

**ORDINANCE 2006-05**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA AMENDING THE MUNICIPAL CODE BY ADDING SECTION \_\_\_ TO CHAPTER 5-15, PARADES, PUBLIC GATHERINGS, AND SPECIAL EVENTS**

Article 1. General

Section 5-15-100 Intent. The City Council expressly finds that the gathering of large numbers of people for the purposes set forth below can create problems seriously affecting the public safety, health and welfare, and that due to the size and nature of the incorporated territory of the City of San Juan Bautista, there is a need for comprehensive regulations governing parade and public gathering activities on both City and private property in order to mitigate the potential problems.

It is the intent of the City Council to adopt this Chapter to mitigate such potential problems without infringing upon the rights of speech and assembly as guaranteed under the state and federal constitutions. This Chapter shall be interpreted in light of such constitutional provisions and applied consistent therewith. In no event shall the content of any proposed speech be considered as a basis for approval or denial of an application.

Section 5-15-105 Definitions. As used herein:

(A) "City street" shall mean any street in the incorporated area of the City which street is designated as part of the City street system, including, but not limited to, public appurtenant rights-of-way, easements, sidewalks, crosswalks, alleys and thoroughfares.

(B) "City Attorney" shall mean the San Juan Bautista City Attorney, or the City Attorney's designee.

(C) "City Manager" shall mean the City Manager of the City of San Juan Bautista, or the Manager's designee.

(D) "County Health Officer" shall mean the San Benito County Health Officer, or the County Health Officer's designee.

(E) "Local" shall mean Jan Juan Bautista, Hollister, and San Benito County

(F) "Notice" means a written notice sent to the applicant, permittee, or appellant, and to other specified City officers, of a decision concerning a permit application. Unless expressly provided otherwise, a notice shall be sent certified mail within twenty-four (24) hours after the decision, shall describe the conditions of approval, and the facts and reasons for any denial or approval subject to special conditions.

(G) "Parade" shall mean any parade, march, race, or procession, other than a funeral procession, organized for public or private participation by fifty (50) or more persons, which parade is held on a City street.

(H) "Person" shall include any individual, firm, association, corporation, limited liability company, organization, partnership, or any city, county, district, or the state or federal government or any department or agency thereof. For the purposes hereof, the singular shall include the plural, and the masculine shall include the feminine and neuter, and vice versa.

(I) "Public gathering" shall mean a public gathering on City property or a public gathering on private property.

(J) “Public gathering on City property” shall mean:

- (1) Every temporary gathering of a group of persons reasonably expected to exceed two hundred fifty (250) in number;
- (2) In the incorporated area of the City;
- (3) Which gathering of persons is held on property owned by the City;
- (4) Outdoors or within permanent or temporary structures; and
- (5) Which is open to the public with or without an admittance fee or a donation.

“Public gathering on City property” shall include, but not be limited to, circuses, carnivals, festivals and races. “Public gathering on City property” shall not include any gathering of persons organized, sponsored or otherwise coordinated by the City of San Juan Bautista, or by its agents or franchisees pursuant to express City approval.

(K) “Public gathering on private property” shall mean:

- (1) Every temporary gathering of a group of persons reasonably expected to exceed one thousand (1,000) persons;
- (2) In the incorporated area of the City;
- (3) Which public gathering is held on privately owned property;
- (4) Outdoors or within a permanent or temporary structure;
- (5) Open to the public with or without an admittance fee or donation; and
- (6) Which gathering of persons is not previously authorized by City permit.

A “public gathering on private property” shall include, but not be limited to, circuses, carnivals, festivals and races.

(L) “Sheriff” shall mean the elected Sheriff of San Benito County, or the Sheriff’s designee.

(M) “Temporary gathering of persons” means a gathering of persons that is not intended to, or does not in fact, occur on a regular (e.g., daily, weekly, monthly) basis. An annual gathering of persons lasting for a specified or indeterminate duration shall be considered a temporary gathering.

(N) A “parade” or “public gathering” shall not include such an event on property which is owned or controlled by a governmental agency other than the City of San Juan Bautista; or on property with a land use designation in the San Juan Bautista General Plan of “public” and occupied by an institutional use (such as private educational institutions or churches).

