

ORDINANCE NO. 2008-247

**AN URGENCY ORDINANCE OF THE TOWN OF WINDSOR EXTENDING
A TEMPORARY MORATORIUM ON THE ESTABLISHMENT, EXPANSION OR
RELOCATION OF BAIL BOND BUSINESSES, CHECK CASHING BUSINESSES,
PAWN SHOPS, SMOKE SHOPS AND TATTOO PARLORS PENDING THE REVIEW
AND POSSIBLE AMENDMENT OF ZONING REGULATIONS APPLICABLE TO
SUCH BUSINESSES, TO BECOME EFFECTIVE IMMEDIATELY**

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

Section 1. Findings

The Windsor Town Council ("Town Council") hereby finds as follows:

- A. On October 1, 2008, the Town Council of the Town of Windsor adopted Ordinance No. 2008-244 as an urgency ordinance imposing a forty-five (45) day moratorium on the establishment, expansion or relocation of bail bond businesses, check cashing businesses, pawn shops, smoke shops and tattoo parlors.
- B. Ordinance No. 2008-244 will, unless extended, expire by its own terms on November 15, 2008.
- C. To protect the public safety, health, and welfare, Government Code Section 65858 authorizes the imposition and extension of an urgency ordinance, after a noticed public hearing, to prohibit uses of land which may conflict with a contemplated general plan, specific plan or zoning proposal which the legislative body, planning commission or the planning department is considering or studying, or intends to study, within a reasonable period of time.
- D. Town staff is currently in the process of studying the possible adoption of new zoning regulations applicable to bail bond businesses, check cashing businesses, pawn shops, smoke shops and tattoo parlors.
- E. On October 1, 2008, the Town Council conducted a properly noticed public hearing pursuant to Government Code Section 65090, and has duly considered all written and verbal testimony presented during the hearing. On November 5, 2008, the Town Council conducted a second properly noticed public hearing pursuant to Government Code Section 65090, and has duly considered all written and verbal testimony presented during the hearing.
- F. On November 5, 2008, the Town Council received and considered a report prepared by staff describing the measures that have been taken and progress made to date to alleviate the conditions which led to the imposition and extension of the moratorium.
- G. After consideration of all evidence presented and testimony received at the October 1, 2008 and November 5, 2008 public hearings, the Town Council finds that:

- i. The current and immediate threat to the public health, safety and welfare as described in the findings adopted pursuant to Ordinances No. 2008-244, and incorporated herein by reference, still exist;
- ii. Without proper regulation, these uses may have serious, objectionable impacts on the health, safety and welfare of the residents of the Town, especially when several of them are located in close proximity to each other. Such concentration tends to create a “skid-row” atmosphere and has a deleterious effect upon the adjacent area and businesses.

Section 2. Applicability.

This Ordinance shall apply to the following uses:

- A. Check Cashing Businesses: For purposes of this Ordinance, Check Cashing Businesses shall mean any establishment whose primary purpose is to provide check cashing services.
- B. 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.
- C. 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 of smoking or tobacco paraphernalia.
- D. 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.
- E. Bail Bond Businesses: For purposes of this Ordinance, a bail bond business shall mean any business that will act as a surety and pledge money or property as bail for the appearance of a criminal defendant in court.

Section 3. Imposition of Moratorium

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.

Section 4. 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 5. 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 6. 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 22 months and 15 days from the date of adoption.

PASSED, APPROVED and ADOPTED, this 5th day of November 2008, by the following vote:

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



DEBORA FUDGE, MAYOR

ATTEST:



MARIA DE LA O, TOWN CLERK