
ORDINANCE NO. _____ (N.C.S.)

AN ORDINANCE AMENDING ARTICLE 1-C OF CHAPTER 30 OF THE SALINAS MUNICIPAL CODE RELATED TO THE ESTABLISHMENT OF A FILM PERMIT AND THE REVISION OF THE SPECIAL EVENTS PROCESS

City Attorney Impartial Analysis

The proposed Ordinance incorporates a new permit requirement into the Municipal Code for filming activities and revises and updates the existing requirements for special events that occur within the city. Article I-A of Chapter 30 of the Municipal Code is being revised to require a film permit for certain filming activities that occur within the city. News media, personal/family filming, and studio filming activities are exempt from the permit requirement. Article I-C of Chapter 30 of the Municipal Code is being revised and updated to clarify and to streamline the requirements for special events that occur within the city.

BE IT ORDAINED BY THE CITY COUNCIL OF SALINAS as follows:

SECTION 1. Article I-C of Chapter 30 of the Salinas Municipal Code is hereby revised and rewritten in its entirety to read as follows:

Article 1-C.- Special Events

Sec. 30-12.030.- Title.

This article shall be known as the “Special Events Ordinance”

Sec. 30-12.031. Special events.

a. *Purpose.* The purpose of this article is to establish a process to manage competing uses of the City of Salinas’s public spaces, streets, and sidewalks; to assure the preservation of public property and public places; prevent dangerous, unlawful or impermissible uses; protect the safety of persons and property; protection of the environment and control vehicular and pedestrian traffic in and around the venue, while protecting the rights of people to engage in expressive activities in the City’s public places.

b. *Definitions.* For the purposes of this section, certain words and phrases are defined as follows:

1. “Expressive activity” means conduct, the sole or principal object of which is the expression, dissemination or communication by verbal, visual, literary or auditory means of opinion, views, or ideas. Expressive activity includes, but is not limited to, public oratory and the distribution of literature.

2. “Special event” means:

A. Any organized formation, parade, march, procession, demonstration, run, motorcade, or promenade consisting of persons, animals, or vehicles, or a combination thereof, which

is to assemble or travel in unison on any street, sidewalk, park path, or other public right-of-way owned or controlled by the City that does not comply with applicable traffic regulations, laws or controls or that will interfere with the free use of any public way, or will impede or delay normal and usual vehicular or pedestrian traffic; or

B. Any activity or event on City owned, controlled, or maintained property involving 150 or more persons.

C. Examples of special events include, but are not limited to, farmers markets, concerts, parades, fairs, festivals, ticketed events, block parties, running events, athletic or sporting events, and community celebrations and observances conducted on public property or public rights-of-way.

c. *Permit Required.* Except as provided by terms of a permit, lease, or contract that has been specifically authorized by the City Council, no person shall conduct or cause to be conducted, manage, or participate in any special event on any City street, sidewalk, alley, park, way, public place, public property, or public right-of-way which is owned or controlled by the City without first having obtained a permit in accordance with the provisions of subsection (d) of this section. The provisions of that section shall not apply to or affect:

1. Activities conducted by a governmental agency acting within the scope of its authority;
2. *Expressive activities involving less than 150 people.* However, when practicable, the organizers should give notice to the City Manager or his/her designee at least twenty-four hours prior to the event informing the City of the date and time of the event, and provide an estimate of the number of persons who will be participating.
3. Activities that are not open to the general public including, for example, organizational meetings or private events.

d. *Issuance of Permits -- Procedure.*

1. The issuing authority shall be the City Manager or his/her designee.
 2. *Permit Fees.* Except as otherwise provided by this code, or any other applicable law, rule or regulation, or by the terms of a permit, license, lease or contract which has been specifically authorized by the City Council, the permit application fees and other additional fees and charges for the use of City streets or City owned or controlled property pursuant to this section shall be established by resolution. The permit fee charged is based on the actual costs that a department of the City incurs in connection with activities for which a permit is required, including, but not limited to, costs associated with public safety, fire safety, traffic and/or pedestrian control, stormwater pollution prevention, the closure of streets or intersections, the diverting of traffic, the salaries of City personnel involved in administration or coordination of City services for the event, the cost to the City to provide support personnel, equipment, materials and supplies, and related City costs such as employee overtime. If police protection is provided by the city it shall be limited to what the police department, in its sole discretion, can reasonably supply.
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3. *Permit Application.* Any person desiring to conduct a special event as defined under subsection (b)(2) this section, or a special event as defined under subsection (b)(1) this section for expressive activities involving 150 or more persons, shall make a written application to the City Manager or his/her designee at least two days in advance of the proposed special event. All other special events, including but not limited to recreation events, competition/contests/spectator sports, ticketed events, and sales/auctions/trade shows, shall make a written application to the City Manager or his/her designee at least 45 business days in advance of the proposed special event. Such application shall include the following information:

- A. The name, address, email, and telephone number of the person requesting the permit;
- B. The name, address, email, and telephone number of the person, entity, or organization sponsoring or conducting the proposed special event;
- C. A description of the special event, the estimated number of persons to participate and/or to attend, and the manner in which the public property will be utilized;
- D. The date the special event is to be conducted and the hours the special event will commence and terminate, and the total time, including setup and tear-down time, that the public property is to be utilized for the described special event;
- E. The street or other public property and the specific area or areas which will be utilized in connection with the proposed special event;
- F. Site plan outlining event layout including all event components, locations of storm drains and trash management areas;
- G. Such other information as the City Manager or his/her designee may deem necessary in order to properly provide for traffic control, street and property maintenance, administrative arrangements, police and fire protection, storm drain protection and the protection of the public health, safety, and welfare;
- H. Certification that the event organizer shall be financially responsible for any City fees, departmental services charges or costs that may lawfully be imposed for the event; and
- I. Each application shall be accompanied by a nonrefundable permit application fee in an amount established by resolution of the City Council. Non-profit organizations which qualify under Section 501(c)(3) of the Internal Revenue Code as a charitable organization are exempt from the permit application fee.

5. *Approval.* The approving authority shall be the City Manager or his/her designee. The City Manager or his/her designee may refer the application to City departments or personnel as needed to make recommendations regarding approval or disapproval of the application. In deciding whether to approve an application, no consideration may be given to the message of the event, the content of speech, the identity or associational relationships of the applicant, or to any assumptions or predictions as to the amount of hostility which may be aroused in the public by the content of speech or message conveyed by the event. The City Manager or

his/her designee shall issue a permit under this section if he or she finds that all of the following criteria have been met:

- A. The proposed use of the property is not governed by or subject to any other permit procedures provided elsewhere in this code or other applicable laws, rules, or regulations;
- B. The preparation for or the conduct of the proposed special event will not unreasonably or unfeasibly burden City resources necessary to preserve the public's use of the street in the area contiguous to the street or other public property;
- C. The preparation for or the conduct of the special event will not unduly impede, obstruct, or interfere with the operation of emergency vehicles or equipment in or through the permit area or adversely affect the City's ability to perform municipal functions or furnish City services in the vicinity of the permit area;
- D. The proposed special event of the property does not otherwise present a substantial safety, noise, environmental or traffic hazard;
- E. The proposed special event will be of a size appropriate to the proposed venue, location, or site;
- F. The proposed special event will not interfere with another special event for which a permit has been granted or with scheduled government functions;
- G. The proposed special event will not substantially interrupt public transportation or other vehicular and pedestrian traffic in the area of its location, which cannot be effectively mitigated;
- H. The proposed special event will not conflict with construction or development in the public right-of-way or at a public facility;
- I. The proposed special event will not substantially interrupt the safe and orderly movement of aerial or marine navigation;
- J. The proposed special event will not violate any federal, state, or local law;
- K. The proposed special event will comply with applicable licensure requirements, ordinances, or regulations concerning the sale, offering for sale, or distribution of any goods or services; and
- L. The provisions of subsection (d)(8) of this section, if applicable, have been or will be satisfied.

6. *Conditions.* The City Manager or his/her designee, upon the issuance of the permit, may impose such reasonable requirements concerning the time, place, and/or manner of holding such event as are necessary to coordinate multiple uses of public property, assure the preservation of public property and public places, prevent dangerous, unlawful or impermissible uses, protect the safety of persons and property, and control vehicular and pedestrian traffic in and around the venue. Conditions may include, but are not limited to, the following:

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- A. The establishment of assembly or disbanding areas for a parade or similar event;
 - B. The accommodation of an event's pedestrian and vehicular traffic, including restricting events to City sidewalks, portions of a City street, or other public right-of-way;
 - C. Conditions designed to avoid or lessen interference with public safety functions and/or emergency service access;
 - D. The number and type of vehicles, animals, or structures to be displayed or used during the special event;
 - E. The provision and use of traffic cones or barricades;
 - F. The provision or operation of first aid stations or sanitary facilities, including handicap accessible sanitary facilities;
 - G. The provision of a waste management plan, and the cleanup and restoration of the site of the special event;
 - H. The provision of catch basin protection for stormwater pollution prevention;
 - I. Restrictions on the use of sound amplification equipment;
 - J. The manner of providing notice of permit conditions to event participants and those businesses or residents who may be directly affected by the conduct of the special event;
 - K. The provision or use of emergency services;
 - L. The reasonable designation of alternate sites, times, dates, or modes for exercising expressive activity;
 - M. The obtaining of any and all business licenses or other necessary permits for the sale of food, beverages, or other goods or services at the special event; and
 - N. The manner by which alcohol sales and service, if any, shall be conducted at the special event.

7. *Hold Harmless.* Each permittee shall execute a hold harmless agreement in a form approved by the City agreeing to defend, indemnify, and hold harmless the City against losses and liabilities incurred from the conduct of permittee or its officers, employees, and agents.

8. *Insurance.* As a condition precedent to the issuance of the permit, the permittee shall procure and maintain in full force and effect during the term of the permit insurance the City Attorney determines to be necessary and adequate under the circumstances. The insurance requirement set forth in this section shall not be construed to apply to special events involving expressive activity, which enjoy protection under the United States and/or California constitutions.

9. *Time for Action on Permit Application.* The City Manager or his/her designee shall approve, conditionally approve, or deny an application for a permit within ten (10) business days of

receipt of a completed application. An applicant whose permit application has been denied, or whose permit is revoked, shall be immediately notified of the action of denial or revocation, which notification shall contain a statement setting forth the reasons for said denial or revocation, as well as a reference to the appeal provisions set forth in this section. Notification pursuant to this section shall be deemed satisfied when the notice is placed, postage prepaid, for overnight delivery, or when sent by email if an email address is provided on the application.

10. *Denial.* The City Manager or his/her designee shall deny any application for a permit or revoke any permit if he or she finds any of the following:

A. The application contains incomplete, false, or misleading information or is otherwise materially incomplete;

B. One or more of the approval criteria specified in subsection (d)(5) of this section are not met or is missing; or

C. The applicant fails to comply, or under prior special event permits has previously failed to comply, with conditions of approval including, but not limited to: (i) remittance of fees, charges, or deposits; (ii) submittal of an indemnification agreement and/or proof of insurance to the extent required; or (iii) timely receipt of all required approvals.

11. *Appeals.* The denial of a permit by the City Manager or his/her designee pursuant to the provisions of this section may be appealed to the City Manager by the applicant. Such appeal shall be in writing and shall be filed with the City Clerk within five business days of the decision of the City Manager or his/her designee. The City Manager shall act upon the appeal within ten (10) business days. The City Manager's decision shall be in writing and notice of the decision shall be provided to the applicant via overnight mail or email if an email address is provided on the permit application. The City Manager's decision shall be final except for judicial review.

12. *Interfering with Activity Prohibited.* It is unlawful for any person to obstruct, impede or interfere with any authorized special event for which a special event permit has been issued.

13. *Penalty.* Violation of any of the provisions of this section shall constitute a misdemeanor, and shall be punishable by any criminal, civil, or administrative means as set forth in the Salinas Municipal Code.

SECTION 3. CEQA CONSIDERATIONS. CEQA Guidelines Section 15061 includes the general rule that CEQA applies only to activities which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the proposed action and this matter have no potential to cause any effect on the environment, or because it falls within a category of activities excluded as projects pursuant to CEQA Guidelines section 15378, this matter is not a project. Any subsequent discretionary projects resulting from this action will be assessed for CEQA applicability.

SECTION 4. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Salinas City Council hereby declares that it would have passed this ordinance, and each and every section, subsection, clause and phrase thereof not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 5. EFFECTIVE DATE. This ordinance shall take effect and be in force thirty days from and after its adoption.

SECTION 5. The City Clerk of the City of Salinas is hereby directed to cause a summary of this ordinance to be published by one (1) insertion in a newspaper of general circulation printed, published, and circulated in the city of Salinas and hereby designated for that purpose by the Council of Salinas.

PASSED AND ADOPTED this _____ day of _____, 202____, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Kimbley Craig, Mayor

ATTEST:

Patricia M. Barajas, City Clerk

APPROVED AS TO FORM:

Christopher A. Callihan, City Attorney
