

**ORDINANCE NO. 09-07-2020**

**AN ORDINANCE ENACTING TITLE 4, CHAPTER 5 OF THE SANTAQUIN CITY CODE ESTABLISHING POLICIES, PROCEDURES AND REQUIREMENTS PERTAINING TO PUBLIC ASSEMBLIES AND SPECIAL EVENTS, CODIFICATION, INCLUSION IN THE CODE, CORRECTION OF SCRIVENER'S ERRORS, SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Santaquin is a municipality and political subdivision of the State of Utah; and

**WHEREAS**, the City is authorized to enact regulations to promote the health, safety and welfare of the City's residents and visitors; and

**WHEREAS**, the City provides certain services, facilities and infrastructure to promote public health, safety and welfare, and works to allocate those resources to best serve the interests of the City's residents and visitors and provide opportunities for them to gather, enjoy activities together and express opinions; and

**WHEREAS**, the Santaquin City Council finds that adequate information and organization regarding certain special events and public assemblies are necessary to efficiently allocate resources, including police protection, fire protection, emergency medical services and use of City facilities; and

**WHEREAS**, the Santaquin City Council finds that establishing a permitting process, together with policies and procedures for special events and public assemblies will provide necessary information to assist the City in providing allocation of City facilities and services; and

**WHEREAS**, the City desires now to enact an ordinance to establish appropriate policies, procedures and requirements pertaining to special events and public assemblies; and

**WHEREAS**, the Santaquin City Council finds that the adoption of this ordinance is necessary for the health, safety and general welfare of the City and its residents;

**NOW THEREFORE**, BE IT ORDAINED BY THE CITY COUNCIL OF SANTAQUIN CITY, UTAH, AS FOLLOWS:

**SECTION I.** Enactment of Title 4, Chapter 5 – Public Assemblies and Special Events.

Title 4, Chapter 5 of the Santaquin City Code is hereby enacted establishing policies, procedures and requirements pertaining to public assemblies and special events as set forth in Exhibit A hereto.

**SECTION II.** Codification, Inclusion in the Code, and Scrivener's Errors.

It is the intent of the City Council that the provisions of this ordinance be made part of the City Code as adopted, that sections of this ordinance may be re-numbered or re-lettered, that the word ordinance may be changed to section, chapter, or other such appropriate word or phase in order to accomplish such intent regardless of whether such inclusion in a code is accomplished, sections of the ordinance may be re-numbered or re-lettered. Typographical errors which do not affect the intent of this ordinance may be authorized by the City without need of public hearing by its filing a corrected or re-codified copy of the same with the City Recorder.

**SECTION III.** Severability.

If any section, phrase, sentence, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity for the remaining portions thereof.

**SECTION IV.** Effective Date

The City Recorder shall deposit a copy of this ordinance in the official records of the City on September 1, 2020, and before 5:00 p.m. on that same day, shall place a copy of this ordinance in three places within the City. This ordinance shall become effective at 5:00 p.m. on September 2, 2020.

Passed and duly adopted this 1 day of September, 2020.

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Mayor Kirk F. Hunsaker

Councilmember Nick Miller	Voted <u>yes</u>
Councilmember Elizabeth Montoya	Voted <u>yes</u>
Councilmember Lynn Meacham	Voted <u>yes</u>
Councilmember Jennifer Bowman	Voted <u>yes</u>
Councilmember David Hathaway	Voted <u>yes</u>

ATTEST:

K. Aaron Shirley  
K. Aaron Shirley, City Recorder

## EXHIBIT A

### TITLE 4, CHAPTER 5 - PUBLIC ASSEMBLIES AND SPECIAL EVENTS

#### SECTION 4-5-1. INTENT

(1) It is the intent of Santaquin City in this Chapter to regulate, consistent with the provisions of the Constitutions of the United States and the State of Utah, public assemblies and special events within Santaquin City in order to protect the health, safety and welfare of all persons within the City, residents and visitors alike. It is the policy of Santaquin City to accommodate public assemblies and special events subject to reasonable time, place and manner restrictions.

(2) The issuance or nonissuance of a permit described in this Chapter is intended to be an action immune from suit as described in the Utah Governmental Immunity Act, Utah Code Section 63G-7-201, as amended.

