

**ORDINANCE 2018-06**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN JUAN  
BAUTISTA APPROVING THE ADDITION OF CHAPTER 5-33, EMERGENCY  
ORGANIZATION AND FUNCTIONS TO TITLE 5 OF THE  
SAN JUAN BAUTISTA MUNICIPAL CODE**

WHEREAS, the need exists to establish the local emergency organization, the structure, duties and functions of said organization, and the role of the Director of Emergency Services, and

WHEREAS, one of the goals in the 2015-2035 General Plan is to develop a community that is exceptionally prepared for emergency situations and disasters, and

WHEREAS, an objective in the 2015-2035 General Plan is to ensure a coordinated emergency response effort exists within the city.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA  
HEREBY ORDAINS AS FOLLOWS;

**SECTION 1.** A new Chapter 5-33 is hereby added to the San Juan Bautista Municipal Code, to read as follows:

Chapter 5-33 EMERGENCY ORGANIZATION AND FUNCTIONS.

Sections:

5-33-010 Purpose.

5-33-020 Definitions.

5-33-030 Director of emergency services.

5-33-040 Powers and duties of the director of emergency services.

5-33-050 Emergency organization.

5-33-060 Structure, duties and functions of the emergency organization.

5-33-070 Mutual aid.

5-33-080 Expenditures.

5-33-090 Punishment of violations.

5-33-010 Purpose.

The declared purposes of this chapter are to provide for the preparation and carrying out of plans for the protection of persons and property within this city in the event of an

emergency; the direction of the emergency organization; and the coordination of the emergency functions of this city with all other public agencies, corporations, organizations, and affected private persons on the local, regional, statewide and national levels.

#### 5-33-020 Definitions.

As used in this chapter, “emergency” shall mean the actual or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property within this city caused by such conditions as air pollution, fire flood, storm, epidemic, riot, or earthquake, or other conditions, including conditions resulting from war or imminent threat of war, but other than conditions resulting from a labor controversy, which conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of this city, requiring the combined forces of other political subdivisions to combat.

#### 5-33-030 Director of emergency services.

There is hereby created the office of director of emergency services. The city manager shall be the director of emergency services.

#### 5-33-040 Powers and duties of the director of emergency services.

The director is hereby empowered to:

(a) Request the city council to proclaim the existence or threatened existence of a “local emergency” if the city council is in session, or issue such proclamation if the city council is not in session. Whenever a local emergency is proclaimed by the director, the city council, within seven (7) days of date that the proclamation is made, shall meet and take action to ratify the proclamation. If the city council fails to ratify the proclamation within the seven (7) days provided, the proclamation of the director shall have no further force or effect. The director shall request the city council to review at least every twenty-one (21) days, until the local emergency is terminated, the need for continuing the local emergency; and to proclaim the termination of the local emergency at the earliest possible date that conditions warrant.

(b) Request the governor to proclaim a “state of emergency” when, in the opinion of the director, the locally available resources are inadequate to cope with the emergency.

(c) Develop emergency plans with the assistance of emergency service chiefs for consideration by the disaster council and manage the emergency programs of this city.

(d) Control and direct the effort of the emergency organization of this city for the accomplishment of the purposes of this chapter.

(e) Direct cooperation between and coordination of services and staff of the emergency organization of this city; and resolve questions of authority and responsibility that may arise between them.

(f) Represent this city in all dealings with public or private agencies on matters pertaining to emergencies as defined herein.

(g) In the event of the proclamation of a “local emergency” as herein provided, the proclamation of a “state of emergency” by the governor or the director of the state office of emergency services, or the existence of a “state of war emergency” the director is hereby empowered to:

- (1) Make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; provided, however, such rules and regulations must be confirmed at the earliest practicable time by the city council;
- (2) Obtain vital supplies, equipment, and such other properties found lacking and needed for the protection of life and property and to bind the city for the fair value thereof and, if required immediately, to commandeer the same for public use;
- (3) Require emergency services of any city officer or employee and, in the event of the proclamation of a “state of emergency” in the county in which this city is located or the existence of a “state of war emergency,” to command the aid of as many citizens of this community as he deems necessary in the execution of his duties; such persons shall be entitled to all privileges, benefits, and immunities as are provided by state law for registered disaster service workers;
- (4) Requisition necessary personnel or material of any city department or agency; and
- (5) Execute all his ordinary powers as city manager, all of the special powers conferred upon him by this chapter or by ordinance, or by resolution or emergency plan pursuant hereto adopted by the city council, all powers conferred upon him by any statute, by an agreement approved by the city council, and by any other lawful authority.

#### 5-33-050 Emergency organization.

All officers and employees of this city, together with the volunteer forces enrolled to aid them during an emergency, and all groups, organizations, and persons who may, by agreement or operation of law, including persons impressed into service under the provisions of section 5-33-040 (g)(3) of this chapter, be charged with duties incident to the protection of life and property in this city during such emergency, shall constitute the emergency organization of the City of San Juan Bautista.

#### 5-33-060 Structure, duties and functions of the emergency organization.

The structure, duties and functions of the emergency organization and the order of the emergency succession to the position of director of emergency services, shall be adopted by resolution of the city council.

