



## **CITY OF SALINAS COUNCIL STAFF REPORT**

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**DATE:** May 2, 2017

**DEPARTMENT:** CITY ATTORNEY'S OFFICE

**FROM:** Christopher A. Callihan, City Attorney

**TITLE:** QUALIFICATIONS OF COMMISSION, COMMITTEE, AND BOARD MEMBERS

**RECOMMENDED MOTION:**

A motion to adopt an Ordinance making permanent legal United States residents, who are not United States citizens, eligible for appointment to a City commission, committee, or board.

**RECOMMENDATION:**

It is recommended that the City Council consider adopting ordinance to change the minimum eligibility requirements for appointment to a City commission, committee, or board.

**EXECUTIVE SUMMARY:**

Under current provisions of the City Code (Section 3-01.02), only qualified Salinas electors (persons eligible to and registered to vote) are eligible for appointment to a City commission, committee, or board: "The Mayor and each Council member shall select a representative who is a qualified Salinas elector at the time of appointment and continuously during the term of office." The proposed ordinance would change the minimum eligibility requirements for appointment by eliminating the requirement that the person be eligible to and registered to vote. This would make individuals who are permanent legal United States residents, who are not United States citizens, eligible for appointment.

**BACKGROUND:**

Following the City Council's recent adoption of updates to the City Code, Council member Villegas questioned whether the City had the authority to allow United States and Salinas residents who are otherwise not citizens of the United States to serve on a commission, committee, or board. As a Charter city with no Charter provision expressly requiring citizenship as a requirement for appointment, the City has the authority to amend its existing requirements to eliminate the requirement for voter-eligibility. Council member McShane supported Council member Villegas's request for an Ordinance amending the current requirements for appointment to a commission, committee, or board.

The proposed Ordinance would amend Salinas City Code section 3-01.02(c) to make permanent legal United States residents, who are not United States citizens, eligible for appointment to a City commission, committee, or board:

"(c) ~~Qualified Elector~~ Qualifications. The Mayor and each Council member shall select a representative who is a qualified Salinas elector at the time of the appointment and continuously during the term of office. Notwithstanding their status as a qualified Salinas elector, individuals who have lawful permanent United States residency status at the time of the appointment and who remain as such continuously during the term of office shall be eligible for appointment."

A copy of the proposed Ordinance updating the current requirements is attached for reference.

#### CEQA CONSIDERATION:

The City Council's consideration and adoption of the proposed Ordinance is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) pursuant to the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty, as it can here, 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.

#### STRATEGIC PLAN INITIATIVE:

Adopting the proposed Ordinances and proposed Resolution is consistent with the City Council's goal of promoting an effective, sustainable government.

#### FISCAL AND SUSTAINABILITY IMPACT:

There would be no fiscal impact with the City Council's adoption of the proposed ordinance.

#### ATTACHMENTS:

Proposed Ordinance

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

**AN ORDINANCE AMENDING THE CITY CODE REGARDING THE ELIGIBILITY  
OF INDIVIDUALS FOR APPOINTMENT TO A CITY COMMISSION, COMMITTEE,  
OR BOARD**

*City Attorney Analysis*

*The Salinas City Code establishes qualifications for individuals to be eligible for appointment to and service on a City commission, committee, or board. Among those qualifications is eligibility to vote and registration to vote in Salinas elections. Only citizens of the United States are eligible to vote, which means that individuals with lawful permanent United States residency status and who are also Salinas residents are ineligible for appointment to and service on City commissions, committees, and boards. The proposed ordinance would make eligible those individuals who have lawful permanent United States residency status and whom are also Salinas residents, regardless of their citizenship status.*

SECTION 1. Salinas City Code section 3.01.02(c) is hereby amended to read as follows (with additions in underline text and deletions in strikethrough text):

"(c) ~~Qualified Elector~~ Qualifications. The Mayor and each Council member shall select a representative who is a qualified Salinas elector at the time of the appointment and continuously during the term of office. Notwithstanding their status as a qualified Salinas elector, individuals who have lawful permanent United States residency status at the time of the appointment and who remain as such continuously during the term of office shall be eligible for appointment."

SECTION 2. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held invalid by a court of competent jurisdiction, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases, be declared invalid.

SECTION 3. Effective Date. This Ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED on this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED

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Joe Gunter, Mayor

ATTEST:

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Patricia M. Barajas, City Clerk

APPROVED AS TO FORM:

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Christopher A. Callihan, City Attorney