#### SECTION 4-5-2. DEFINITIONS

As used in this Chapter, unless the context shall otherwise require, the following terms shall have the following meanings:

**“Applicant”** means the individual, group or organization sponsoring or organizing a special event and applying for a special event permit pursuant to this Chapter.

**“Application”** or **“Permit application”** means the City’s written application for a permit to hold a special event.

**“Business days”** means Mondays through Thursdays, between the hours of 9:00 a.m. and 5:00 p.m. and Fridays between the hours of 9:00 a.m. and 1:00 p.m., and does not include Saturdays, Sundays, or legal holidays as outlined in Utah Code Section 63G-1-301, plus Christmas Eve (or December 24<sup>th</sup> if Christmas Eve is on a weekend) and excepting Veterans Day.

**“Chief Building Official”** means the Chief Building Official of the City of Santaquin, Utah.

**“City”** means the City of Santaquin, Utah.

**“City Manager”** means the person appointed by the City Council as City Manager pursuant to Section 1-6A-2 of the Santaquin City Code.

**“Event Review Committee”** or **“ERC”** means the committee established to review, and grant or deny applications for Special events, Temporary mass gathering permits, and other applications required by this chapter.

**“Fire Chief”** means the Chief of the Fire Department of the City of Santaquin, Utah.

**“Health Director”** means the Executive Director of the Utah County Health Department, or other Utah government official with the authority to grant a temporary mass gathering permit.

**“Parade”** means any march, walk or run, procession, demonstration, motorcade, or other similar activity consisting of persons, animals, vehicles or any combination thereof, upon any public street, sidewalk, alley or other public right-of-way within the City, that interferes with the normal flow or regulation of traffic upon the streets, sidewalks, alley or other public right-of-way within the City.

**“Person”** means any individual human being, firm, partnership, association, corporation, company, or organization of any kind.

**“Police Chief”** means the Chief of the Police Department of the City of Santaquin, Utah.

**“Public assembly”** means a gathering of persons on public property with the purpose of exercising free speech, association, assembly and similar rights protected by the United States and Utah Constitutions which interferes or has a tendency to interfere with the normal flow or regulation of pedestrian or vehicular traffic upon any public way, or other public grounds within the City, or does not comply with normal or usual traffic regulation or controls; or which occupies any public area open to the general public to the exclusion of others.

**“Public way”** means any public highway, street, alley, sidewalk, or other public right-of-way within the City.

**“Public Works Director”** means the Director of the Public Works Department of the City of Santaquin, Utah.

**“Sidewalk”** means any area or way set aside or open to the public for purposes of pedestrian traffic, whether or not it is paved.

**“Special event”** means:

(a) Any event, activity, or series of activities, including a planned public assembly, which: (i) occurs on public property and significantly restricts or otherwise impacts the normal access or use of the public property by the general public or adjacent property owners; or (ii) occurs on public or private property and is subject to the requirement of obtaining a temporary mass gathering permit.

(b) Special events may include but are not limited to block parties, street parties, fundraisers, public assemblies, movie productions and other filming, protests and rallies, runs, races, walks, parades, and similar community events.

(c) The term “special event” does not include a gathering of persons at a location with permanent facilities designed for that specific assembly (unless the designed occupancy levels are exceeded), including: (i) privately sponsored events which rent space inside City facilities; (ii) programmed activities provided or managed by the City, i.e., recreational or senior center programs; (iii) any event that would otherwise fall within the definition of a special event held

in a Santaquin City park but which involves fewer than thirty-five (35) people at the same time within a circumscribed one hundred (100) foot radius and does not interfere with the regular use of the park by those who have reserved adjacent park facilities and/or the general public; (iv) an activity on, and the permitting of, sports fields, sports facilities, park pavilions, or other similar government facilities otherwise regulated by the Santaquin City Community Services Department.

(d) The term “special event” does not include an unplanned or spontaneous public assembly which due to nature and scope of the event does not result in the unreasonable obstruction of City streets or sidewalks, nor unreasonably compromise the City’s ability to respond timely to a fire, medical emergency, or other public safety emergency.

