

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

DATE: September 20, 2016

FROM: Christopher A. Callihan, City Attorney

BY: Michael Mutalipassi, Sr. Deputy City Attorney

SUBJECT: **ORDINANCE PROHIBITING CAMPING, LOITERING, AND PUBLIC
URINATION AND DEFECATION**

RECOMMENDATION:

It is recommended that the City Council adopt an ordinance prohibiting camping, loitering, and public urination and defecation on any public property and allow for the clean-up of encampments on private property and the recovery of associated costs.

DISCUSSION:

The public areas within the city, including streets, sidewalks, parks, public buildings 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 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 activity 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 the proposed ordinance 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 proposed ordinance is to protect the health, safety and welfare of the community. To that end, the proposed ordinance makes it unlawful to camp, establish, maintain, operate or occupy camping facilities, or use camp paraphernalia on public or private property subject to some exception.

It has been reported by City employees, as well as members of the public at large, that overnight camping has specifically interfered with their use of public buildings, public sidewalks, public streets, parking lots, parking garages, and other open spaces, most-notably the public space surrounding the John Steinbeck Library and the public space in front of City Hall. 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 ingress or egress to or from

the building. City employees have also been confronted by overnight campers subjecting them to unwanted sexual comments.

City employees and members of the public have complained about the smell of public places, most-notably the area in front of City Hall, the area around the John Steinbeck Library, and the doorways to the Permit Center and the stairways in the adjacent parking structure, as a result of overnight camping activity, including urination and defecation by overnight campers. It has been specifically reported that some 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 and the space around 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 overnight campers in those areas. 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 library, public parking lots, and public parking garages.

Nothing in the proposed ordinance is intended to interfere with otherwise lawful and ordinary uses of public or private property. In fact, the proposed ordinance allows for overnight camping on private residential property by no more than six people with the consent of the property owner or a person in lawful possession of the property, provided that the camping does not pose a threat to the public's health, safety, welfare, or otherwise create a public or private nuisance.

It has been recognized that, subject to reasonable conditions, camping and camping facilities associated with special overnight events can be beneficial to the cultural and educational well-being of the city. The proposed ordinance allows for overnight camping in connection with a special overnight event, subject to an overnight event permit issued at the discretion of the community development director. The proposed ordinance defines special overnight event to include programs operated by departments of the city, events organized by nonprofit or community-based organizations, organized youth or school events, and sporting events. The community development director may, in her discretion, consult with city departments, the health officer, the fire officer, the police chief, or the public prior to issuing or declining to issue an overnight event permit. The community development director shall have the discretion to impose conditions on an overnight event permit including, but not limited to, security, sanitation facilities, the number of occupants, posting of bonds or deposits, insurance, quiet hours, duration of the permit, and permitted activities on the premises. The community development director has the discretion to revoke an overnight event permit in such case as she becomes satisfied that the maintenance or continuing operation of the camp or camp facilities is adverse to the public health, safety, or welfare. Any camp or camp facility associated with an overnight event permit must have a copy of the overnight event permit conspicuously posted at the camp or camp facility. The City Council will set a reasonable application fee for a special event permit.

In addition to establishing a prohibition on camping, the ordinance will prohibit certain conduct in public areas or areas associated with business establishments or public buildings. The ordinance shall make it unlawful to loiter in a manner as to prevent the free passage of the public on any public street or sidewalk. It shall also make it unlawful to loiter at the entrance or exit of any business establishment or public building if that action obstructs or hinders the free passage of the public. The

ordinance makes it unlawful to walk, stand, sit, or lie on any monument, vase, decorative fountain, drinking fountain, bike rack, trash receptacle, median, fire hydrant, street-tree planter, berm, utility cabinet, railing, fence, planter, or upon any other public property not designed or customarily used for such purposes. The ordinance further makes it unlawful to take any action, in public, to abuse or mutilate any tree, plant, or lawn.

The ordinance creates a prohibition on public urination and defecation 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.

With respect to encampments on private property, City staff have received numerous complaints from residents and property owners and requests for assistance in removing encampments from private property. Recognizing the health and safety concerns associated with encampments on private property and the inability of some private property owners to effectively remove encampments, the proposed ordinance authorizes the City to recover its costs associated with authorized clean-ups of encampments on private property. In the event the City cleans-up an encampment from private property, pursuant to the property owner or other authorized person's consent, the City may recover its costs incurred in effectuating that clean-up. This will provide an additional tool for the City to use to address the health and safety issues of encampments on private property, in addition to those on public property.

ISSUES:

Shall the City Council adopt an ordinance establishing a prohibition against camping, loitering, and public urination and defecation?

FISCAL IMPACT:

It is anticipated that there will be some cost in the establishment of a prohibition against camping, loitering, and public urination and defecation. Police resources will be necessary for the enforcement of the prohibition. Legal resources will be necessary for the prosecution of citations issued under the proposed ordinance. Some of these costs will potentially be offset by a decrease in the need for health, safety, and sanitation services presently associated with camp and camp facilities, restoration and cleaning of public property. Nonetheless, there is an anticipated net cost to the City.

TIME CONSIDERATIONS:

There are no significant time considerations applicable to the City Council's consideration of this item.

ALTERNATIVES:

The City Council may choose not to prohibit camping, loitering, and public urination and defecation or to prohibit some, but not all of the activities set forth in the proposed ordinance.

CITY COUNCIL GOALS:

Adoption of the proposed ordinance will support the Council's goal of maintaining a safe, liveable community. The prohibition against camping, loitering, and public urination and defecation will ensure 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 and that private property is kept in a safe and healthy manner. The proposed ordinance will further the City Council's quality of life goals insomuch as it will promote healthy and vibrant public places while still allowing for special events including family-oriented and diverse activities related to recreation, arts, culture, and educational and leisure opportunities.

CONCLUSIONS:

The City Council's adoption of an ordinance for prohibition against camping, loitering, and public urination and defecation will ensure 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 and that private property is kept in a safe and healthy manner.

Attachments:
Proposed Ordinance