

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

**AN ORDINANCE ADDING ARTICLE IIC TO CHAPTER 17 OF THE SALINAS MUNICIPAL CODE RELATED TO TENANT ANTI-HARASSMENT PROTECTIONS**

*City Attorney Impartial Analysis*

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**RECITALS...**

**SECTION 1. Article IIC is hereby added to Chapter 17 of the Salinas Municipal Code to read as follows:**

Article IIC. Anti-Harassment.

Sec. 17-02.100. Title, Purpose, and Applicability.

- (a) This Article shall be known as the “Tenant Anti-Harassment Ordinance.”
- (b) The Tenant Anti-Harassment Ordinance augments existing protections provided to residential Tenants under federal, state, and local laws to prohibit and to deter Tenant harassment by Landlords in all residential Rental Units, including single-family residences and condominiums.
- (c) The Tenant Anti-Harassment Ordinance applies to all Landlords and Tenants of residential Rental Units within the city, including mobile-homes, mobile-home spaces, trailers, trailer spaces, unless exempted herein, including Landlords and Tenants who may not be covered by other Tenant protection policies.

Sec. 17-02.101. Definitions.

For the purpose of this Article, the following words or phrases shall have the following meanings:

- (a) **Housing Services.** All amenities and services related to the use or occupancy of a Rental Unit and common areas that are provided by the Landlord. Housing Service includes without limitation hot and cold water, heat, light, utilities that are paid by the Landlord, painting, elevator service, window shades and screens, refuse removal, janitorial service, maintenance, repairs, replacement, recreational areas (including pools or gyms), kitchen, bath, and laundry facilities, furnishings, storage space, parking (including one or more automobiles), employee services, security services insurance, the payment of property taxes, and any other benefits or privileges permitted to the Tenant by agreement, whether express or implied, including the right to have a specific number of occupants and the right to one-for-one replacement of roommates, regardless of any prohibition against subletting and/or assignment. Housing Services also includes those basic Housing Services required by Cal. Civil Code §1941.1. Housing Services includes a proportionate part of services

provided to common facilities of the building and Property in which the Rental Unit is contained.

- (b) Landlord. An owner, lessor, sublessor, or any other person entitled to receive rent for the use and occupancy of any rental unit, or an agent, representative, or successor of any of the foregoing.
- (c) Property. All Rental Units on a parcel or lot or contiguous parcels or contiguous lots under common ownership.
- (d) Rent. All periodic payments and all nonmonetary consideration including, but not limited to, the fair market value of goods, labor performed or services rendered to or for the benefit of the Landlord under a Rental Housing Agreement, as defined in this section, concerning the use or occupancy of a Rental Unit and premises, including all payment and consideration demanded or paid for parking, utilities, pets, furniture, subletting, and security deposits for damages and cleaning.
- (e) Rental Housing Agreement. An agreement, oral, written, or implied, between a Landlord and Tenant for the use or occupancy of a Rental Unit and for Housing Services.
- (f) Rental Unit. Any building, structure, or part thereof, land appurtenant thereto, or any other rental Property rented or offered for rent for residential purposes, together with all Housing Services connected with use or occupancy of such Property such as common areas and recreational facilities held out for use by the Tenant.
- (g) Tenant. A tenant, subtenant, lessee, sublessee, or any other person entitled under the terms of a Rental Housing Agreement to the use or occupancy of any Rental Unit.

#### Sec. 17-02.102. Exemptions.

The following Rental Units are exempt from the restrictions and requirements of this Article:

- (a) Rental Units in any hospital, skilled nursing facility, or health facility.
- (b) Rental units in a nonprofit facility that has the primary purpose of providing short-term treatment, assistance, or therapy for alcohol, drug, or other substance abuse and the housing is provided incident to the recovery program, and where the client has been informed in writing of the temporary or transitional nature of the housing at its inception and is licensed for such purpose where such license is required.
- (c) Rental units in a nonprofit facility that provides a structured living environment with the primary purpose of helping homeless persons obtain skills necessary for independent living in permanent housing and where the occupancy is restricted to a limited and specific period of time of not more than 24 months, and where the client has been informed in writing of the

temporary or transitional nature of the housing at its inception and is licensed for such purpose where such license is required.

