



Folsom City Council Staff Report

MEETING DATE:	4/23/2024
AGENDA SECTION:	Consent Calendar
SUBJECT:	Ordinance No. 1343 - An Ordinance of the City Council of the City of Folsom Repealing Chapter 9.64 of the Folsom Municipal Code Pertaining to Trespass (Second Reading and Adoption)
FROM:	City Attorney's Office

RECOMMENDATION / CITY COUNCIL ACTION

Staff recommends that the City Council conduct second reading and adopt Ordinance No. 1343 - An Ordinance of the City Council of the City of Folsom Repealing Chapter 9.64 of the Folsom Municipal Code Pertaining to Trespass.

BACKGROUND / ISSUE

The City Council introduced and conducted first reading of this Ordinance at its April 9, 2024 meeting. There is no change to the Ordinance.

The City Council in 1968 enacted Chapter 9.64 in the Folsom Municipal Code to provide for misdemeanor citation for trespassing on business premises if the business owner or operator: (1) issues a notice in writing; (2) signs the notice; and (3) personally delivers the notice to the trespasser.

Additionally, the notice must contain the following information: (1) date; (2) description of the premises involved; (3) name or description of the trespasser; (4) reason for requesting the trespasser to leave the premises; and (5) a statement that remaining on the premises after receiving such notice is punishable as a misdemeanor.

A much simpler process to issue misdemeanor citations for trespassing exists under State law. There is no need for, and law enforcement does not typically rely on, Chapter 9.64 of

the Folsom Municipal Code to discourage, prevent, and address trespassing problems for businesses in Folsom.

POLICY / RULE

All powers of the City shall be vested in the City Council, except as otherwise provided by the City Charter. Section 2.02 of the City Charter.

ANALYSIS

Section 602 of the California Penal Code contains a much simpler and less onerous process for law enforcement to issue and prosecute misdemeanor citations for trespass. In particular, the mere act of entering upon or occupying the property of another without permission is sufficient to demonstrate trespass (see, e.g., Penal Code 602(k), (m), and (o)).

Because law enforcement typically relies on Section 602 of the California Penal Code to discourage, prevent, and address trespassing problems, staff respectfully recommend that the City Council introduce and conduct first reading of Ordinance No. 1343 - An Ordinance of the City Council of the City of Folsom Repealing Chapter 9.64 of the Folsom Municipal Code Pertaining to Trespass.

FINANCIAL IMPACT

This item has no impact on the City's general fund.

ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) does not apply to activities that will not result in a direct or reasonably foreseeable indirect physical change in the environment (CEQA Guidelines §15061(c)(3)), or are otherwise not considered a project as defined by Public Resources Code §21065 and CEQA Guidelines §15060(c)(3) and §15378. This Council action meets the above criteria and is not subject to CEQA. No environmental review is required.

ATTACHMENT

Ordinance No. 1343 - An Ordinance of the City Council of the City of Folsom Repealing Chapter 9.64 of the Folsom Municipal Code Pertaining to Trespass (Second Reading and Adoption)

Respectfully submitted,

Steven Wang, City Attorney

ORDINANCE NO. 1343

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FOLSOM REPEALING CHAPTER 9.64 OF THE FOLSOM MUNICIPAL CODE PERTAINING TO TRESPASS

The City Council of the City of Folsom does hereby ordain as follows:

SECTION 1 PURPOSE

The purpose of this Ordinance is to repeal Chapter 9.64, “Trespass” in the Folsom Municipal Code to conform with the California Penal Code enforcement provisions regarding misdemeanor citation and prosecution for trespass.

SECTION 2 REPEAL TO CODE

Chapter 9.64, “Trespass” of the Folsom Municipal Code is hereby repealed in its entirety. All proceedings with respect to issuing misdemeanor citations and prosecution relating to trespass shall be consistent with the requirements in the California Penal Code.

SECTION 3 SCOPE

Except as set forth in this Ordinance, all other provisions of the Folsom Municipal Code shall remain in full force and effect.

SECTION 4 SEVERABILITY

If any section, subsection, sentence, clause, or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council declares that it would have passed each section irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase be declared unconstitutional, invalid, or ineffective.

SECTION 5 EFFECTIVE DATE

This Ordinance shall become effective thirty (30) days from and after its passage and adoption, provided it is published in full or in summary within twenty (20) days after its adoption in a newspaper of general circulation in the City.

This Ordinance was introduced and the title thereof read at the regular meeting of the City Council on April 9, 2024, and the second reading occurred at the regular meeting of the City Council on April 23, 2024.

On a motion by Council Member _____ seconded by Council Member _____, the foregoing ordinance was passed and adopted by the City Council of the City of Folsom, State of California, this 23rd day of April, 2024 by the following roll-call vote:

AYES: Councilmember(s):

NOES: Councilmember(s):

ABSENT: Councilmember(s):

ABSTAIN: Councilmember(s):

Michael D. Kozlowski, MAYOR

ATTEST:

Christa Freemantle, CITY CLERK