“**Special event location**” means the geographic area authorized by the City where a special event is to take place.

“**Special event permit**” or “**permit**” means the permit issued by the City for a special event.

“**Street**” means any place or way set aside or open to the public for purposes of vehicular traffic, including any berm or shoulder parkway, right-of-way, or median strip thereof.

“**Support services**” means those police, fire, inspection, sanitation and other special services, other than basic routine everyday services, that are provided by the City for a fee, and that are necessary for the safe and successful execution of the special event.

“**Support services fees**” means those fees set forth on the City’s Uniform Fee Schedule that are charged by the City for providing support services for a special event, including a temporary mass gathering.

“**Temporary mass gathering permit**” means the permit defined in, and issued pursuant to, Utah Administrative Rule 392-400.

### **SECTION 4-5-3. APPLICATION AND PERMIT REQUIRED**

(1) All persons sponsoring, maintaining, promoting, or conducting a special event shall pay the application processing fee, complete a permit application, and obtain a special event permit prior to conducting the special event. A valid permit to hold a special event shall authorize any person expressly named in the permit to engage in any lawful activity described in the permit.

(2) A special event permit shall normally be granted upon: (i) proper completion of the application for the permit; (ii) the availability of the special event location for reservation; (iii) the payment of all required fees; (iv) the presentation of evidence that the applicant has complied with the conditions set forth in Section 4-5-4, Santaquin City Code, and has secured all necessary inspections and permits, including a temporary mass gathering permit, if required; and (v) the applicant’s certification that the conduct of the event will be in compliance with all applicable laws and regulations. Notwithstanding the foregoing, the ERC may deny the issuance of a permit if after a careful and thorough review of the application,

the ERC makes written findings that: (a) there are compelling grounds to believe that the special event would either endanger the public's health, safety or welfare or interfere with another previously approved public assembly or special event; and (b) the ERC cannot through reasonable governmental action address the concerns raised in Subsection (2)(a) of this Section. In taking reasonable government action to facilitate and protect the orderly conduct of public assemblies and special events, the ERC is authorized to create buffer zones between groups by executive order where there is a history of violence between groups. The ERC is also authorized to take such other actions consistent with free exercise of constitutional rights to prevent conflicting special events from interfering with each other or otherwise endangering the public's health, safety or welfare.

(3) A separate event permit shall be required for each location for which a temporary mass gathering permit is required. The permit shall identify the maximum number of people, vehicles, and/or animals permitted to assemble at the special event location. The specific activities to take place shall also be expressly stated in the permit. The permit holder shall not sell tickets to, nor allow to assemble at the special event location, more people, vehicles, and animals than the maximum permissible number specified in the permit.

(4) The permit requirements of this Chapter shall apply to government-sponsored fairs and other special events held on regularly established fairgrounds or other government property, and to public assemblies and special events sponsored by Santaquin City or expressly authorized by the Santaquin City Code, City ordinances, or other City regulations.

#### **SECTION 4-5-4. CONDITIONS FOR ISSUING A PERMIT**

(1) In addition to identifying the maximum number of people, vehicles, and/or animals that will gather at the special event location as a condition for receiving the permit, applicants for permits shall certify that the maximum number of persons at the special event location shall not exceed the number which can reasonably safely gather at the special event location given the nature of the event; provided, that if the special event is to continue overnight, the maximum number shall not be more than are allowed to sleep within the boundaries of the special event location by the Santaquin City Code, City and County zoning or health ordinances, or other applicable health, safety or public welfare laws, ordinances, and regulations.

(2) An application that otherwise satisfies the requirements and conditions of this Chapter shall normally be approved if:

(a) The Fire Chief or the Fire Chief's designee finds: (i) the special event complies with all applicable fire code rules and regulations; (ii) if the special event location is to be enclosed, the plans therefor include a reasonable means of ingress and egress under normal and emergency conditions for all persons attending the special event; and (iii) the plans include reasonable provisions for a first aid station which shall be sufficient to handle minor medical complaints;

(b) The Chief Building Official or the Chief Building Official's designee finds: if bleachers, a stage, or other similar structure(s) are to be used as part of the special event, the structures meet the minimum requirements of all applicable building codes;