- (d) Rental units exempted from Cal. Civil Code Part 4, Title 4, Chapter 2 by § 1940(b) (transient occupancy in hotels/motels), or successor statute, unless either the landlord offers for rent or rents the rental unit for a period of 30 days or more, or the landlord violates Cal. Civil Code § 1940.1, or successor statute, to avoid tenancy status.

Sec. 17-02.103. Harassment by Landlord Prohibited; Harassment by Tenant Prohibited.

- (a) No Landlord, and no agent, representative, or employee of the Landlord, shall engage in any act or omission described below in bad faith. Each act or omission in violation of this section constitutes harassment.

- (1) Interrupt, terminate, or fail to provide, or threaten to interrupt, terminate, or fail to provide Housing Services required by a Rental Housing Agreement or by state or local housing, health, or safety laws. This includes, without limitation, the following:

- (A) Curtailing any utility services by any means whatsoever including, but not limited to, the cutting or removing of wires, removal of fuses, switching of breakers, and non-payment of bills for utilities that are part of the housing services. Utility services includes, but is not limited to, water, heat, electricity, gas, telephone, cable, internet, garbage and recycling collection, and sewage.

- (B) Impeding reasonable access to the residential units.

- (C) Removing, without replacement within a reasonable period time period, when building permits are obtained, if required, doors or windows of the Rental Unit.

- (2) Fail to perform or threaten to fail or perform, repairs or maintenance required by a Rental Housing Agreement or by state or local housing, health, or safety laws.

- (3) Fail to exercise due diligence in completing repairs or maintenance once undertaken or fail or follow appropriate industry repair containment or remediation protocols designed to minimize expose to noise, dust, lead paint, mold, asbestos, or other building materials with potentially harmful health impacts.

- (4) Take, or threaten to take, any action to recover possession or cause the Tenant to quit the Rental Unit involuntarily, decrease a Housing Service, or increase Rent with the intent to retaliate against the Tenant for the Tenant's assertion or exercise of any right under this Article, including a right to request reasonable repairs or maintenance, or to deter the assertion or exercise of such rights.

- (5) Solicit a Tenant for sexual conduct in exchange for protection from eviction, repairs or maintenance of the Rental Unit or rental property, or the fulfillment of an obligation of the Landlord under the Rental Housing Agreement or law.
- (6) Abuse the right of access into a rental unit as established and limited by Cal. Civil Code § 1954 or successor statute, including entering or photographing portions of the Rental Unit that are beyond the scope of a lawful entry or inspection.
- (7) Remove from the Rental Unit personal property, furnishings, or other items that belong to the tenant or that are part of the Housing Services without the prior written consent of the Tenant, except when done pursuant to the procedures set forth in Cal. Civil Code § 1980 et seq., or successor statute.
- (8) Remove or cause removal of a Tenant's vehicle from the rental property or abutting street in violation of applicable law. If applicable law allows for towing of the vehicle, then towing the vehicle does not constitute harassment.
- (9) Influence or attempt to influence a Tenant to vacate a Rental Unit through fraud, intimidation, or coercion. This includes threatening to report a Tenant or other person known to the Landlord to be associated with the Tenant to any local, state, or federal agency based on their perceived or actual immigration status. The prohibition shall not be construed as preventing communication with such agencies regarding an alleged immigration violation as permitted by law. This provision shall also not be construed to conflict with Cal. Civil Code § 1940.2(a)(5) or successor statute.
- (10) Offer payments to a Tenant to vacate more than once in six months, after the tenant has notified the landlord in writing the Tenant does not desire to receive further offers of payments to vacate.
- (11) Attempt to coerce a Tenant to vacate with offer(s) of payments to vacate that are accompanied with threats or intimidation.
- (12) Threaten a Tenant or their guest by word or gesture, with physical harm. Similarly, no Tenant may threaten a Landlord or their guests, agents, employees, or representatives by word or gesture, with physical harm.
- (13) Engage in verbal or nonverbal abuse of a Tenant or their guest or use verbal or nonverbal actions directed at a tenant or their guest that are likely, or intended, to cause physical, mental, or emotional harm, including verbal or nonverbal actions directed toward a tenant or their guest as a member of a protected class that are likely, or intended, to cause, physical, mental, or emotional harm. Similarly, no Tenant may engage in verbal or nonverbal abuse of a Landlord or their guests, agents, or representatives or use verbal or nonverbal actions directed at a Landlord or their guests, agents, or representatives that are likely to cause physical, mental, or

