

ORDINANCE NO. \_\_\_\_\_ (N.C.S.)

AN ORDINANCE AMENDING ARTICLE XIII OF CHAPTER 16 OF THE SALINAS MUNICIPAL CODE AND ADOPTING ARTICLE XIV OF CHAPTER 16 OF THE SALINAS MUNICIPAL CODE RELATED TO HEALTH AND SAFETY

City Attorney Summary

*This ordinance prohibits the misappropriation of City property for personal use and promotes the public health and safety by restricting camping and other activities which negatively impact City property and facilities. By restricting camping and other activities, this ordinance ensures that City property remains in a clean and sanitary condition and accessible for their intended uses by all members of the public. This ordinance further prohibits urination and defecation in public. This ordinance also authorizes the City Manager to promulgate regulations to allow for temporary, permitted camping activities and to allow for City resources to be utilized to clean-up encampments on private property and for the recovery of the City's costs and expenses incurred in association therewith.*

**WHEREAS**, Salinas is a Charter city organized and operating pursuant to Article 7 of the California Constitution; and

**WHEREAS**, through previous legislative enactments (Ordinance No. 2564, Ordinance No. 2567, and Resolution Nos. 20884 and 20908), the City Council declared its intent to prevent the misappropriation of City property for personal use and the proliferation of encampments on public property that have a significant adverse effect on public health, safety, and welfare and impede or entirely obstruct access by emergency responders when responding to emergencies; and

**WHEREAS**, through its previous legislative enactments, the City Council made clear its intent to prevent the misappropriation of City property for personal use and to promote the public health, safety, and welfare by ensuring that City property remains accessible and usable by all members of the public for the purposes for which such public property is intended and by ensuring that City property remains in a clean, sanitary, and accessible condition; and

**WHEREAS**, the public areas within the city, including streets, sidewalks, parks, public buildings, and public land, should be readily accessible, free from obstruction, and available to the public at large for use in a safe and healthy manner; and

**WHEREAS**, the use of these areas for overnight camping purposes interferes with the ability of residents and the public at large to use the areas in the healthy and safe manner for the uses intended; and

**WHEREAS**, such camping activity can constitute a public health and safety hazard, which adversely impacts other members of the public, neighborhoods, industrial, agricultural, and commercial areas; and

**WHEREAS**, in addition to the proliferation of camping and encampments on public property in the city of Salinas which has obstructed access by pedestrians and users of City facilities, individuals camping on public property and/or residing in encampments on public property frequently urinate and defecate on City property (and nearby private property) and have been observed using and distributing narcotics and alcohol causing unsafe and unsanitary conditions to persist around and within the areas of the camps and/or the encampments creating an environment for the spread of disease and bacteria and an environment which prevents Salinas's residents from using and accessing City facilities, including the City libraries and recreation centers; and

**WHEREAS**, City employees and members of the public at large have reported that overnight camping on City property has specifically interfered with their use of public buildings, public sidewalks, public streets, parking lots, parking garages, and other open spaces, including the public space surrounding the library and the public space in front of City Hall; and

**WHEREAS**, City employees leaving City Hall have been confronted by overnight campers screaming, yelling, and displaying other aggressive and erratic behavior that has made those employees fear for their safety upon egress of the building; and

**WHEREAS**, City employees have been confronted by overnight campers subjecting them to unwanted sexual comments; and

**WHEREAS**, City employees have observed individuals around the City Permit Center and the adjacent parking structure engage in sexual activity, as well as illegal drug use; and

**WHEREAS**, members of the public as well as City employees have complained about the smell of public places, including the area in front of City Hall and the areas around the City libraries (particularly the John Steinbeck Library) and City Permit Center and adjacent parking structure, as a result of individuals loitering in and around those areas and as a result of overnight camping activity, including urination and defecation by overnight campers; and

