

**ORDINANCE NO. 2007-213**

**AN ORDINANCE AMENDING TITLE III, CHAPTER 4, ARTICLE 1, SECTION 120, "DEFINITIONS," REPEALING TITLE III, CHAPTER 4, ARTICLE 10, SECTION 1090, "TETHERING/CHAINING OF DOGS RESTRICTED," AND AMENDING TITLE III, CHAPTER 4, ARTICLE 13, SECTION 1300, "RABIES CONTROL TO BE RESPONSIBILITY OF HEALTH OFFICER," TO THE CODE OF THE TOWN OF WINDSOR**

**WHEREAS**, on April 25, 2006, the Board of Supervisors for the County of Sonoma adopted Ordinance No. 5664 amending Chapter 5 of the Sonoma County Code, the Sonoma County Animal Regulation Ordinance; and

**WHEREAS**, the Board of Supervisors encouraged municipal jurisdictions within the County of Sonoma to amend existing animal regulations so that they may be consistent with those recently adopted by the County of Sonoma; and

**WHEREAS**, on July 19, 2006, the Town Council of the Town of Windsor adopted Ordinance No. 2006-206 which amended Title III, Chapter 4, "Animal Regulations," of the Code of the Town of Windsor, to reflect the recent amendments made to the County of Sonoma's animal regulations; and

**WHEREAS**, the definitions of "Potentially Dangerous Dog" and "Vicious Dog", as set forth in Title III, Chapter 4, Section 120 in the Code of the Town of Windsor differs from the definition of "Potentially Dangerous Animal" and "Vicious Animal" as established in Chapter 5, Article 1, Section 6 of the Sonoma County Code; and

**WHEREAS**, California Food and Agricultural Code Sections 31601 *et seq.* authorizes the Town to adopt a program for the regulation of potentially dangerous and vicious dogs which may incorporate all, part, or none of the requirements established under state law; and

**WHEREAS**, it is advisable that the definition for "Potentially Dangerous Dog" and "Vicious Dog" in the Code of the Town of Windsor's be consistent with the definition for "Potentially Dangerous Animal" and "Vicious Animal" in the Sonoma County Code; and

**WHEREAS**, Ordinance No. 2006-206 added Title III, Chapter 4, Article 10, Section 1090, "Tethering/Chaining of Dogs Restricted" to be consistent with Chapter 5, Article X, Section 127 of the Sonoma County Code; and

**WHEREAS**, on September 27, 2006 the Governor of the State of California approved Senate Bill No. 1578, adding Chapter 8 (commencing with Section 122335) to Part 6 of Division 105 of the California Health and Safety Code, which makes it unlawful to tether, fasten, chain, tie, or restrain a dog to a dog house, tree, fence, or other stationary object; and

**WHEREAS**, by making the provisions of Senate Bill No. 1578 a crime, the bill imposes a state-mandated local program; and

**WHEREAS**, in light of possible preemption issues arising from the enactment of Senate Bill No. 1578 it is advisable to repeal Title III, Chapter 4, Article 10, Section 1090 of the Code of the Town of Windsor; and

**WHEREAS**, Title III, Chapter 4, Article 13, Section 1300 refers to Chapter 3 (commencing with Section 1900) of Division 3 of the California Health and Safety Code which governs local supervision over rabies control activities; and

**WHEREAS**, in 1995 Senate Bill No. 1360 was approved by the Governor of the State of California which, among other things, reorganized that section of the California Health and Safety Code addressing the local supervision over rabies control activities; and

**WHEREAS**, Senate Bill No. 1360 renumbered Chapter 3 (commencing with Section 1900) of Division 3 of the California Health and Safety Code to Chapter 1 (commencing with Section 121575) of Division 105 of the California Health and Safety Code; and

**WHEREAS**, it is advisable that Title III, Chapter 4, Article 13, Section 1300 of the Code of the Town of Windsor cite to the correct section of the California Health and Safety Code governing local supervision over rabies control activities.

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

Section 1. Title III, Chapter 4, Article 1, Section 120, "Definitions" is amended by repealing "Potentially dangerous dog" and replacing "Potentially dangerous dog" to read as follows:

"Potentially dangerous dog" shall mean any of the following:

1. Any dog which, when unprovoked, on two (2) separate occasions within the prior thirty-six (36) month period, engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the dog are off the property of the owner of the dog;
2. Any dog which, when unprovoked, bites a person causing an injury that is less than a severe injury;
3. Any dog which, when unprovoked, has killed, seriously bitten, inflicted injury or otherwise caused injury attacking a domestic animal off the property of the owner of the dog.

Section 2. Title III, Chapter 4, Article 1, Section 120, "Definitions" is amended by repealing "Vicious dog" and replacing "Vicious dog" to read as follows:

"Vicious dog" shall mean any of the following:

1. Any dog seized under Penal Code Section 599aa and upon the sustaining of a conviction of the owner under subdivision (a) of Penal Code Section 597.5;

2. Any dog which, when unprovoked, in an aggressive manner, inflicts severe injury on or kills a human being;
3. Any dog previously determined to be and currently listed as a potentially dangerous dog which, after its owner has been notified of this determination, continues the behavior described in the definition of “potentially dangerous dog”, or is maintained in violation of Section 3-4-1025 or 3-4-1120.

Section 3. Title III, Chapter 4, Article 10, “Prohibited Conduct,” is amended by repealing Section 1090, “Tethering/Chaining of Dogs Restricted,” in its entirety.

Section 4. Title III, Chapter 4, Article 13, “Rabies Control,” is amended by repealing Section 1300, “Rabies Control to be Responsibility of Health Officer,” and replacing Section 1300 to read as follows:

**3-4-1300 Rabies Control to be Responsibility of Health Officer.** The Health Officer shall be responsible for supervising rabies control activities within the Town in accordance with Chapter 1 (commencing with Section 121575) of Division 105 of the Health and Safety Code, Subchapter 1 (commencing with 2500) of Chapter 4 of Title 17 of the California Code of Regulations, such other laws, rules and regulations relating to rabies control as may be enacted or promulgated by the State, and the policies and procedures established by the Board. The Animal Control Officer shall cooperate with and assist the Health Officer in carrying out any measures necessary for rabies control, including, but not limited to, quarantining of animals and complying with directives of the Health Officer.

Section 5. Statutory Severability.

If any section, subsection, clause, phrase or word of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction or preempted by state legislation, such decision or legislation shall not affect the validity of the remaining portions of this Ordinance. The Town Council of the Town of Windsor hereby declares that it would have passed 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 6. California Environmental Quality Act (“CEQA”)

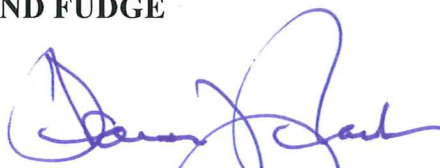
The Town Council finds that this Ordinance is not subject to the California Environmental Quality Act (“CEQA”) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project 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, either directly or indirectly.

Section 7. 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 21<sup>st</sup> day February 2007 by the following vote:**

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

  
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**WARIN J. PARKER, MAYOR**

**ATTEST:**

  
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**MARIA DE LA O, TOWN CLERK**