

TOWN OF WINDSOR

ORDINANCE NO. 2008-244

AN URGENCY ORDINANCE OF THE TOWN OF WINDSOR ESTABLISHING A TEMPORARY MORATORIUM ON THE ESTABLISHMENT OF CHECK CASHING BUSINESSES, PAWN SHOPS, SMOKE SHOPS, BAIL BONDS BUSINESS, AND TATTOO PARLORS PENDING THE REVIEW AND POSSIBLE AMENDMENT OF ZONING REGULATIONS APPLICABLE TO SUCH BUSINESSES, TO BECOME EFFECTIVE IMMEDIATELY

RECITALS

WHEREAS, the Town of Windsor ("Town") was incorporated on July 1, 1992; and

WHEREAS, in 2000, the Town adopted the Town of Windsor Zoning Ordinance after the Town heavily relied upon the laws and regulations adopted by the County of Sonoma, which were applicable to the area of the Town prior to incorporation; and

WHEREAS, the Windsor Town Council ("Town Council") finds that inherent problems in adopting County regulations drafted to serve the needs of the County and Town Zoning regulations adopted in 2000 is that some or all of those adopted regulations may prove to be inadequate to meet the current needs of the Town and may need to be amended in order to better reflect and serve the needs of the Town; and

WHEREAS, the transition of Windsor over the last 16 years dictates that the Town Council address its regulation of recycling businesses, check cashing businesses, pawn shops, resale shops, smoke shops, tattoo parlors, bail bonds business, or businesses offering related services so as to ensure that following said transition, the Town's Zoning regulations are effective in minimizing the cumulative impacts and harmful effects of such businesses within the Town; and

WHEREAS, the Town recognizes and intends to follow all state regulations regarding the location of recycling centers; and

WHEREAS, the current Zoning Code contains no protection against the harmful effects on Town residents resulting from the above mentioned businesses; and

WHEREAS, on March 13, 1996, the Town Council adopted Resolution 506-96 approving and establishing a General Plan. The General Plan sets forth the long-term planning goals and policies of the Town, establishes a future vision for the Town, and sets forth the ground rules that guide development within the Town; and

WHEREAS, the Town is now, and will be in the future, taking steps to update its zoning laws in order to ensure that the Town's zoning laws are consistent with the goals, policies and standards set forth in the General Plan; and

WHEREAS, Tattoo parlors, pawn shops, check cashing businesses, bail bonds business, and smoke shops are not specifically or adequacy addressed under current Town zoning regulations; and

WHEREAS, the Town Council on September 3, 2008, received public comments regarding the threats to the public safety, health and welfare posed by the specified uses.

THE TOWN COUNCIL OF THE TOWN OF WINDSOR DOES ORDAIN AS FOLLOWS:

Section 1. Recitals adopted

The foregoing recitals are true and correct and made a part of this ordinance.

Section 2. Moratorium

The moratorium established by Urgency Ordinance 2008-244 is for 45 days.

A. Scope.

This moratorium shall apply to the establishment, expansion, or relocation of check cashing businesses, pawn shops, smoke shops, tattoo parlors, or businesses offering related services. This moratorium shall not apply to the renewal of a business registration for existing businesses of these types in the Town provided the renewal seeks to maintain the business in its existing location.

B. Applicability.

This Ordinance shall apply to the establishment, relocation, and issuance of entitlements for such uses:

1. Check Cashing Businesses: For purposes of this Ordinance, Check Cashing Businesses shall mean any establishment whose primary purpose is to provide check cashing services.
2. Pawn Shops: For purposes of this Ordinance, Pawn Shop shall mean any room, store, building or other place in which the business of pawn brokering, or the business of lending money upon person property, pawns or pledges; or the business of purchasing articles from vendors or their assignees at prices agreed upon at or before the time of such purchase, is engaged in, carried on or conducted.
3. Smoke Shops: Also known as “head shops” or “smoking paraphernalia establishments” are defined as those establishments that either: (1) devote more than fifteen percent (15%) of their total floor space to smoking or tobacco paraphernalia, or (2) devote more than a two foot by four-foot

(two feet in depth maximum) section of shelf space for display for sale and sale of smoking or tobacco paraphernalia.

4. Tattoo Parlors: For purposes of this Ordinance, a tattoo parlor shall mean any establishment that engages in the business of tattooing and/or branding and body piercing of human beings.
5. Bail Bonds Business: A person or corporation who operate a business that will act as a surety and pledge money or property as bail for the appearance of a criminal defendant in court.