## Article 2. Permit

Section 5-15-200 Permit required. No person shall hold, manage, conduct or carry on or cause or permit to be held, managed, conducted or carried on, any parade, any public gathering on City property, or any public gathering on private property, without first having obtained a community event permit (“permit”) from the City Manager or designee, subject to exceptions or exemptions set forth in this Chapter.

### Section 5-15-205 Application.

(A) Fee. To obtain a permit, a person shall file an application for such permit with the City Manager or designee. A fee in an amount that shall be fixed by the City Council, from time to time shall accompany any application. Such fee shall be assumed not to be the only fee paid

by the applicant as there may be unanticipated costs the event organizer and/or the City did not foresee.

(B) Fee Exemption. If the parade/public gathering/special event is to be conducted by or on behalf of any institution, corporation, organization or association which currently has an exemption from the payment of federal income taxes under Section 501 of the Federal Internal Revenue Code as amended from time to time and/or exemption from the payment of state income taxes under Section 23701 et seq. of the California Revenue and Taxation Code as amended from time to time, no application fee shall be required to be paid.

(C) Failure to Pay Fee. The City shall not accept an application for permit if an applicant does not tender the required permit fee.

(D) Form and Content. An application for a permit shall be made on forms furnished by the City Manager or designee, and shall be fully and completely prepared, containing all required information.

(E) Accompanying Documents. An application for a permit shall include the following:

(1) A written statement of the kind, character, and type of parade or public gathering/special event which applicant proposes to conduct.

(2) The location of the place of the public gathering or route of the parade and its proposed date and estimated starting and ending time.

(3) Proof of ownership of the place of the proposed public gathering or a statement signed by all the owners of the property where the public gathering is proposed. Additionally, all owners of the property where the proposed public gathering is to occur must sign the application and must agree to be bound by all terms of any permit that is issued.

(4) The name, mailing address and daytime and evening telephone numbers of the person filing the application. If the parade/public gathering is to be conducted by an organization, the name, mailing address and daytime telephone number of the organization; the name, mailing address, and daytime telephone number of the president, leader or other head of the organization; and written documentation of the authority under which the applicant is applying for the permit on behalf of the organization.

(5) The name, mailing address, and daytime telephone number of the person who will be present and in charge of the parade/public gathering on the day of the event.

(6) The name, mailing address and daytime telephone number of any monitors or security personnel to be employed during the event.

(7) The name, mailing address, and daytime and evening telephone number of an alternate person to contact if an emergency arises and the applicant is unavailable.

(8) The names, mailing addresses, and daytime telephone number of all owners of the property if the event is to be held on privately owned property.

(9) The estimated number of participants in the event.

(10) The type and estimated number of vehicles, animals and structures that will be used in the event.

(11) A description of any sound amplification equipment and illumination to be used at the event.

(12) The number, size, and material of construction of any signs or banners to be used in the event.

(13) The parking requirements for the event.

(14) The number and location of any water, first aid, or comfort stations to be provided at the event.

(15) The type and number of any vendors who will sell food, beverages or other goods or services at the event for which a City business license is required.

(16) A list of the governmental agencies requiring a permit for the event, and a description of the current status of any pending permit application or permit for the event.

(17) Any other documents deemed necessary by the City Manager to insure an adequate review of the application.

(F) Additional Information Required for Parades. In addition to any other information required by this Chapter, every application for a parade shall include the following information:

(1) The time when units of the parade will begin to assemble;

(2) The proposed assembly point for the parade;

(3) The proposed parade route;

(4) The interval space to be maintained between units of the parade; and

(5) The number, type, and size of floats or other vehicles.

(G) Time of Application. A complete application for a permit shall be submitted to the City Manager at least ninety (90) calendar days prior to the date of the proposed parade or public gathering, and special event, unless otherwise agreed upon by the City Manager, or designee, and only with there being a full understanding that the permit process and appeal process will be constrained.

