



**CITY OF SALINAS
CITY COUNCIL STAFF REPORT**

DATE: DECEMBER 5, 2023
DEPARTMENT: CITY ATTORNEY'S OFFICE
FROM: CHRISTOPHER A. CALLIHAN, CITY ATTORNEY
TITLE: RED LIGHT ABATEMENT ORDINANCE

RECOMMENDED MOTION:

It is recommended that the City Council consider adopting an ordinance related to abatement of public nuisances resulting from prostitution activities.

EXECUTIVE SUMMARY:

Members of the community and members of the Salinas City Council have expressed concern regarding impacts to the community from the presence of an increased number of minimally clothed women who appear to be loitering for the intent to engage in prostitution. The neighborhoods in the King Street, Roosevelt Street, and North Madeira Avenue areas have been most impacted have expressed their concerns directly to the City Council on several occasions.

With a recent change to State law, it is no longer a violation of the Penal Code for an individual to loiter with the intent to engage in prostitution (though it is still a crime for an individual to engage in prostitution). To help mitigate the impacts of this recent change to State law, the proposed ordinance codifies the State's Red Light Abatement Act into the Salinas Municipal Code thereby allowing for the City to take legal action to abate public nuisances that result from prostitution activities.¹

BACKGROUND:

On July 1, 2022, Governor Newsom signed Senate Bill 357—The Safer Streets for All Act—(SB 357 Weiner) into law thereby repealing provisions of State law related to loitering with the intent to commit prostitution. SB 357 also allows a person who has been convicted of loitering, to petition the trial court for resentencing or dismissal, and the sealing of records. In support of SB 357, the bill's author, State Senator Weiner (11th District) stated that the criminal provision of loitering with the intent to engage in prostitution “results in the disproportionate criminalization of trans, Black and Brown women, and perpetuates violence toward sex workers...This criminal provision is

¹ The Red Light Abatement Act is codified at Penal Code sections 11225-11235.

inherently discriminatory and targets people not for any action but simply based on how they look. People who engage in sex work deserve to be treated with dignity and respect.”²

A copy of SB 357 is included with this Report for reference.

When Governor Newsom signed SB 357 into law, he acknowledged there may be “unintended consequences” from the implementation of this legislation and that additional action may be needed to “mitigate any such impacts.”³ A copy of Governor Newsom’s Signing Message is included with this Report for reference.

At several recent City Council meetings, members of the community (particularly those within the King Street, Roosevelt Street, and North Madeira Avenue neighborhoods) have expressed their concerns and their frustrations with the increase in the number of women who appear to be loitering for the intent to engage in prostitution. Community members have provided public testimony that numerous minimally clothed women are frequently in these neighborhoods and have entered upon private property and knocked on doors with the intent to engage in prostitution. Other residents have provided public testimony that they have observed individuals engaged in sex acts in car parked along the streets in these neighborhoods and that they have observed hotels and motels in these areas as being regularly used for prostitution activities. Council members have also expressed concern regarding these activities and the impacts on the community and have asked the City Manager, City Attorney, and Police Chief to identify measures to mitigate the impacts of these illegal prostitution activities.

As one means of mitigating the impacts on the community from illegal prostitution activities, it is recommended that the City Council adopt an ordinance making it clear that the use of any property for the purpose of prostitution is a nuisance which shall be enjoined, abated, and prevented, and for which damages may be recovered, whether it is a public or a private nuisance. This allows the City to combat prostitution by directing enforcement against the property owners who allow prostitution to occur on their property(ies).

STRATEGIC PLAN INITIATIVE:

The proposed ordinance supports the City Council’s goals of Public Safety and Effective and Culturally Responsive Government (City of Salinas Strategic Plan 2022-2025).

DEPARTMENTAL COORDINATION:

The City Attorney’s Office, City Manager’s Office, and Police Department coordinated on this Report and Ordinance.

² <https://sd11.senate.ca.gov/news/20220620-senator-wiener%E2%80%99s-legislation-repeal-discriminatory-loitering-law-targeting-sex-workers>

³ <https://www.gov.ca.gov/wp-content/uploads/2022/07/SB357-Signing-Message-7.01.2022.pdf?emrc=14a4d2>

FISCAL AND SUSTAINABILITY IMPACT:

Adoption of the proposed ordinance would not have a direct impact on the City's General Fund. The only fiscal impact to the City would be related to City staff time should circumstances arise where the ordinance would need to be enforced.

ATTACHMENTS:

Ordinance
SB 357
Governor Newsom's Signing Message

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

AN ORDINANCE RELATING TO THE ABATEMENT OF PUBLIC NUISANCES

City Attorney Impartial Analysis

This ordinance incorporates the California Red Light Abatement Act into the Salinas Municipal Code and provides the City with an additional enforcement remedy to mitigate the effects of prostitution activities within the city.

WHEREAS, Article XI, Section 7 of the California Constitution provides authorization for the City to enact and to enforce ordinances regulating conditions which constitute public nuisances or health hazards; and

WHEREAS, California Government Code section 38771, et seq., authorizes the City Council to declare public nuisances and to establish procedures for the abatement of such nuisances, and to recover the costs associated with nuisance abatement proceedings; and

WHEREAS, it is in the public interest to enact public nuisance abatement procedures to provide notice and due process to property owners and other persons who cause or maintain public nuisances on private property within the City; and

WHEREAS, members of the community have provided public testimony regarding the impacts on their neighborhoods directly resulting from prostitution activities, including the presence of prostitution activities at all hours of the day and at various hotels and motels throughout Salinas.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF SALINAS as follows:

SECTION 1. The above recitals are true and correct and are hereby incorporated and adopted as findings of the City Council as if fully set forth herein.

SECTION 2. Salinas Municipal Code section 1-01.16 is hereby added to the Salinas Municipal Code to read as follows:

Sec. 1-01.16. California Red Light Abatement Act.

The City may: (1) declare that a public nuisance exists whenever any member of the public creates, causes, commits, permits, or maintains any condition or performs or causes to be performed any activity that falls within the scope of the definition of “public nuisance” as set forth in Penal Code section 11225; and (2) commence any action or proceeding pursuant to the California Red Light Abatement Act to abate the public nuisance, to pursue all other remedies against the violator, to seek the imposition of all penalties against the violator and to recover any and all costs from the violator.

SECTION 3. Publication. The City Clerk shall cause a summary of this ordinance to be published once in a newspaper published and circulated in Salinas within fifteen (15) days after adoption. (Salinas Charter Section 11.9)

SECTION 4. CEQA Compliance. The City Council’s adoption of this ordinance is not a project subject to environmental review under the California Environmental Quality Act (CEQA Guidelines section 15061(b)(3)).

SECTION 5. 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 phase thereof not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 6. Effective Date. This Ordinance will take effect thirty (30) days from and after its adoption.

PASSED AND ADOPTED this ____ day of _____, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Kimbly Craig, Mayor

ATTEST:

Patricia M. Barajas, City Clerk

APPROVED AS TO FORM:

Christopher A. Callihan, City Attorney