**WHEREAS**, drug paraphernalia has been found at the site of the overnight camp in front of City Hall; and

**WHEREAS**, it has been reported that public spaces can no longer be used by residents and the public at large for the manner and uses in which they were intended, including specific complaints that outdoor public spaces, including, but not limited to, the space in front of City Hall, the space around the City Permit Center and adjacent parking structure, and the space around the John Steinbeck Library, including the grass areas in front of the John Steinbeck Library, that were once used by residents and the public at large to recreate, eat lunch, and take

breaks can no longer be used for those purposes as a result of the litter, urine and feces left by individuals loitering in and around those areas and as a result of the overnight campers in those areas; and

**WHEREAS**, the lawn areas and other spaces on or around City property, including most-notably the lawn areas in front of City Hall and in front of the John Steinbeck Library are frequently used by persons in such a manner that they have been damaged and or destroyed and in some cases present a danger to the health and safety of the community and of the patrons of those facilities; and

**WHEREAS**, City employees must regularly clean up and remove human waste from areas used for overnight camping including, but not limited to, the space in front of City Hall, the space surrounding the John Steinbeck Library, recreation centers, public parking lots, and public parking garages; and

**WHEREAS**, residents and the public at large are prevented from the use of the public areas within and around the city, including streets, sidewalks, parks, public building and public land when those areas are obstructed by a gathering preventing the free passage by use of any street, sidewalk, alley, public way, ingress to any public building, or place used by members of the public to go from place to place; and

**WHEREAS**, the abuse or mutilation of trees, plants, and lawn prevents residents and the public at large from the reasonable use and enjoyment of those items while costing the City substantial money and resources for the restoration of those items; and

**WHEREAS**, urination and defecation outside of urinals, toilets, or commodes located in bathrooms, restrooms, or other structures specifically designated for the purpose of urination and defecation poses a significant health and safety problem to residents and the public at large as well as costing the city substantial money and resources to clean; and

**WHEREAS**, the City Council finds and determines that it is necessary to maintain public and private lands, streets, sidewalks, alleys, ways, creeks, waterways, parks, playgrounds, recreation areas, plazas, open spaces, lots, parcels and other public and private areas within the city, in a clean, sanitary and accessible condition and to protect the health, safety and welfare of the community, while recognizing that, subject to reasonable conditions, camping and camping facilities associated with special events can be beneficial to the cultural and educational well-being of the city; and

**WHEREAS**, private property owners have complained to the City about the scope, size, and number of encampments on their property and the negative health and safety consequences associated with those encampments and have regularly requested the City's assistance in cleaning up those encampments; and

**WHEREAS**, updates to the Salinas Municipal Code are necessary in order to address issues associated with individuals loitering in and around public spaces and also associated with overnight camping within the city and the establishment of encampments on public property and private property

**NOW, THEREFORE**, be it ordained by the Council of Salinas as follows:

SECTION 1. Chapter 16, Article XIII, section 16-130.040 of the Salinas Municipal Code is hereby repealed.

SECTION 2. Article XIV is hereby added to Chapter 16 of the Salinas Municipal Code and shall read as follows:

Article XIV. Prohibition Against Camping, Loitering and Public Urination and Defecation.

- Sec. 16-140.010. Purpose.
- Sec. 16-140.020. Definitions.
- Sec. 16-140.030. Unlawful Camping.
- Sec. 16-140.040. Overnight Event Permit.
- Sec. 16-140.050. Posting of Overnight Event Permit.
- Sec. 16-140.060. Loitering.
- Sec. 16-140.070. Conduct on Public Property, Monuments, and Lawns.
- Sec. 16-140.080. Public Urination and Defecation Prohibited.
- Sec. 16-140.090. Conduct on Private Property.

Sec. 16-140.010. Purpose.

