

**ORDINANCE NO. 2556 (N.C.S.)**

**AN ORDINANCE OF THE CITY OF SALINAS ADDING A NEW CHAPTER 21D OF THE SALINAS CITY CODE RELATING TO THE ESTABLISHMENT OF COMMUNITY BENEFITS DISTRICTS**

**City Attorney Summary**

*The City of Salinas Code provides a process to establish various types of assessment districts and this ordinance defines and enables its ability to provide a new type of Assessment known as a “Community Benefits District” or “CBD”. This type of assessment district is based on the State Property and Business Improvement District Law of 1994 (Streets and Highways Code SS 36600 et seq.), which is referred to in this Chapter as the “Property Based Improvement District Law” or “PBID.” The Ordinance generally provides for the establishment of CBD with several distinguishing characteristics that differ from that of the State’s prescribed PBID, in any geographic region within the City’s boundary where pursuant to State Law, property owners agree to create said type of District for the general purpose of paying for special assessment services that improve their neighborhood. This Ordinance enables the establishment of the CBD, and does not dictate the area or specific services to be provided. These details are delegated to specific Resolutions of Intent to be approved on a case by case basis by the City.*

**WHEREAS**, pursuant to Article XI, Section 5 of the California Constitution, the City may make and enforce all ordinances and regulations in respect to municipal affairs, subject only to restrictions and limitations provided in its charter; and

**WHEREAS**, Section 3 of the City Charter provides that it shall possess and may exercise all municipal powers not inconsistent with the Constitution of the State of California, and not otherwise prohibited by the City Charter, and

**WHEREAS**, the creation of assessment district to fund improvements and services of a local nature is a quintessential municipal affair, and no specific statutory authority is required for the creation of such an assessment district by a charter city; and

**WHEREAS**, the City of Salinas is comprised of many property owners who desire to establish property-based assessment districts for the purpose of funding security, safety, sanitation, beautification, marketing and other services that will benefit their property; and

**WHEREAS**, this activity is not a project under the California Environmental Quality Act (“CEQA”) as defined in CEQA Guidelines, section 15378, because this policy, if adopted, sets forth a policy regarding making an administrative determination as to what constitutes or does not constitute surplus property and therefore it has no potential for resulting in either a direct or foreseeable physical change in the environment.

**WHEREAS**, the City Council desires to create a process for the establishment of such assessment districts.

Now, therefore, be it ordained by the Council of Salinas as follows:

SECTION 1. The above constitute the Council’s findings, which are hereby incorporated herein by this reference as if fully set forth in their entirety.

SECTION 2. A new Chapter 21D is hereby added to the Salinas City Code, and shall read as follows:

**CHAPTER 21D. Establishing a Community Benefits District**

- Article 1. Short Title
- Article 2. Authority
- Article 3. Nonexclusive Procedure
- Article 4. Establishment of District
- Article 5. Incorporation of State Law
- Article 6. Relationship of Assessment to Zoning
- Article 7. Assessment Against Real Property
- Article 8. Initiation of Proceedings
- Article 9. Formation Costs

- Article 10. Advancement of Costs
- Article 11. Duration
- Article 12. Renewal
- Article 13. Disestablishment

**CHAPTER 21D**  
**COMMUNITY BENEFITS DISTRICT**

**Article 1. Short Title.** This Chapter may be cited as the “Salinas Community Benefits District Procedural Ordinance.”

**Article 2. Authority.** This Chapter is adopted pursuant to Section 3 of the City Charter, which provides that the City may exercise all municipal powers, not inconsistent with the Constitution of the State of California, and not otherwise prohibited by the City Charter.

**Article 3. Nonexclusive Procedure.** This Chapter provides a procedure for the establishment of assessment districts that is separate from, and alternative to, other procedures existing under state or municipal law. This Chapter does not prohibit the City Council from establishing an assessment district or conducting proceedings for such district under any other procedure authorized by law.

**Article 4. Establishment Of District.** The City Council may establish a Community Benefits District and levy assessments in connection with such a District pursuant to this Chapter.

**Article 5. Incorporation Of State Law.** This Chapter incorporates the Property and Business Improvement District Law of 1994 (Streets & Highways Code §§ 36600 *et seq.*), which is referred to in the Chapter as the “PBID Law”. In connection with such incorporation, all references in the PBID Law to a “District” or a “Property and Business Improvement District” shall be interpreted as references to a Community Benefits District. Except where a provision of

the PBID law is inconsistent with a provision of this Chapter, all provisions of the PBID law shall apply to the establishment and operation of any Community Benefits District established pursuant to this Chapter. In the event of a conflict between the provisions of this Chapter and those of the PBID Law, the provisions in this Chapter shall prevail.

