

## **PAYDAY LENDING AND FINANCIAL INCLUSION TASK FORCE REPORT**

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### **EXECUTIVE SUMMARY**

This report outlines the results of the Payday Lending and Financial Inclusion Task Force established by Council direction in PUD2015-0096. The Task Force addressed two related issues: 1) reviewing payday loan business practices and regulations to develop recommendations for the federal, provincial and municipal government to better protect financially vulnerable Calgarians, while 2) recommending strategies for mainstream financial institutions to increase access by low-income earners to safe and affordable financial products and services including short-term loans and financial counselling and education.

This report includes Task Force recommendations for municipal and provincial policy change, including amendments to the Business License Bylaw. Opportunities to increase access to safe and affordable financial products and improve financial literacy and education are also included in this report.

### **ADMINISTRATION RECOMMENDATIONS**

That the SPC on Community and Protective Services recommend that Council:

1. Accept this report for information and direct Administration to formally conclude the Payday Lending and Financial Inclusion Task Force; and
2. Give three readings to the proposed amendment to the Business Licence Bylaw 32M98.

### **PREVIOUS COUNCIL DIRECTION / POLICY**

On 2015 November 09, Council approved amendments to Land Use Bylaw (1P2007) and gave three readings to Payday Loans and Pawn Shops City Wide Bylaw 43P2015 and adopted the Pawn Shop and Payday Loan Separation Distance Policy which requires a 400 metre separation between retail locations of payday lenders and pawn shops.

On 2015 July 27, Council approved the Terms of Reference for the Payday Lending and Financial Inclusion Task Force. Administration was directed to refer the report with respect to business licensing of payday lenders from the SPC on Planning and Urban Development (PUD) to the SPC on Community and Protective Services (CPS) no later than 2016 Q2 to better align with the reporting of the Payday Lending and Financial Inclusion Task Force.

On 2015 March 30, Council adopted PUD2015-0096, and directed Administration to:

- Assemble a task force to work with appropriate agencies and organizations to petition the provincial and federal governments to amend maximum annual interest rates and other payday loan business practices to better protect the financially vulnerable from predatory lending practices; and to influence mainstream financial institutions to re-engage low income earners with the ability to access short-term small loans and financial counselling services and education and to report back with a terms of reference for this task force to the SPC on Community and Protective Services no later than Q3 2015;

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- Report back to Council through the SPC on Community and Protective Services with details of the Task Force's progress by no later than the end of Q2 2016;
- In consultation with the Task Force, to develop provisions for inclusion in the Business Licence Bylaw to better identify and regulate payday lending businesses and other fringe financial institutions with particular consideration of curtailing proliferation and regulating geographic distribution, and report back to the SPC on Planning and Urban Development no later than Q4 2015;
- Bring forward recommendations to the Land Use Bylaw related to payday lending businesses and other fringe financial institutions, and report back through Calgary Planning Commission no later than Q3 2015.

On 2014 October 07, Council adopted NM2014-39 to address improving municipal oversight of payday loan businesses. Administration was directed to *"report to the SPC on Planning and Urban Development with options and impacts relating to regulating payday loan businesses"*.

### **BACKGROUND**

Payday lenders can provide an alternative to traditional banking services but for those who are financially vulnerable, using payday lending services can be a contributing factor to poverty. Due to the high rates of interest and short terms of repayment, payday loans can reinforce a cycle of debt from which it is difficult to escape. The negative impact of payday loans can be a barrier to financial inclusion as many consumers of payday lenders face underlying issues such as insufficient income and assets and lack of access to traditional forms of credit.

The Payday Lending and Financial Inclusion Task Force was established in 2015 March for the purpose of improving municipal oversight of payday lending businesses. The Task Force was made up of 11 community stakeholders; a full list of members is included in Attachment 1.

The mandate of the Task Force was to:

1. work with appropriate governments, agencies and organizations to develop recommendations to protect financially vulnerable persons from the negative impact of payday lending practices; and
2. influence financial institutions to re-engage low-income earners with the ability to access short-term small loans, and financial counselling services and education.

In order to achieve the mandate, research identifying the current state of payday lending practices in Calgary was undertaken. The research report included an investigation of the barriers to accessing and providing banking and financial services for low-income clients from both the industry and client perspectives, as well as existing financial products offered by national banks and Credit Unions. The research report provided the foundation for the Task Force to develop strategies and make recommendations to Administration as outlined in the Terms of Reference deliverables (Attachment 2).

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### **INVESTIGATION: ALTERNATIVES AND ANALYSIS**

Utilizing the combined contributions of the research report and the Task Force members' knowledge and experience, the Task Force delivered the following recommendations for policy and regulatory changes and strategies for enhancing safe and affordable financial products and services. Attachment 3 further outlines the activities and outcomes of the Task Force.

