multiple-family dwelling, measured in a straight line from the closest point of the building in which the business is or is to be located to the closest point of the residential property line.~~
- (b) ~~The No~~ alternative financial establishment shall be located ~~within~~ at least two thousand six hundred forty (2,640) feet ~~of~~ from any another alternative financial establishment and one thousand three hundred twenty (1,320) feet from any pawnshop, measured from the nearest building wall of the existing establishment to the nearest building wall of the proposed use, ~~or if there is no building, to the nearest lot line of the proposed use.~~
- (c) ~~No~~ alternative financial establishment shall be located ~~within~~ one thousand three hundred twenty (1,320) feet of any pawnshop, measured from the nearest building wall of the existing establishment to the nearest building wall of the proposed use, ~~or if there is no building, to the nearest lot line of the proposed use.~~

Here's how this would look without the strikeouts and underlines:

Sec. 65.511. Alternative financial establishment.

A business defined and licensed by the Minnesota Department of Commerce as a consumer small loan company, currency exchange, industrial loan and thrift, or regulated loan company that provides the service of cashing checks, drafts, money orders, or travelers checks for a fee, makes consumer small loans, or makes consumer short-term loans.

Standards and conditions:

- (a) The alternative financial establishment shall be located at least one hundred fifty (150) feet from any lot in a residential district.
- (b) The alternative financial establishment shall be located at least two thousand six hundred forty (2,640) feet from any other alternative financial establishment and one thousand three hundred twenty (1,320) feet from any pawnshop, measured from the nearest building wall of the existing establishment to the nearest building wall of the proposed use.

Terms	Code Section or/ source:	Definition:
		<p>"Consumer short-term loan" means a loan to a borrower which has a principal amount, or an advance on a credit limit, of \$1,000 or less and requires a minimum payment within 60 days of loan origination or credit advance of more than 25 percent of the principal balance or credit advance. For the purposes of this section, each new advance of money to a borrower under a consumer short-term loan agreement constitutes a new consumer short-term loan. A "consumer short-term loan" does not include any transaction made under chapter 325J or a loan made by a consumer short-term lender where, in the event of default on the loan, the sole recourse for recovery of the amount owed, other than a lawsuit for damages for the debt, is to proceed against physical goods pledged by the borrower as collateral for the loan.</p>
MS 46.601		<p>"Consumer small loan" is a loan transaction in which cash is advanced to a borrower for the borrower's own personal, family, or household purpose. A consumer small loan is a short-term, unsecured loan to be repaid in a single installment. The cash advance of a consumer small loan is equal to or less than \$350. A consumer small loan includes an indebtedness evidenced by but not limited to a promissory note or agreement to defer the presentation of a personal check for a fee.</p>
MS 47.60 (a)		
		<p>Business License Types</p>
		<p>Definition:</p>
		<p>Payday Lenders (small consumer loan companies) These companies offer small loans up to \$350 for short terms of generally less than 30 days. A note is issued but repayment is usually required in the form of a post-dated check. These companies are also known as payday lenders. A consumer small loan company (payday lender) making small loans to Minnesota residents must be licensed but does not have to have a physical location in Minnesota.</p>
http://mn.gov/commerce/industries/financial-institutions/payday-lenders/		
http://mn.gov/commerce/industries/financial-institutions/regulated-lenders/		<p>(Regulated lenders) Regulated lenders make consumer loans, up to \$100,000, higher if capitalized, and are frequently referred to as finance companies.</p>
MS 53A.01		<p>"Currency exchange" means any person, except a bank, trust company, savings bank, savings association, credit union, or industrial loan and thrift company, engaged in the business of cashing checks, drafts, money orders, or travelers' checks for a fee. "Currency exchange" does not include a person who provides these services incidental to the person's primary business if the charge for cashing a check or draft does not exceed \$1 or one percent of the value of the check or draft, whichever is greater.</p>
http://mn.gov/commerce/industries/financial-institutions/industrial/		<p>(Industrial Loan and Thrift) These Minnesota corporations are formed for the purpose of conducting the business of loaning money to people. These institutions also may apply for the right to issue thrift certificates for investment (similar to a deposit) upon application to determine reasonable demand for and probable volume of business to ensure solvency of the applying institution as well as already existing financial institutions in the area. Thrift certificates (deposits) must be insured by the FDIC to the extent of the insurance offered by that agency. (Minnesota Statute 553)</p>

Notes: 325J in the consumer short term loan definition refers to Pawnshops



City of Saint Paul

City Hall and Court
House
15 West Kellogg
Boulevard
Phone: 651-266-8560

Signature Copy

Resolution: RES 15-2044

File Number: RES 15-2044

Submitting a proposed zoning amendment to the Planning Commission regarding Alternative Financial Establishment.