#### Section 5-15-210 Review and action.

(A) Review. The City Manager shall review the permit application, including all accompanying documentation, for accuracy and completeness, as well as for compliance with this Chapter. The City Manager shall consult with the San Benito County Sheriff, California Highway Patrol, San Juan Bautista Fire Department and San Benito County Health Officer, as necessary.

(B) Approve/Denial of Permit. The permit shall be approved, conditionally approved, or denied by the City Manager, within fifteen (15) business days after receipt of the complete application. The City Manager shall provide notice to the applicant of his/her decision concerning the permit application in the manner provided for herein.

A permit shall not be issued until the applicant accepts in writing the decision to approve the permit, with or without conditions, and indemnifies the City. To be valid, a written acceptance must be accompanied by proof of compliance with any applicable conditions precedent, and received in the office of the City Clerk no later than twenty-one (21) calendar days after the notice has been mailed. The applicant's failure to submit a valid acceptance as required herein, or to file a timely appeal to the City Council, shall automatically be deemed a withdrawal of the application. The City Manager shall issue the permit upon receipt of a valid acceptance, and shall provide notice to the permittee that the permit has issued.

(C) Grounds for Denial – Imposition of Conditions. The following factors shall be considered by the City Manager in determining whether to deny the permit, or whether the imposition of reasonable permit conditions pursuant to this Chapter will satisfy public health, safety or welfare concerns and allow the parade/public gathering to proceed as modified.

(1) The person for the permit has failed to provide supplemental application information requested by the City Manager or designee has otherwise failed to complete the application;

(2) An application for another event to be held on the same date as that requested by the applicant has been previously filed or approved, and such other event is so close in time and location to the event proposed by the applicant as to cause undue traffic congestion or jeopardize the City's ability to provide public safety or other emergency services to both events or to the public-at-large;

(3) The time, route, or size of the event will unduly impede, obstruct, impair or interfere with the safe and orderly movement of traffic contiguous to the site or route of the event, or the public's use of the street or other public property;

(4) The proposed use of the property is governed by or subject to other City permit procedures or other applicable laws, rules or regulations;

(5) The proposed event presents a substantial or unwarranted safety or traffic hazard;

(6) The preparation for or the conduct of the proposed event will unduly impede, obstruct, or interfere with the operation of emergency vehicles or equipment in or through the particular permit area, or will adversely affect the City's ability to perform municipal functions or furnish City services in the vicinity of the permit area;

(7) The size of the event will require the diversion of so many sheriff's officers to ensure that participants stay within the boundaries or route of the event and to protect participants in the event, so as to prevent or jeopardize reasonable protection to the rest of the City; provided, however, that nothing herein authorizes the denial of a permit because of the need to protect participants from the conduct of others if reasonable permit conditions can be imposed;

(8) Given the size and nature of the event, the reasonably available number of sheriff's officers, firefighters and other personnel is not sufficient to ensure the safety of participants or the attending public;

(9) The event consists of a parade that will not move from its point of origin to its point of termination in three (3) hours or less;

(10) The location or conduct of the event will substantially interfere with construction or maintenance work previously scheduled to take place in, on, or along the City street, or other public property to be occupied by or adjacent to the event;

(11) The event will occur at a time when a school is in session and along a route or at a location adjacent to the school or a class thereof, and the noise created by the activities of the event will substantially disrupt the educational activity of such school or class;

(12) The event will have significant adverse effect on the environment;

(13) The application has been filed later than ninety (90) calendar days before the event, as required by this Chapter, and based upon the anticipated size of the proposed event, or its particular requirements, or its need for or impact on City personnel or services, there is insufficient time to evaluate, process or condition the application to ensure compliance with this Chapter or to protect the public health, safety, or welfare.

(D) Denial of Permit. The existence of the following grounds shall result in the denial of a permit application:

(1) The imposition of permit conditions pursuant to this Chapter will not satisfy or mitigate reasonable public health, safety or welfare concerns;

(2) The information contained in the application, including any supplemental information required by the City Manager, is found to be false in any material respect;

(3) The applicant has not fully complied with the requirements of this Chapter, or has violated any of the provisions of this Chapter, or any permit condition imposed by the City.