#### 5-33-070 Mutual aid.

It is the purpose of the city council in enacting this chapter to facilitate the rendering of mutual aid to and for the people of this city. Emergency plans adopted and approved by the city council shall provide for the interchange of mutual aid and for coordination with the emergency plans of the county operational area.

#### 5-33-080 Expenditures.

Any expenditure made in connection with emergency activities, including mutual aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property of the City of San Juan Bautista.

(a) In cases of emergency when public interest and necessity demand the immediate expenditure of public money to safeguard life, health or property, including but not limited to states of local emergency defined in Government Code Section 8558, Public Contract Code Section 20168 or 22050, the city council may make a finding that the emergency will not permit a delay resulting from a competitive solicitation for bids and that immediate action is necessary to respond to the emergency. Thereafter, the city manager shall take any directly related and immediate action required by that emergency and procure the necessary equipment, services, and supplies for those purposes without giving notice for bids to let contracts.

(1) For purposes of considering an emergency pursuant to Public Contract Code Sections 20168 or 22050, a four-fifths vote of the city council is required.

(2) For purposes of considering a local emergency declared pursuant to Government Code Section 8630, a majority vote of the members of the city council is required.

(b) Any work authorized pursuant to this Section may be done by force account, by contract, or by a combination of the two.

(c) Pursuant to Government Code Section 8630(a) and Public Contract Code Section 22050(b), as amended from time to time, the city manager is delegated the authority set forth in subdivision (a) of this section otherwise reserved to the city council.

(1) In the event the city manager takes any action pursuant to this subdivision under the authority provided in Public Contract Code Sections 20168 or 22050, a report of the action shall be made to the city council setting forth the reasons justifying why the emergency will not permit a delay resulting from a competitive solicitation of bids and why the action is necessary to

respond to the emergency. The city council shall review the action not later than seven days after the action, or at the city council's next regularly scheduled meeting, and at every regularly scheduled meeting thereafter until the action is terminated, to determine by a four-fifths vote whether there is a need to continue the action. When the city council reviews the emergency action, it shall terminate the action at the earliest possible date that conditions warrant so that the remainder of the emergency action may be completed by giving notice for bids to let contracts.

- (2) In the event the city manager takes any action pursuant to this subdivision under the authority provided in Government Code Section 8630(a), the local state of emergency shall not remain in effect for a period in excess of seven days unless it has been ratified by the city council. The city manager shall make a report to the city council consistent with the provisions of subdivision (c)(1) of this Section within seven days of declaring a state of emergency, and the city council shall determine whether to ratify the determination of the city manager. Thereafter, the city council shall review the need for continuing the local emergency at least once every thirty days until the city council terminates the local emergency.

#### 5-33-090 Punishment of violations.

It shall be a misdemeanor, punishable by a fine of not to exceed five hundred dollars (\$500.00), or by imprisonment for not to exceed six (6) months, or both, for any person, during an emergency, to:

- (a) Willfully obstruct, hinder, or delay any member of the emergency organization in the enforcement of any lawful rule or regulation issued pursuant to this chapter, or in the performance of any duty imposed upon him by virtue of this chapter.
- (b) Do any act forbidden by any lawful rule or regulation issued pursuant to this chapter, if such act is of such a nature as to give or be likely to give assistance to the enemy or to imperil the lives or property of inhabitants of this city or to prevent, hinder, or delay the defense or protection thereof.
- (c) Wear, carry, or display, without authority, any means of identification specified by the emergency agency of the state.

**SECTION 2.** Severability. The City Council declares that each section, subsection, paragraph, subparagraph, sentence, clause and phrase of this ordinance is severable and independent of every other section, subsection, paragraph, subparagraph, sentence, clause, and phrase of this ordinance. If any section, subsection, paragraph, subparagraph, sentence, clause or phrase of this ordinance is held invalid, the City

Council declares that it would have adopted the remaining provisions of this ordinance irrespective of the portion held invalid, and further declares its express intent that the remaining portions of this ordinance should remain in effect after the invalid portion has been eliminated.

**SECTION 3.** Environmental assessment. The City Council declares that the approval of this ordinance is not subject to the California Environmental Quality Act (“CEQA”) because pursuant to CEQA Guidelines Sections 15060 (c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment); and, 15060 (c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Alternatively the approval of this ordinance is not a “Project” under CEQA Regulation Section 15061(b)(3) because it has no potential for causing a significant effect on the environment.

**SECTION 4.** Effective date. This ordinance shall go into effect thirty days after the date of its adoption.

**THE FOREGOING ORDINANCE** was first read at a regular meeting of the San Juan Bautista City Council on the 18<sup>th</sup> day of September, 2018, and was adopted at a regular meeting of the San Juan Bautista City Council on the 16<sup>th</sup> day of October, 2018, by the following vote:

**AYES:** West, Boch, Freeman

**NOES:** None

**ABSENT:** Martorana, DeVries

**ABSTAIN:** None

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John Freeman, Vice Mayor

**ATTEST:**

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Trish Paetz, Deputy City Clerk

**APPROVED AS TO FORM:**

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Deborah Mall, City Attorney