**Article 6. Relationship Of Assessment To Zoning.** Notwithstanding the requirements of Section 36632 of the PBID Law, any parcel of real property, regardless of the zoning of such parcel, may be included in a Community Benefits District and subject to an assessment in connection therewith, so long as such parcel specially benefits from the services and improvements funded by that District

**Article 7. Assessment Against Real Property.** Only assessments against real property may be levied in connection with a Community Benefits District.

**Article 8. Initiation Of Proceedings.** In lieu of the requirements of Section 36621(a) of the PBID Law, the city council may initiate proceedings to form a Community Benefits District upon the submission of a written petition, signed by property owners in the proposed district who will pay more than thirty percent of the assessments proposed to be levied in connection with such district. The amount of assessment attributable to property owned by the same property owner that is in excess of twenty percent of the amount of all assessments proposed to be levied, shall not be included in determining whether the petition is signed by property owners who will pay more than thirty percent of the total amount of assessments proposed to be levied.

**Article 9. Formation Costs.** If so provided in the engineers report for a Community Benefits District, the assessment levied in connection with such a District may include amounts sufficient to recover the costs incurred in forming the District, including:

- a. The costs of preparation of the management plan and engineer's report required by state law;
- b. The cost of preparing, circulating and submitting the petition to the City Council seeking establishment of the District;

- c. The costs of printing, advertising and the giving of published, posted or mailed notices;
- d. Compensation of any consultant, engineer or attorney employed to render services in proceedings under this chapter or the PBID Law; and
- e. Costs incurred by the City for public hearings, notices, ballots and other proceedings required by law for approval of a new or increased assessment.

The engineer's report shall specify the formation costs eligible for recovery through assessments, the schedule for recovery of those costs, and the basis for determining the amount of the additional assessment for recovery of costs, including the maximum amount of the additional assessment, expressed either as a dollar amount, or as a percentage of the underlying assessment.

**Article 10. Advancement Of Costs.** The City Council may, in the resolution of intention for a Community Benefits District, provide that if the District is established funds may be advanced from the City's General Fund to permit the operation of the District prior to the City's collection of the assessment. Such advance shall occur only after the establishment of the District, and no advance shall be made if the District is not established. Any such advance may not exceed the total anticipated assessment proceeds for the first year of the assessment. Any such advance must be recovered from assessment proceeds as provided in the Resolution of Intention, along with interest calculated at a rate set forth in the Resolution of Intention. The duration of any such advance shall not exceed five years.

**Article 11. Duration.** The duration of a new Community Benefits District shall be no greater than specified in the Resolution of Intention for the District, and shall in no event be in excess of twenty years. This Section is intended to supplant any shorter limitation set forth in the PBID Law on the duration of assessments levied in connection with an assessment district.

**Article 12. Renewal.** A Community Benefits District may be renewed for a period of not to exceed twenty additional years by following the procedures set forth in Section 36660 of the PBID Law.

**Article 13. Disestablishment.** The City Council may, on its own initiative, at any time adopt a resolution of intention to disestablish a Community Benefits District and shall adopt a such a resolution if, during the annual thirty-day period set forth in Section 36670(a)(2) of the PBID Law, the City Council receives a written petition requesting disestablishment signed by property owners who pay more than thirty percent of the assessments levied in connection with the district. This section provides alternative method for the initiation of proceedings to disestablish a Community Benefits District and shall not be interpreted to preempt the existence of other methods set forth in Section 36670(a)(2) of the PBID Law. A resolution of intention adopted pursuant to this section shall have the same effect, and trigger the same notice and hearing requirements, as a resolution of intention otherwise adopted pursuant to Section 36670 of the PBID Law.

SECTION 3. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The Salinas City Council hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof is declared invalid or unenforceable.

SECTION 4. Effective Date. This ordinance shall take effect thirty (30) days after adoption.

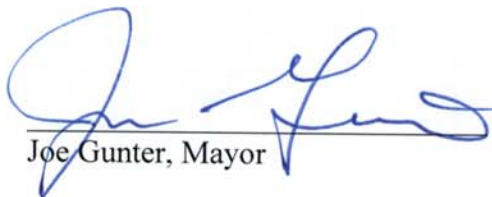
PASSED AND ADOPTED this 6<sup>th</sup> Day of January, 2015, by the following vote:

AYES: Councilmembers: Barrera, Castañeda, Craig, De La Rosa, Lutes, McShane and Mayor Gunter

NOES: None


ABSENT: None

ABSTAIN: None




Joe Gunter, Mayor

ATTEST:



Patricia M. Barajas, City Clerk

APPROVED AS TO FORM:



Christopher A. Callihan, City Attorney