emotional harm, including verbal or nonverbal actions directed toward a Landlord or their guests, agents, or representatives as a member of a protected class that are likely, or intended, to cause physical, mental, or emotional harm.

- (14) Engage in any act or omission that interferes with a Tenant's right to quiet use and enjoyment of a Rental Unit, as that right is defined by California law.
- (15) Violate a law that prohibits discrimination based on actual or perceived race, color, sex (including pregnancy, childbirth, and related medical conditions), gender, sexual preference, sexual orientation, ethnic background, nationality, ancestry, place of birth, immigration or citizenship status, primary language, religion, age, source of income, military or veteran status, familial status (including parenthood, occupancy of a minor child, and composition of family unit), marital status, disability (including mental and physical disability), genetic information, or medical condition. Parentheticals in the foregoing list are without limitation.
- (16) Refuse to accept or acknowledge receipt of a tenant's lawful rent payment, except as such refusal may be permitted by state law after a notice to quit has been served on the Tenant and the time period for performance pursuant to the notice has expired.
- (17) Refuse to cash a rent check or money order for more than 30 days, except as such refusal may be permitted by state law after a notice to quit has been served on the tenant and the time period for performance pursuant to the notice has expired.
- (18) Engage in any act that interferes with a Tenant's right to privacy or request information that violates a tenant's right to privacy, including, without limitation, residency or citizenship status or social security number, except as authorized by law. This includes a refusal to accept equivalent alternatives to information or documentation that does not concern immigration or citizenship status, e.g., an Individual Taxpayer Identification Number (ITN). This also includes, but is not limited to: video or audio recording that captures the interior of a Tenant's unit, unreasonably inquiry into a Tenant's relationship status or criminal history, and unreasonable restrictions on or inquiry into overnight guests.
- (19) Misrepresent to a Tenant that they are required to vacate a Rental Unit or otherwise entice a Tenant to vacate a Rental Unit through misrepresentation or concealment of material facts.
- (20) Force a Tenant to vacate their Rental Unit and reregister to avoid classification as a Tenant under California Civil Code section 1940.1. Forced vacation can be implied from the totality of the circumstances.
- (21) Unilaterally impose or require an existing Tenant to agree to material new terms of tenancy or to a new Rental Housing Agreement, unless:

- (A) Subsection subsection (21)(c), below, the change in terms of tenancy is explicitly authorized by this title, California Civil Code sections 1946.2(f), 1947.5, or 1947.12 or any successor statute thereof, or is required by federal, state, or local law or regulatory agreement with a government agency; or
  - (B) Subject to section (21)(c) below, the change in terms of the tenancy was accepted in writing by the Tenant after receipt of written notice from the Landlord that the Tenant need not accept such new terms as part of the Rental Housing Agreement.
  - (C) Notwithstanding the foregoing, where a Rental Unit is regulated by the Rent Stabilization Ordinance, any change in terms of tenancy must comply with the Rent Stabilization Ordinance and associated regulations.
- (22) Take any action to recover possession of a Rental Unit that is exempt from rent increase limitations under this title or any other provision of law by means of a rent increase that is imposed in bad faith with intent to coerce the tenant into vacating the rental unit in circumvention of state and local eviction protection laws. Evidence of bad faith may include, without limitation, the following: (i) the rent increase was substantially in excess of market rates for comparable units; (ii) the rent increase was within six months after an attempt to recover possession of the unit; and (iii) such other factors as a court may deem relevant.
- (23) Prohibit, interfere with, retaliate against, or threaten retaliation against tenant organizing activities or engaging in other political activities when hosted by a tenant. "Tenant organizing activities" include the following:
- (A) Initiating contact with the Tenants to ascertain interest in, or seek support for forming, a tenant association or union, which may include conducting door-to-door surveys;
  - (B) Joining, supporting, or operating a tenant association or union;
  - (C) Requesting or providing information, offering assistance, distributing literature, convening meeting with or without a Landlord or Landlord representative, or otherwise acting on behalf of one or more Tenants in the building regarding housing conditions, community life, Landlord-Tenant relations, and/or similar issues of common interest or concern among Tenants in the building;
  - (D) This subsection (a)(23) does not prohibit a Landlord from establishing reasonable time, place, and manner requirements of organizing activities so long as the requirements would not effectively prohibit or substantially interfere with organizing activities.

- (24) Other repeated acts or omissions of such significance as to substantially interfere with or disturb the comfort, peace, or quiet of any person lawfully entitled to occupancy of such Rental Unit and that cause, are likely to cause, or are intended to cause any person lawfully entitled to occupancy of a Rental Unit to vacate such Rental Unit or to surrender or waive any rights in relation to such occupancy.
- (b) The conduct described in subsection (a), above, shall not include conduct intended to communicate ideas or beliefs to the public at-large and that has only an incidental effect upon a person or persons.

Sec. 17-02.104. Notice.

- (a) On or before the commencement date of a tenancy, and at the same time as any notice of termination of tenancy, a Landlord shall deliver to the Tenant written notice of the following in the form prescribed by the City:
- (1) The tenancy is regulated by this Tenant Anti-Harassment Ordinance.
  - (2) Section 17-02.103 of the Salinas Municipal Code prohibits Landlords from engaging in certain acts or failing to perform certain acts related to a tenancy in bad faith or with a dishonest intent.
  - (3) Landlords that violate this Article may be held liable for damages.
- (b) The form of notice prescribed by the City shall include a Spanish language translation of the text and may include translations in additional languages or additional information deemed necessary or convenient to effectuate the purpose of this Article.
- (c) For tenancies existing on the effective date of this article or any amendment thereof, a landlord shall deliver to each existing tenant the written notice required by subsection (a), above, in the form prescribed by the City within thirty (30) days of such effective date.
- (d) Where a property contains more than one rental unit and an interior common area accessible by the tenants of more than one rental unit, landlords shall post the written notice required by subsection (a), above, in the form prescribed by the city in at least one interior common area.

Sec. 17-02.105. Severance of Amenities Prohibited.

- (a) The following amenities, supplied in connection with use or occupancy of a Rental Unit, may not be severed from a tenancy without good cause: garage facilities, parking facilities, driveways, storage space, laundry rooms, decks, patios, backyards, gardens on the same lot, kitchen facilities, toilet facilities, or lobbies.

- (b) For purposes of this section, good cause shall include:
- (1) Required by federal, state, or local law;
  - (2) For Rental Units that are exempt from the Rent Stabilization Ordinance, acceptance of the severance in writing by the Tenant after receipt of written notice from the Landlord that the Tenant need not accept the severance;
  - (3) For Rental Units that are regulated by the Rent Stabilization Ordinance, approval of the removal of amenities by a hearing officer; or
  - (4) Severance results from the removal of a balcony for which repair or removal was necessary for safety and the Landlord has obtained all necessary permits for the removal.
- (c) A severance does not include noticed temporary unavailability of the above housing services to perform necessary work with all required permits.
- (d) For Rental Units covered under the Rent Stabilization Ordinance, any severance permitted under this section shall be offset by a corresponding reduction in Rent. Either a Landlord or a Tenant may file a Rent Reduction Petition with the City to determine the amount of Rent reduction.
- (e) Late Payment Fees Late fees may not be imposed except if provided for in a written Rental Housing Agreement.

