

**REPORT TO THE
CITY COUNCIL**
City of Salinas, California

DATE: November 15, 2016

FROM: Christopher A. Callihan, City Attorney

SUBJECT: **ORDINANCE RELATED TO HOTEL GUEST REGISTRIES**

RECOMMENDATION:

It is recommended that the City Council adopt an Ordinance related to the availability and the inspection of hotel guest registries.

DISCUSSION:

Article III of Chapter 21 of the Salinas Municipal Code requires operators of hotels and other locations offering space for sleeping or overnight accommodations to maintain, among other things, a book or register in which the hotel operator maintains documentation of information about a guest. The guest records must be maintained on site and under current provisions of the Salinas Municipal Code must be made available to Police Officers and other law enforcement personnel for inspection upon request.

The City of Los Angeles had a similar provision in its municipal code which was determined by the United States Supreme Court to be unconstitutional (Los Angeles v. Patel). The Court determined that the provisions which require hotel operators to make their registries available to the police on demand is unconstitutional because it penalizes them for declining to turn over their records without affording them an opportunity for pre-compliance review. The Court's decision makes clear that hotel operators remain free to consent to searches of their registries and police can compel them to turn over their registries if they have a proper administrative warrant or if some other exception to the warrant requirement applies, including exigent circumstances.

Subdivision (b) of Section 21-350 of the Salinas Municipal Code must be amended to bring it into compliance with the Court's decision in Patel. The proposed ordinance modifies the existing provision to make clear that hotel operators, for example, have the discretion whether to consent to searches of their registries upon request and if they do not consent then a warrant must be obtained or some exception to the warrant requirement must exist.

ISSUE:

Shall the City Council adopt an Ordinance amending subdivision (b) of Section 21-350 to bring it into compliance with the current state of the law regarding the maintenance and the inspection of guest registries?

FISCAL IMPACT:

No impact to the City's General Fund is anticipated with the recommended action.

TIME CONSIDERATIONS:

There are no time considerations particular to this proposed action; however, the current City Code provisions are no longer enforceable given the recent Supreme Court decision.

ALTERNATIVES:

The City Council may choose to not to adopt the proposed Ordinance. In this event, the current City Code provisions would continue to not be enforced.

CITY COUNCIL GOALS:

Adopting the proposed Ordinance does not necessarily directly affect or implicate any of the City Council's goals; however, ensuring that the Municipal Code is enforceable and legally defensible is consistent with the City Council's goal of an effective and efficient government.

CONCLUSIONS:

A recent United States Supreme Court decision has rendered a part of the Salinas Municipal Code as unenforceable, specifically, that which pertains to the on-demand inspection of hotel guest registries. The proposed Ordinance brings this section of the Municipal Code into concert with the Supreme Court's decision.

Attachments:
Proposed Ordinance