WHEREAS, pursuant to Minn. Stat. § 462.357, Subd. 4, the Council of the City of Saint Paul desires to initiate the following amendments to the City's Zoning Code and hereby directs that the proposed amendments be referred to the Saint Paul Planning Commission so that it may study and prepare a report on the proposed amendments and deliver to the Council its recommendation regarding the proposed amendments; and

WHEREAS, the Council hereby proposes the following amendment to Leg. Code § 65.511 by adding new language clarifying the uses subject to the standards and conditions of section 65.511 to read as follows:

Sec. 65.511. Alternative financial establishment.

A person, firm, association, corporation or partnership engaged in the business or service of check-cashing or making loans to be repaid in one (1) lump sum or in installments over a set period of time, either collateralized or not, for which there is a fee or service charge, or interest received, including but not limited to loans collateralized by personal check, payroll check, wage assignment or personal property title, or collateralized with the promise to relinquish possession of any personal property upon default. Alternative financial establishment includes but is not limited to consumer small loan companies, currency exchanges, industrial loan and thrifts, and regulated loan companies, as defined and licensed by the Minnesota Department of Commerce. Alternative financial establishment does not include federal or state chartered banks, neighborhood loan offices defined under sec. 65.523 of this code, credit unions, or savings banks, nor does it include a person, firm, association, corporation or partnership that provides the service of cashing checks, drafts, money orders, or travelers checks for a fee, incidental to the person's primary business and the charge for cashing a check or draft does not exceed one dollar (\$1.00) or one (1) percent of the value of the check or draft, whichever is greater.

Standards and conditions:

- (a) The alternative financial establishment shall be located at least one hundred fifty (150) feet from any lot in a residential district or lot occupied with a one-, two-, or multiple-family dwelling, measured in a straight line from the closest point of the building in which the business is or is to be located to the closest point of the residential property line.
- (b) No alternative financial establishment shall be located within two thousand six hundred forty (2,640) feet of another alternative financial establishment, measured from the nearest building wall of the existing establishment to the nearest building wall of the proposed use, or if there is no building, to the nearest lot line of the proposed use.
- (c) No alternative financial establishment shall be located within one thousand three hundred twenty (1,320) feet of any pawnshop, measured from the nearest building wall of the existing establishment to the nearest building wall of the proposed use, or if there is no building, to the nearest lot line of the proposed use.

WHEREAS, the Council hereby proposes the following new use definition to be adopted as Leg.

Code § 65.523 and entitled "Neighborhood loan office" to read as follows:

Sec. 65.523. Neighborhood loan office

A firm, association, corporation or partnership operating either as a for profit or not for profit organization which (a) engages in the business of assisting businesses or home owners in receiving financial assistance by the pass-through of government assistance or charitable programs, or (b) is a traditional installment lender that was approved by the Minnesota Department of Commerce prior to 1975 to operate in the City of Saint Paul with a Regulated Lender License. Neighborhood loan offices shall not engage in check cashing services, currency exchange services or provide so-called payday loans.

WHEREAS, the Council hereby proposes that table 66.421 under Leg. Code § 66.42, entitled "Principal uses," be amended to indicate that neighborhood loan offices are commercial office uses first permitted in the OS zoning district.


NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Saint Paul hereby submits the proposed zoning code amendments stated herein to the Planning Commission for its consideration pursuant to Minn. Stat. § 462.357, Subd. 4.

At a meeting of the City Council on 12/2/2015, this Resolution was Passed.