The public areas within the city, including streets, sidewalks, parks, public building and public land, should be readily accessible and available to residents and the public at large for use in a safe and healthy manner. The use of these areas for overnight camping purposes and the use of those areas for the purposes of loitering interferes with the ability of residents and the public at large to use the areas in the healthy and safe manner for the uses intended. Such camping and loitering activity and their attendant negative effects can constitute a public health and safety hazard, which adversely impacts other members of the public and neighborhoods, as well as industrial, agricultural, and commercial areas. A purpose of this article is to maintain public and private lands, streets, sidewalks, alleys, ways, creeks, waterways, parks, playgrounds, recreation areas, plazas, open spaces, lots, parcels and other public and private areas within the city, in a clean, sanitary and accessible condition. A further purpose of this article is to protect the health, safety and welfare of the community, while recognizing that, subject to reasonable conditions, camping and camping facilities associated with certain events can be beneficial to the cultural

and educational well-being of the city. Nothing in this article is intended to interfere with otherwise lawful and ordinary uses of public or private property.

Sec. 16-140.020. Definitions.

For the purposes of this article, the following terms shall have the following definitions:

(a) Business Establishments. Include retail stores, food markets, theaters, restaurants, drive-in restaurants, gasoline service station, bar, hotel, motel, or any other establishment which is open to and provides the public with any goods or services.

(b) Camp. To place, pitch or occupy camp facilities; to live temporarily in a camp facility or outdoors; to use camp paraphernalia.

(c) Camp Facilities. Include, but are not limited to, tents, huts, yurts, vehicles, vehicle camping outfits or temporary shelters.

(d) Camp Paraphernalia. Include, but are not limited to, bedrolls, air mattresses, tarpaulins, cots, beds, sleeping bags, hammocks and similar equipment.

(e) Community Development Director. The community development director or designee.

(f) Establish. To Set up or move equipment, supplies or materials on to public or private property to camp or operate camp facilities.

(g) Maintain. To keep or permit equipment, supplies or materials to remain on public or private property in order to camp or operate camp facilities.

(h) Operate. To participate or assist in establishing or maintaining a camp or camp facility.

(i) Street. Streets, avenues, highways, lanes, alleys, ways, crossings or intersections, co-routes and cul-de-sacs.

(j) Outstanding Citation. A citation issued pursuant to section 16-140.030 of this chapter that is not paid or that is under appeal.

(k) Private Property. All private property including, but not limited to, streets, sidewalk, alleys, and improved or unimproved land.

(l) Public Property. Any real or personal property owned or controlled by the city and includes, but is not limited to, any publicly-owned park, building, street, sidewalk, way, path, alley, park, parking lot or other public property owned or controlled by the city and located within the city of Salinas.

Sec. 16-140.030. Unlawful Camping.

Except as may otherwise be specifically permitted in the Salinas Municipal Code, it is unlawful and a public nuisance for any person to camp, establish, maintain, operate or occupy camping facilities, or use camp paraphernalia in the following areas:

- (a) Any public property, improved or unimproved, including but not limited to public streets and sidewalks, open space, and other property, not including a space or stall in an off-street parking facility owned or operated by the city; or
- (b) Any private property, improved or unimproved.
- (c) The prohibition set forth in this section does not apply to:
  - (1) Overnight camping on private residential property, by no more than 6 people, with the consent of the property owner or a person in lawful possession of the property, provided the camping does not pose a threat to the public's health, safety, welfare, or otherwise create a public or private nuisance;
  - (2) Mobile home parks and special occupancy parks;
  - (3) Camping on public or private property pursuant to a permit issued under Salinas Municipal Code section 16-140.040; and
  - (4) Day use for lawful activities on public property where authorized.
- (d) A violation of this section is a misdemeanor. In addition to the remedies set forth in Penal Code section 370, the city may institute civil actions to abate a public nuisance pursuant to section 1-8.1.

Sec. 16-140.040. Overnight Event Permit.