C. Findings.

This Ordinance is declared to be an urgency Ordinance as defined under California Government Code section 65858. This Ordinance is deemed necessary for the following reasons:

1. The purpose of this Ordinance is to protect the public safety, health and welfare from the current and immediate threats posed by the establishment of new and expansion of existing check cashing businesses, pawn shops, smoke shops, tattoo parlors, or businesses offering related services.

2. The Town Council finds that these uses as currently regulated are not specifically prohibited or regulated in areas adjacent to schools, public parks, public libraries or designated redevelopment areas in the Town. Thus, as applications for business registration are submitted to the Town, there is no determination as to whether such potential uses are consistent with the purpose and intent of the Town's Zoning Code and General Plan.

3. The Town Council finds that, in general, these types of businesses, as presently regulated, have resulted in serious harmful effects, including but not limited to drinking in public, loitering, drug sales, prostitution, burglaries and robberies, littering, attraction of vagrants, aesthetically unappealing premises, lowering of surrounding property values, increase of public nuisances, and an increase of other criminal activity.

4. The Town Council finds that check cashing establishments in other cities result in many negative impacts because they provide a source of cash by the cashing of checks or issuing of small loans that are sometimes used to buy illegal drugs, alcohol, or illegal services.

5. The Town Council finds that pawn shops also result in similar negative impacts as those caused by check cashing businesses. Pawn shops additionally create an incentive for burglaries and robberies by offering a market for stolen merchandise.

6. The Town Council finds that smoke shops promote the illegal consumption and purchase of illegal drugs by children and minors by increasing their exposure to tobacco paraphernalia that may be used for other drugs, contribute to high concentrations of illegal drug-related uses in certain neighborhoods, and adversely affect the Town's economic vitality.

7. The Town Council finds that tattoo parlors, and the rest of the identified uses in this ordinance pose current immediate threats to the public welfare by creating aesthetically unappealing premises, lowering of surrounding property values, decreasing the Town's economic vitality, and resulting in a conflict with General Plan goals and objectives.

8. The Town Council finds that bail bond business have resulted in serious harmful effects, including but not limited to loitering, drug sales, littering, attraction of vagrants, aesthetically unappealing premises, lowering of surrounding property values, increase of public nuisances, and an increase in criminal activity.

9. The Town has received several complaints from residents regarding the above mentioned harmful effects associated with these types of establishments, and there is an expectation that additional inquiries and complaints will occur in the future.

10. The Town has concluded that the best method of protecting the public safety, health, and welfare is to adopt regulations concerning the operation of check cashing businesses, pawn shops, smoke shops, tattoo parlors, or businesses offering related services.

11. The Town finds that absent the adoption of this urgency ordinance, the existence of such harmful conditions could cause the Town to approve the establishment of one of the above mentioned type of businesses, which in turn would result in an increase in the identified harmful effects.

12. The Town Council finds that it is necessary to ensure that these types of businesses are properly located within the Town, both to protect the public health, safety and welfare, and to ensure that these businesses are located in a manner that is consistent with the standards, goals and policies of the Town's new General Plan; and

13. The Town Council finds that it is necessary and desirable to have the Planning Department review and consider the possible adoption of new zoning standards regulating these types of businesses in the Town in order to ensure the protection of the public health, safety and welfare, and to ensure that the locations for these types of businesses are established in a manner that is consistent with the standards, goals and policies of the Town's General Plan.

14. The Town Council recognizes and intends to abide by all applicable state regulations regarding the location of recycling centers to better serve its residents. The Town intends to work with the Department of Conservation, Division of Recycling to create proper regulations and conditions regarding recycling businesses.

15. On the basis of the foregoing findings, all evidence on the record including but not limited to public testimony, the Town Council finds that the establishment of new, or the expansion or relocating of existing, check cashing businesses, pawn shops, smoke shops, tattoo parlors, bail bond business, or businesses offering related services prior to the completion of the Planning Department's review poses a current and immediate threat to the public health, safety and welfare and, in accordance with California Government Code section

65858, which justifies the adoption of an urgency ordinance establishing a moratorium on the above specified uses in the Town.

Section 3. Compliance with California Environmental Quality Act

The Town Council finds that this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) because it has no potential for resulting in physical change to the environment, directly or indirectly; it prevents changes in the environment pending the completion of the contemplated Zoning Code review.

Section 4. Severability

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable. The Town Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

Section 5. Effective Date

This Ordinance shall become effective immediately upon adoption if adopted by at least four-fifths vote of the Town Council and shall be in effect for forty-five days from the date of adoption unless extended by the Town Council as provided for in the Government Code.

PASSED, APPROVED AND ADOPTED this 1st day of October 2008, by the following vote:

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



DEBORA FUDGE, MAYOR

ATTEST:



MARIA DE LA O, TOWN CLERK