Yea: 6 Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thune, Councilmember Tolbert, Councilmember Finney, and City Council President Stark

Nay: 0

Absent: 1 Councilmember Thao

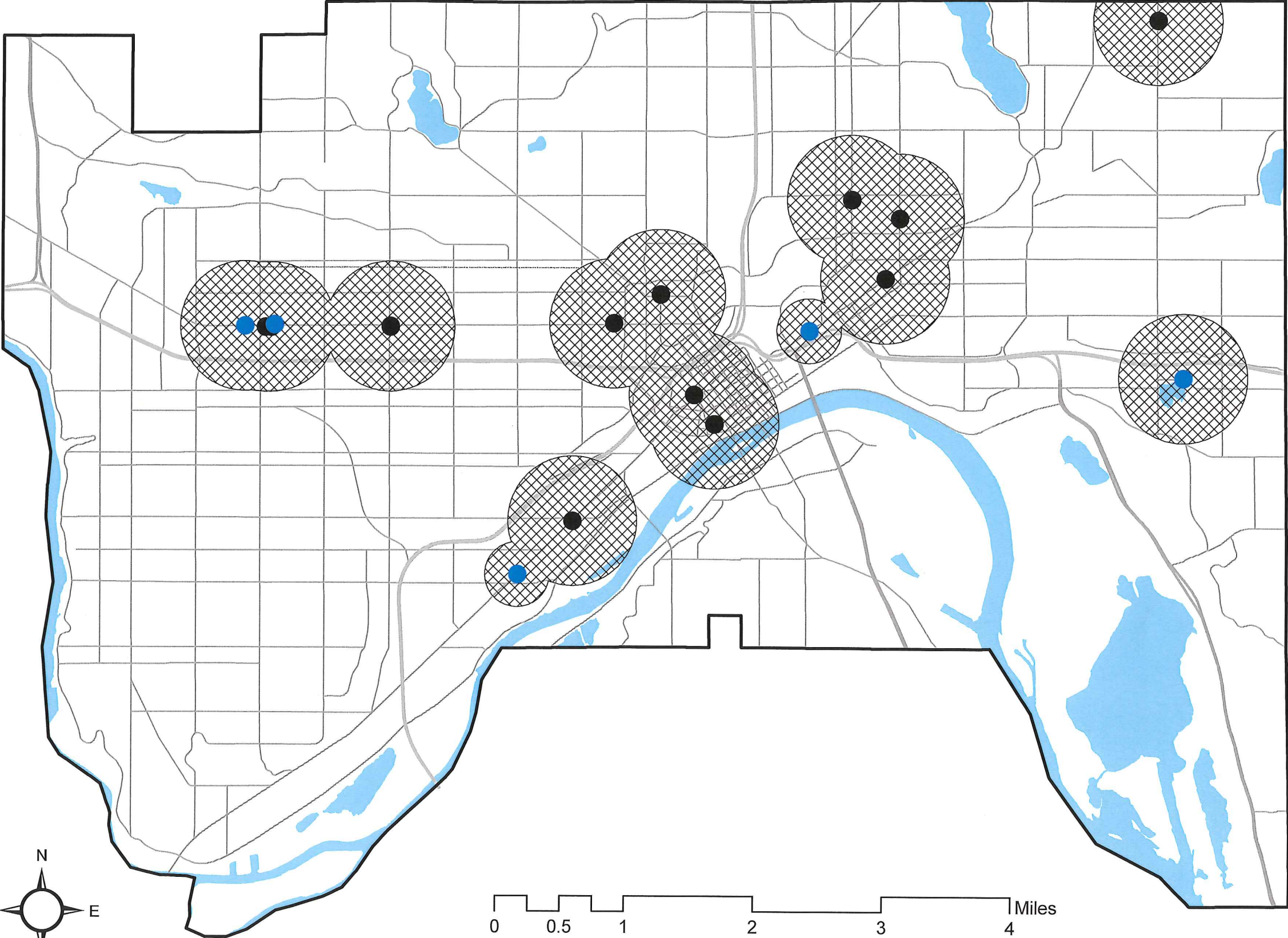
Vote Attested by 
Council Secretary Trudy Moloney