The City Manager may promulgate regulations to establish a program pursuant to which a permit may be issued to establish, maintain and operate a camp or a camp facility in connection with a special overnight event. A special overnight event is intended to include, but is not limited to, programs operated by departments of the city, events organized by nonprofit or community-based organizations, organized youth or school events, and sporting events. The regulations shall be published on the City's website. Regulations promulgated by the City Manager shall have the same force and effect of law and become effective upon date of publication.

Any person who establishes, maintains or operates a camp or camp facility without a permit may be subject to a misdemeanor. Such activity constitutes a public nuisance. In addition to the remedies set forth in Penal Code section 370, the city may institute civil actions to abate a public nuisance pursuant to Salinas Municipal Code section 1-8.1.

Sec. 16-140.050. Posting of Overnight Event Permit.

It is unlawful for any person to establish, maintain, conduct or carry on any camp or camp facility unless there shall be at all times posted in a conspicuous place upon the area or tract of land upon which the camp or camp facility is located a permit obtained from the city in accordance with the provisions of Section 16-140.040 of this chapter.

A violation of this section is a misdemeanor. In addition to the remedies set forth in Penal Code section 370, the city may institute civil actions to abate a public nuisance pursuant to section 1-8.1.

Sec. 16-140.060. Loitering.

Whenever two or more persons gather together in such a manner as to obstruct the free passage of any street, sidewalk, alley, public way, ingress to any public building, or place used by members of the public to go from place to place, such persons shall move on or disperse when ordered to do so by a police officer. No person shall refuse or fail to disperse or move on when directed to do so by a police officer.

No person shall stand, sit, linger, idle, or loiter on any street, alley, sidewalk, park or other public place, or in or about the entrance or exit of any business establishment or public building, either on foot or in an automobile or other vehicle, in such a manner as to obstruct or hinder the free passage of persons along such public way, or obstruct or hinder persons entering and exiting from any business establishment or public building, or in such a manner as to create a health or safety hazard for the community or for the patrons of such public place.

Sec. 16-140.070. Conduct on Public Property, Monuments, and Lawns.

No person, after having been notified by a police officer or other City employee or official that he or she is in violation of the prohibition in this section shall:

- (a) Walk, stand, sit, or lie upon any monument, vase, decorative fountain, drinking fountain, bike rack, trash receptacle, median, fire hydrant, street-tree planter, berm, utility cabinet, railing, fence, planter, stairwell, parking lot or parking structure, or upon any other public property not designed or customarily used for such purposes;
- (b) Walk, stand, sit, or lie upon any public lawn or planted area that is posted with signs that forbid such conduct; or
- (c) Walk, stand, or lie upon any public bench.

Sec. 16-140.080. Public Urination and Defecation Prohibited.

No person shall urinate or defecate in public except when using a urinal, toilet, or commode located in a bathroom, restroom, or other structure specifically designated for the purpose of urination and defecation. A violation of this section shall be an infraction.

Sec. 16-140.090. Conduct on Private Property.

The City Council finds and determines that encampments located on private property have at least the same health, safety, and welfare concerns as encampments on public property and find the same to constitute a nuisance. The City Manager is authorized to promulgate all regulations necessary to provide for City clean-up and removal of encampments located on private property and for the recovery of all costs and expenses associated therewith. The regulations shall be published on the City's website. Regulations promulgated by the City Manager shall have the same force and effect of law and become effective upon date of publication.

SECTION 3. SEVERABILITY.

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held invalid by a court of competent jurisdiction, such a decision shall not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have passed the ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more of sections, subsections, sentences, clauses, or phrases, be declared invalid.

SECTION 4. EFFECTIVE DATE.

This ordinance shall become effective on the thirty-first day after its adoption.

This Ordinance was introduced on the 20<sup>th</sup> day of September 2016 and was passed and adopted on this \_\_\_\_\_ day of October, 2016.

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Joe Gunter, Mayor

ATTEST:

\_\_\_\_\_  
Patricia M. Barajas, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Christopher A. Callihan, City Attorney