

ORDINANCE NO. 2008-238

AN ORDINANCE OF THE TOWN OF WINDSOR AMENDING TITLE 3, CHAPTER 20, SECTION 110(h) OF THE CODE OF THE TOWN OF WINDSOR

WHEREAS, on April 2, 2008, the Town Council of the Town of Windsor adopted Ordinance No. 2008-233; and

WHEREAS, Title 3, Chapter 20, Section 115 of the Code of the Town of Windsor prohibits smoking in certain identified places, including, but not limited to "Recreational Area"; and

WHEREAS, Title 3, Chapter 20, Section 110(h) defines "Recreational Area" as "any area owned or operated by the Town and open to the general public for recreational purposes, including, gardens, the Town Green, playgrounds, and picnic and barbeque areas, sporting facilities including bleachers, dugouts, balls fields, tennis courts, swimming pools and surrounding areas, walking, running, biking and nature trails"; and

WHEREAS, the definition of "Recreational Area" implicitly includes the Windsor Golf Course because the Windsor Golf Course land is owned by the Town of Windsor; however, the operations and management of the Golf Course is overseen by Coombs Development Fund 7, a California general partnership; and

WHEREAS, it has come to the attention of the Town Council of the Town of Windsor that given the sportsperson nature and traditions of the golf game, the Windsor Golf Course should not be categorized as a "Recreational Area" for purposes of Title 3, Chapter 20, Section 110(h); and

WHEREAS, on June 4, 2008, the Town Council approved the exclusion of the Windsor Golf Club, by definition.

NOW, THEREFORE, the Town Council of the Town of Windsor does ordain as follows:

SECTION 1. The Code of the Town of Windsor, Title 3, Chapter 20, Section 110(h) is amended to read as follows:

h) **"Recreational Area"** means any area owned and operated by the Town and open to the general public for recreational purposes, including, gardens, the Town Green, playgrounds, and picnic and barbeque areas, sporting facilities including bleachers, dugouts, balls fields, tennis courts, swimming pools and surrounding areas, walking, running, biking and nature trails.

SECTION 2. California Environmental Quality Act ("CEQA").

The Town Council finds that this Ordinance is not subject to the California Environmental Quality Act ("CEQA") because the Ordinance is not a "project" within the meaning of Section 15378 of the State CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) for it has no potential for resulting in physical change in the environment, directly or ultimately, the Ordinance is categorically exempt from CEQA under Section 15308 as a regulatory action taken by the City pursuant to its police power authorized in Article XI, Section 7 of the California Constitution to assure the health, safety, and welfare of the City, and the Ordinance is not subject to CEQA under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment, either directly or indirectly.

SECTION 3. Statutory Severability.

If any section, subsection, sentence, clause or phrase or word of this Ordinance is for any reason held to be unconstitutional, unlawful or otherwise invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town Council hereby declares that it would have passed and adopted this Ordinance and each and all provisions thereof irrespective of the fact that any one or more of said provisions may be declared unconstitutional, unlawful or otherwise invalid.

SECTION 4. Effective Date and Publication.

This Ordinance shall take effect thirty (30) days from its passage. Before the expiration of fifteen (15) days after its passage, this Ordinance, or a summary thereof, as provided in California Government Code Section 36933, shall be published at least once in a newspaper of general circulation published and circulated in the Town of Windsor.

PASSED, APPROVED, AND ADOPTED this 18TH of June 2008 by the following votes:

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



DEBORA FUDGE, MAYOR

ATTEST:



MARIA DE LA O, TOWN CLERK