Sec. 17-02.106. Waiver Void.

It is against public policy, void and unenforceable, to waive or to modify any provision of this Article in an oral or written Rental Housing Agreement.

Sec. 17-02.107. Remedies and Penalties.

- (a) **Criminal Penalty.** A violation of any provision of this Article is punishable as an infraction or misdemeanor. A misdemeanor conviction under this Article shall be punished by a fine of not more than \$1,000 for each offense or by imprisonment in the County jail for a period of not more than six (6) months or both, as determined by the court.
- (b) **Civil Action.** Any aggrieved person, or any person, organization, or entity who will fairly and adequately represent the interest of an aggrieved Tenant under this Article, or the City may institute civil proceedings as provided by law against any Landlord violating any of the provisions of this Article and any person who aids, facilities, and/or incites another to violate the provisions of this Article, regardless of whether the Rental Unit remains



occupied or has been vacated due to harassment. The burden of proof in such cases shall be preponderance of the evidence.

(c) Injunction/Equitable Relief. Any person who commits an act or engages in any pattern and practice that violates this Article may be enjoined therefrom by a court of competent jurisdiction. A court may issue other equitable relief as appropriate. An action for injunction under this section may be brought by an aggrieved person, by the City Attorney, or by any person or entity who will fairly or adequately represent the interests of the protected class.

(d) Penalties and Other Monetary Awards.

(1) Any person who violates, or aids or incites another person to violate, the provisions of this Article is liable in a court action for each and every such offense for money damages of not less than three times actual damages suffered by an aggrieved Tenant (including damages for mental or emotional distress), or for the minimum damages in the sum of \$2,000, whichever is greater, or whatever other relief the court deems appropriate, and shall be liable for such attorneys' fees and costs as may be determined by the court. In the case of an award for damages for mental or emotional distress, such award shall be trebled only if the trier of fact finds that the Landlord acted in knowing violation of or reckless disregard of this Article.

(2) Any person who violates, or aids or incites another person to violate, this Article shall be liable for an additional civil penalty of up to \$5,000 for each offense committed against a person who is disabled within the meaning of California Government Code section 12926, et seq., or successor statute, or aged 65 or over. A Tenant prevailing in a court under this Article may be awarded compensatory damages, Rent refunds for reduction in housing services, Tenant relocation costs, imposition of civil penalties up to \$10,000 per violation depending upon the severity of the violation or history of violations by this Article by the Landlord, and other appropriate relief, as adjudged by the court.

(3) The court may also award punitive damages to any plaintiff, including the City, in a proper case as defined by California Civil Code section 3294 or successor statute. The burden of proof for purposes of punitive damages shall be clear and convincing evidence.

(4) A prevailing defendant in a civil action under this section shall be entitled to an award of attorneys' fees only if it is determined by the court that the action was devoid of merit and brought in bad faith.

(e) Affirmative Defense. A violation of this Article may be asserted as an affirmative defense in an unlawful detainer action.

(f) Additional Enforcement; Non-exclusive Remedies and Penalties. This Article may be enforced as provided in the Salinas Municipal Code in addition to other remedies provided

herein. The remedies in this Article shall be in addition to any other existing remedies which may be available.

**SECTION 2.** All ordinances and parts of ordinances and all resolutions and parts of resolutions in conflict herewith are hereby repealed as of the effective date of this ordinance.

**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) because it would not have a significant effect on the environment. Additionally, the City Council’s adoption of this ordinance is exempt because it does not meet the definition of a “project” under CEQA, pursuant to CEQA Guidelines sections 15060(c)(1) and 15378(a), because it has no potential to result in a direct or reasonably foreseeable physical change in the environment.

**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 phrase 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 \_\_\_\_\_, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

\_\_\_\_\_  
Kimbley Craig, Mayor

APPROVED AS TO FORM:

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Christopher A. Callihan, City Attorney

ATTEST:

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Patricia M. Barajas, City Clerk

DRAFT