Section 5-15-215 General permit conditions – Indemnification – Liability insurance.

(A) Indemnity Agreement. As a condition precedent to the issuance of a permit authorizing an event, the permittee shall enter into an agreement with the City in a form approved by the City Attorney which shall set forth the undertaking of the permittee to indemnify the City, and hold the City harmless and reimburse the City from and for any liability, damage or loss occurring during the course of the event authorized by such permit where such liability, damage or loss is proximately caused by the negligent or intentional act or omission of the permittee, any officer, employee or agent of the permittee, or any person who is under the permittee's legal control. In addition, such agreement shall provide that, if a claim is made against the City by suit or otherwise, whether the same be groundless or not, arising out of such negligent or intentional act or omission, the permittee shall defend the City and shall indemnify the City for any judgment rendered against it or any sums paid out in settlement or otherwise. Such agreement shall be filed with the City Clerk prior to the issuance of the permit.

(B) Liability Insurance. As a condition precedent to the issuance of a permit authorizing an event, a permittee shall obtain public liability insurance from an insurance company licensed to do business in the State of California and having a financial rating in Best's Insurance Guide of at least "B". Such insurance shall provide "occurrence" coverage against liabilities for death, personal injury or property damage arising out of or in any way connected with such event. Such insurance shall be in the amount of at least one million dollars (\$1,000,000), combined single limit per occurrence, and shall name the City and the City's officers, employees and agents as additional insureds under the coverage afforded. In addition, such insurance shall be primary and noncontributing with respect to any other insurance available to the City and shall include a severability of interest (cross-liability) clause. Proof of such insurance, in a form approved by the City Attorney, shall be filed with the City Clerk prior to the issuance of the permit and such insurance shall be maintained in full force and effect throughout the course of the event authorized by such permit.

Section 5-15-220 Appeals. Any person aggrieved by a decision of the City Manager made under this Article may, within five (5) business days of the date of such decision, file an appeal in writing with the City Clerk. The appeal shall set forth the specific basis of the alleged error. Upon receipt of the written appeal, the City Clerk shall set the matter for hearing before the City Council within fifteen (15) calendar days following the filing of the notice of appeal. Following the hearing, the City Council may sustain, modify or reject the decision of the City Manager, consistent with the provisions of this Chapter. Within two (2) business days after the City Council's decision, the City Clerk shall provide notice to the applicant of the City Council's decision. The applicant shall have five (5) business days after receipt of the notice to file a written acceptance of the decision with the City Manager. The failure to file an acceptance within the time period specified shall automatically be deemed a withdrawal of the application.

Section 5-15-225 Nontransferability. A parade/public gathering permit issued pursuant to this Chapter may not be assigned or transferred, in whole or in part.

Section 5-15-230 General permit conditions – Personnel service charges – Refunds.

(A) Payment of Charges.

(1) In addition to the payment of the nonrefundable permit application fee, the daily fees and any other fees prescribed by resolution of the City Council, a permittee shall pay the City for all City personnel costs, which are incurred in connection with or resulting from the permittee's activities under the permit. These fees include the cost of Sheriff Department personnel which are necessary to control and monitor pedestrian and vehicular traffic in and around the site of the event.

(2) If City property is destroyed or damaged by reason of the event, the permittee shall reimburse the City for the actual replacement or repair cost of the destroyed or damaged property.

(3) Each permittee shall be jointly and severally liable for the payment of fees and charges required by this Chapter.

(4) Cash Deposit. As a condition precedent to the issuance of a permit authorizing an event, the permittee shall pay to the City a cash deposit in an amount sufficient to cover all applicable fees, including the total City personnel charges which the City Manager estimates will be incurred in connection with the permit.