Date 12/2/2015

Approved by the Mayor 
Chris Coleman

Date 12/4/2015

Alternative Financial Establishments and Pawn Shops

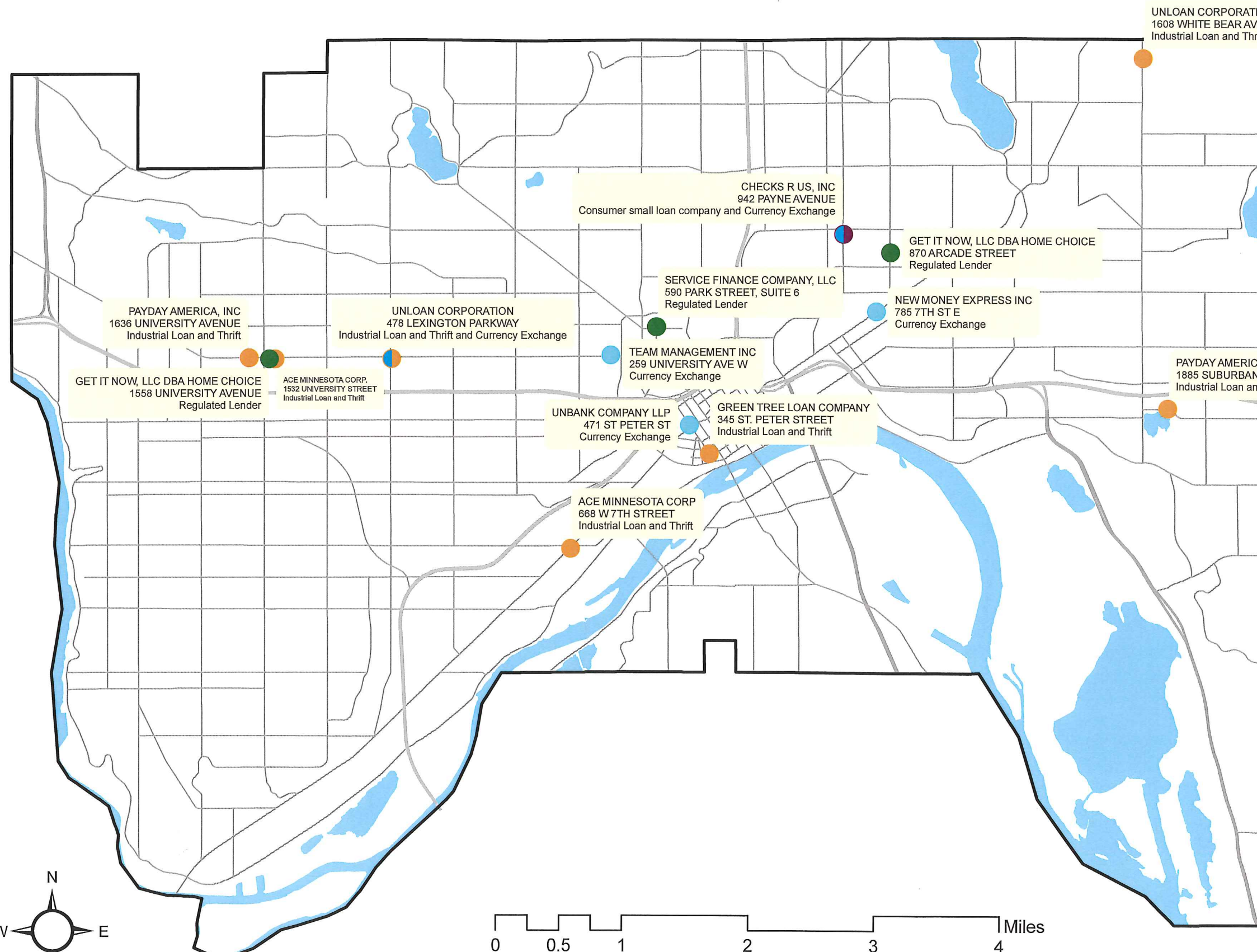


Distance Requirement

- Pawn Shops
- Alternative financial establishments
- ▨ Alternative financial establishment and Pawn Shop Buffer






The alternative financial establishment shall be located at least two thousand six hundred forty (2,640) feet of from any other alternative financial establishment and one thousand three hundred twenty (1,320) feet of any pawnshop, measured from the nearest building wall of the existing establishment to the nearest building wall of the proposed use.

Alternative Financial Establishments



Alternative financial establishments license types

Type

-  Consumer Small Loan Company and Currency Exchange
-  Currency Exchange
-  Industrial Loan and Thrift
-  Industrial Loan and Thrift and Currency Exchange
-  Regulated Lender