#### Options for Increased Municipal Oversight of Payday Lenders

Through Business Licence Bylaw 32M98, The City of Calgary licenses and inspects most business operations to ensure compliance with applicable laws, regulations and standards, and to encourage responsible business practices. However, the bylaw currently does not regulate Payday Lenders, which are subject to Land Use Bylaw 1P2007 provisions, the provincial *Fair Trading Act* RSA2000, c. F-2 and Payday Loan Regulation AR157/209 (currently under review by the Province).

Several options were considered in terms of increasing municipal oversight of payday lenders. The Task Force determined that the most impactful lever for the municipality would be to regulate payday lending. Based on this option, Administration recommends amendments to the Business Licence Bylaw 32M98, which will strengthen municipal oversight of the companies operating in Calgary through the requirement to obtain a Business Licence. This requirement would be in addition to provincial licensing regulations which are already in place. There is precedence for The City to require businesses already regulated by the province, to obtain a Business License, such as liquor stores and door to door sales. Under the conditions of the licence, businesses will be required to post signage providing information regarding money management support and debt counseling. In addition, immediately upon a person expressing interest in a payday loan, the payday lender must provide the same information included in the signage. The Chief Licence Inspector would have the authority to determine the form and content of the signage, as set out in Attachment 4. The amendment also includes specified penalties for violating these provisions. The proposed bylaw amendments were supported by the majority of the Task Force with a dissenting opinion provided by the representative of the Canadian Payday Loan Association. Attachment 5 sets out the text of the proposed amendments to Bylaw 32M98. The effective date of the proposed amending bylaw is 2016 October 01, which allows sufficient time for upgrades to internal intake systems which are required to accommodate this new licence category.

#### Recommendations to the Provincial Payday Loans Regulation Review

The Provincial Payday Loans Regulation Review announced by the Government of Alberta in late 2015 provided the Task Force with the opportunity to make recommendations for regulatory changes that would further protect financially vulnerable consumers from the negative impact of payday loans.

A total of 27 recommendations were identified by the Task Force. A priority setting and consensus building process established the top five recommendations which were submitted to the Government of Alberta (Attachment 6). The five recommendations were:

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1. Reduce the rate of borrowing to the lowest possible cost to the consumer while maintaining the viability of the payday lending industry.
2. Establish an Alberta Borrowers Financial Literacy Fund, funded by a portion of provincial Payday Lenders license fees.
3. Mandate that borrowers can repay loans in installments rather than a single lump sum.
4. Mandate the use of a standard contract as developed by the Registrar of payday loans.
5. Mandate that payday lenders notify the Registrar if their license to operate has been suspended or cancelled in another jurisdiction.

The majority of members endorsed all of the recommendations. With respect to Recommendation #3, mandating instalment repayment plans for borrowers, the representative of the Canadian Payday Loan Association provided a dissenting opinion.

The Provincial Payday Loans Regulation Review has led to the development of new provincial legislation that was introduced on 2016 May 12. Bill 15, *An Act to End Predatory Lending* outlines several new regulations for the Alberta payday lending industry. These include a maximum rate of 15 per cent interest charged on loans, options for instalment payments and standardized agreements, forms and documents. Payday lenders must also display financial literacy information and provide borrowers with information on financial literacy programs and services.

The new legislation includes three of the five recommendations made by the Task Force. While the recommendation related to the Financial Literacy Fund is not part of Bill 15, the Act does include a new requirement for payday lenders to provide financial literacy information to all consumers.

Calgary Community Standards supports proceeding with the Business Licence Bylaw amendment as it aligns with the proposed change to provincial legislation in Bill 15; specifically in terms of the requirement to display and provide information to potential borrowers on financial literacy programs and services. Future provincial legislative changes will be monitored and further amendments to Bylaw 32M98 will be proposed as required.

### Increasing Access of Low-Income Consumers to Financial Products

The "Cash Crunch Loan" was developed in 2015 through a partnership between First Calgary Financial, Momentum and a local philanthropist. The Task Force consulted with the developers of Cash Crunch and advocated to the private funder of this program for continued support of this innovative product. The Financial Empowerment Collaborative (FEC), of which Momentum and First Calgary Financial as well as City Administration are members, will continue to promote Cash Crunch Loans and work in collaboration with community partners to expand alternative financial products available to Calgarians living on low incomes. The partners of the FEC will also collaborate with the provincial government on efforts to support the development and expansion of low cost credit options through Alberta's credit unions.

The Canadian Bankers Association (CBA) declined the invitation to participate on the Task Force, but representatives of the CBA did participate in a conference call with several members

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of the Task Force. Task Force members provided information regarding barriers to banking services experienced by some low income consumers. The CBA explained consumer rights, avenues for complaints and money management services suitable for people living on low incomes. In addition to the Task Force, the CBA was invited to participate in the FEC, however given the national scope of their mandate, the CBS stated that their commitment was to national financial literacy efforts. No further action to engage the CBA was undertaken by the Task Force.