Section 5-15-235 Special permit conditions. When acting on a permit authorizing an event, the City Manager or designee after reviewing the facts may condition such permit upon the permittee's compliance with reasonable requirements concerning the time, place or manner of conducting the event as deemed reasonable and necessary to protect the health or safety of persons and property, or to control vehicular and pedestrian traffic in and around the site of the event. Such conditions may include, but shall not be limited to, requirements concerning the following:

(A) The assembly or disbanding area for a parade occurring along a route;

(B) The accommodation of pedestrian and vehicle traffic in and around the site of an event, including restricting an event to a City street, sidewalk, or to a portion of a City street or other public property;

(C) The avoidance of substantial interference with necessary access for fire suppression, police vehicles, or personnel, to public or private property occupied by the event or located in the vicinity of the event;

(D) The number and type of vehicles, animals, or structures to be displayed or used in the event;

(E) The inspection and approval by City personnel of stages, booths, floats and other structures or vehicles to be used or operated in the event, to ensure that such structures or vehicles have been safely constructed and can be safely operated;

(F) The deposit of a sum of money for cleanup if the event will take place on public property and will include the erection of structures, the display or use of horses or other large animals, the operation of water, first aid or comfort stations; or the sale of food, beverages or other goods or services;

(G) The provision and use of illumination, traffic cones and barricades, adequate parking signage, and ingress and egress to the site to ensure the orderly flow of traffic into and away from the event;

(H) The employment of security personnel for events conducted on privately owned property;

(I) The provision and operation of water, comfort or first aid stations, and sanitary (included disabled-accessible) facilities;

(J) The provision and use of garbage containers, and the cleanup and restoration of the site of the event at the termination of the event;

(K) The use of sound amplification equipment, and restrictions on the amount of noise generated by motors and other equipment used in the course of the event;

(L) The manner for providing notice of permit conditions to event participants;

(M) The obtaining of any and all business licenses or other permits or licenses required for the sale of food, beverages or other goods or services at the event.

(N) Block Captains. The event organizer shall assign “Block Captains”. If an entire block is part of the event, the block includes the four sides of one block. If, for example, the event occurs on both sides of a street, the “block” would constitute both sides of the street. It is possible that the Block Captain would be responsible for both sides of a street spanning two blocks, but in no case shall the Block Captain responsibility extend to three or more blocks. The event organizer shall be the liaison between the City and the Block Captains. The duties of the Block Captain includes making sure that trash bins are emptied and properly disposed of so as not to be visible to the public, assure that vendors implement contract conditions, and reports to the event organizer as needed to resolve problems.

(O) Unique items sold. The event shall sell unique items and value added craft items shall be sold. No factory made imports shall be sold that are sold in SJB by existing businesses. The intent of this restriction is to avoid duplicity.

(P) Food. Food booths shall be located in a “food court” environment. The food court shall accommodate seating and a place to clean hands. The food court shall be located at the Mission San Juan Bautista plaza.

(Q) At least 50 percent of food vendors shall be “non-profit” local group when possible. Food vendors will not offer products competing with local vendors.

(R) Vendors shall not be located within 20 feet of a business that sells the same or similar items.

(S) Parking. Vendor’s vehicles shall not be parked on City streets. Vendor parking shall be at the school or mission parking lots by permission. The City shall coordinate vendor parking with the even organizer.

(T) Hours of Operation. Vendors shall not close down booths prior to the events contracted closing time. Penalty fees shall be paid by the event organizer in an amount to be determined by the City Council, from time to time.

(U) Electrical needs of the vendors shall be obtained through the city and not through SJB businesses. Fees shall be assessed per vendor if electrical chords are found connecting the vendor to a business. Penalty fees shall be paid by the event organizer in an amount to be determined by the City Council, from time to time. A flat fee for electrical hook-up shall be paid to the City by the event organizer based on the number of electrical connections anticipated. The SJB Public Works staff shall be responsible for hooking up the vender to the electrical source. City Public Works shall also verify that the number of electrical connections is reflected in the special event contract. In the event that the number of electrical hook-ups does not correlate with the fees paid, the event organizer and the City shall address this cost at the post event briefing where post event fee adjustments would occur. Some vendors may need generators. In

this case they shall not be noisy and interrupt and disturb the residential and/or business community.