### Opportunities to Increase the Financial Inclusion and Education of Low-Income Calgarians

The Task Force partnered with The City's Fair Entry program and the FEC to increase the financial inclusion and education of Calgarians living on low incomes. To achieve this goal, the following actions will be implemented:

- Information on financial literacy programs and services will be provided to all applicants of the Fair Entry Program.
- The FEC will explore possibilities for the development of a Financial Empowerment Office in Calgary, as a one stop shop for financial programs and services.
- The United Way, in collaboration with community stakeholders, will explore opportunities to develop a public awareness campaign designed to promote financial literacy.

### **Stakeholder Engagement, Research and Communication**

Activities and recommendations were developed by the Task Force made up of 11 community stakeholders, including representation from:

- an individual with the lived experience of poverty and who has used payday lending services,
- non-profit agencies who work with economically vulnerable Calgarians,
- two credit unions,
- the Canadian Payday Loan Association,
- the United Way of Calgary and Area, and
- The City of Calgary represented by Calgary Neighbourhoods and Calgary Community Standards.

Discussions involved Issues faced by consumers who use payday loans and included information on the range of financial services available in Calgary and the barriers to these services experienced by Calgarians living on low incomes. In addition to members of the Task Force, members of City Administration including the Law Department, Intergovernmental and Corporate Strategy and Calgary Growth Strategies were consulted in the development of the report.

### **Strategic Alignment**

The Task Force aligns with Council priority: *A Prosperous City*

- (P7) Continue policies and programs to reduce the number of people living in poverty

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The Task Force aligns to Enough for All, Calgary's Poverty Reduction Strategy:

- Financial Empowerment — to reduce the financial vulnerability of Calgarians through access to safe and affordable financial services

### **Social, Environmental, Economic (External)**

#### **Social**

The Payday Lending and Financial Inclusion Task Force contributes to social and economic inclusion by making recommendations that would increase protection and improve access to financial literacy information to consumers of payday loans who may be economically marginalized. The proposed amendment to the Business Licence Bylaw is aligned with Bill 15, *An Act to End Predatory Lending* and will ensure that users of payday lending services are given information regarding money management support and debt counselling, contributing to the financial well being of consumers. In addition, by ensuring that people have access to safe and affordable products and services, the negative social impacts of debt and financial insecurity will be reduced.

#### **Environmental**

The Pawn Shop and Payday Loan Separation Distance Policy Bylaw 43P2015 requiring a 400 metre separation between retail locations of payday lenders and pawn shops will prevent clustering of payday lenders.

#### **Economic**

Task Force recommendations enhance and promote the financial well being of Calgarians facing financial vulnerabilities. Leveraging resources of the FEC increases access to financial services and programs and improves economically marginalized Calgarians' ability to participate in the economy.

#### **Financial Capacity**

**Current and Future Operating Budget:** There are no operating budget implications as a result of this report.

**Current and Future Capital Budget:** There are no capital budget implications as a result of this report.

#### **Risk Assessment**

There is a risk that the Task Force may be perceived as biased against the Payday Loan industry. This risk was mitigated by the participation of a representative of the Canadian Payday Loan Association who ensured the interests of the payday loan industry were considered. Decisions of the Task Force were made by consensus, to the greatest degree possible, with dissenting opinions noted.

The lack of representation of national financial institutions may appear to leave gaps in fulfilling the mandate of the Task Force. The Canadian Bankers Association (CBA) declined to participate in the Task Force but discussions on barriers to banking services faced by low income consumers were held via conference call. In addition, this risk was mitigated by the

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active participation of two credit unions, First Calgary Financial and Servus Credit Union. The participation of these financial institutions was instrumental to providing information on financial services and products that are locally available to low-income consumers.

There is a risk that Bill 15, *An Act to End Predatory Lending* could be amended. This could require further amendments to the City's Business Licence Bylaw to ensure compliance with the provincial legislation.

### **REASON FOR RECOMMENDATIONS:**

The proposed Business Licence Bylaw 32M98 amendments will increase municipal oversight of payday lenders by introducing new requirements for accountability. The expectation is that payday lenders will provide financial literacy information that will increase awareness of available services. With the proposed changes to the Business Licence Bylaw, the previously adopted Land Use Bylaw changes and the introduction of the Provincial *Act to End Predatory Lending*, the Task Force has seen significant successes from their work and the Task Force should be concluded. The Financial Empowerment Collaborative will continue to advocate for alternative financial products and will continue its' work to advance financial literacy.

### **ATTACHMENTS**

1. Payday Lending Task Force Membership
2. Payday Lending Task Force Terms of Reference
3. Payday Lending Task Force Summary of Activities
4. Proposed Amendment to Business Licence Bylaw 32M98 Sign Sample
5. Proposed Amendment to Business Licence Bylaw 32M98
6. Payday Lending Task Force Provincial Submission