(V) Garbage. Vendors shall not use the City's or businesses trash containers. The event organizer shall provide separate trash receptors and the Block Captains shall be responsible for continuous removal of trash within the area of the event. In addition, during the event city trash containers throughout the City shall be inspected by a responsible Block Captain, or designee, and shall not be allowed to overflow and shall be continuously emptied by the Block Captains, or designee. Penalty fees shall be assessed for failure to conform.

(W) Sidewalks. Sidewalks shall be kept clear. Vendors shall not store the materials whereby pedestrian movement on sidewalks is hindered. Chairs shall not be placed to block pedestrian traffic. A straight path on the sidewalk shall be maintained.

(X) Vendor density. For every four vendors there shall be a 10-foot empty space to allow enhanced pedestrian circulation around businesses and vendors.

(Y) Security. The event organizer shall work with the City Manager, or designee, to determine an appropriate level of security. As it pertains to other city staff see section 5-15-230(4).

#### Section 5-15-240 Special permit – Subsequent conditions.

(A) Grounds. The City Manager may condition a permit after it has been issued based on subsequently discovered facts; provided, that such facts were first disclosed or otherwise made known to the City Manager after issuance of the permit; and further provided, that such facts were not discoverable by the exercise of due diligence prior to the issuance of a permit.

(B) Notice. When the City Manager decides to condition a previously issued permit based upon subsequently discovered facts, he or she shall immediately cause a notice of such action to be sent to the permittee. However, when the City Manager decides to condition a previously issued permit on the date of the event and has learned of such facts within forty-eight (48) hours of the event, the City Manager shall announce such action to the event participants, to those City officers and employees engaged in monitoring or controlling the event, and to the person in charge of the event, if such person can be located at the site of the event. Thereafter, the City Manager shall cause notice of such action to be sent to the permittee, and shall provide copies of the notice to the City Manager and City Clerk.

Section 5-15-245 Emergency suspension of authorized event. The City Manager and any Sheriff's officer or other sworn peace officer employed by the City may temporarily suspend a parade/public gathering authorized by a permit whenever there is a fire or other emergency or circumstance that requires the event to be temporarily suspended to protect public safety. When an event is temporarily suspended for this reason, the permittee and event participants shall immediately comply with the suspending officer's instructions. The City Manager shall immediately attempt to notify the permittee orally and shall notify the permittee, in writing, within twenty-four (24) hours after the suspension, citing with particularity the facts and the reasons for the suspension.

Section 5-15-250 Cordoning off the route or site of a parade/public gathering. The City Manager is authorized and directed to place barricades on or within the public right-of-way, or other property owned or controlled by the City, and to undertake such other actions as may be necessary to cordon off the route or site of an authorized event. In addition, the City Manager,

shall, when appropriate, post the route or site of such event as a no-parking zone for the duration of the event and sufficiently in advance thereof as may be necessary to prevent vehicles from parking along the route or at the site of the event.

Section 5-15-255 Revocation of permit. The City Manager shall revoke a permit authorizing an event if the City Manager determines that there were grounds for denying the permit, as set forth in this Chapter, which were first disclosed or otherwise made known to the City Manager after issuance of the permit and such facts were not discoverable by the exercise of due diligence prior to issuance of the permit.

Section 5-15-260 Fines. Fines shall be defined as follows:

Application fee:	
Non-profit or San Juan Bautista community (neighborhood) group	\$25.00
All others	\$100.00
Early Shutdown fee:	\$250.00
All other penalty fees:	
First occurrence	\$50.00
Second occurrence	\$100.00
Third occurrence	\$250.00
Electrical hookup fee	\$5.00/day/vendor/10x10 booth
Business License	per City Ordinance

This ordinance shall take effect thirty (30) days after adoption.

**THE FOREGOING ORDINANCE** was first read at a regular meeting of the San Juan Bautista City Council on the 21<sup>st</sup> day of March 2006, and was adopted at a regular meeting of the San Juan Bautista City Council on the 18th day of April, 2006 by the following vote:

AYES: Hill, Medina, Geiger, Dias

NOES: None

ABSTAIN: None

ABSENT: Reed

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G. Dan Reed, Mayor

ATTEST:

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Trish Paetz, Deputy City Clerk