(c) A valid temporary mass gathering permit has been issued by the appropriate health official, if such a permit is required under Utah Administrative Code Rule R392-400, as amended;

(d) The Director of the Department of Public Works or the Director's designee finds that the application for the special event includes plans for a reasonable method of collecting and disposing of all solid waste generated by the special event;

(e) The Chief of Police or the Chief of Police's designee finds that the application for the special event includes adequate provisions for rerouting pedestrian and vehicular traffic and public safety for the special event, including, in the Chief's or the Chief's designee's discretion, that not less than one (1) security guard, licensed under the Utah Security Personnel Licensing Act, Utah Code 58-63-101 et seq., as amended, is provided by the applicant for every seven hundred fifty (750) people expected to attend; and

(f) The applicant has complied with the insurance and fee requirements contained in this Section and Section 4-5-5, Santaquin City Code.

(3) The plans, specifications, prerequisites, and preconditions set forth in this Subsection that are incorporated into the application form the basis for the approval of the permit issued by the City and shall be performed by the applicant. Failure to perform the plans, specifications, prerequisites, and preconditions incorporated into the application shall be grounds for the suspension or revocation of the permit. The intentional or negligent noncompliance with said plans, specifications, prerequisites and preconditions shall be unlawful.

(4) Insurance is required for special events unless the event is a public assembly that qualifies for an exemption pursuant to Subsection 5 of this Section. Depending on the type of event, number of participants and other risk factors, applicants may be required to submit a risk mitigation plan even for events in which insurance is not required. Applicants required to provide insurance may provide a certificate of insurance with coverage of at least one million dollars (\$1,000,000.00) per occurrence with a two million dollar (\$2,000,000.00) aggregate limit naming Santaquin City, its officers, employees and volunteers as additional insureds. Required coverage limits will be determined based on the type of event, number of participants and other relevant risk factors. The certificate shall also state that coverage will not be canceled without ten (10) days' prior written notice to the City. Applicants required to provide insurance shall provide such evidence of insurance prior to the issuance of a permit. Applicants shall also execute a standard City indemnification agreement if required to provide insurance.

(5) The applicant for a permit for a planned public assembly who is indigent shall not be required to provide insurance. To evidence indigency, the applicant shall submit a notarized affidavit certifying that: (a) the costs for insurance to be imposed exceed the available

resources of the applicant and the applicant does not reasonably foresee such funds becoming available before, during, or within a reasonable period after the planned public assembly, and (b) the applicant is not charging participation fees or other admittance fees to the general public for the planned public assembly, and (c) no other person is underwriting the cost of the planned public assembly.

(6) Permits for a special event that is a planned public assembly shall:

(a) Contain only such restrictions on time, place, and manner as are reasonably related to Santaquin City's significant interests in furthering the public's health, safety and welfare;

(b) Be issued upon applicant's agreement to pay for support services fees that reflect the City's cost of providing support services for the planned public assembly, unless the applicant is indigent. If the applicant for the planned public assembly permit can evidence indigency, the support services fee shall be a nominal fee reasonably related to the services requested by the applicant, based on the financial resources of the applicant. To evidence indigency, the applicant for a planned public assembly permit shall submit a notarized affidavit disclosing the resources available to the applicant and certifying that: (i) the full cost for support services to be imposed exceeds the available resources of the applicant and the applicant does not reasonably foresee such funds becoming available within a reasonable period before, during, or within a reasonable period after the public assembly; (ii) the applicant is not charging participation fees or other admittance fees to the general public for the public assembly; and (iii) no other person is underwriting the cost of the planned public assembly.

(7) By signing the application, the applicant:

(a) Agrees to abide by all Federal, State and local laws, ordinances, rules, regulations, and administrative directives pertaining to the event, including all provisions of the Santaquin City Code, including, but not limited to: (a) the noise provisions of Title 4, Chapter 2A, Santaquin City Code; and (b) the nuisance provisions of Title 4, Chapter 2, Santaquin City Code, as amended.

(b) Acknowledges that, unless expressly authorized in the special event permit, no special event shall take place between the hours of 12:00 a.m. and 6:00 a.m. and that no person associated with the special event shall place, construct, erect, use, or employ any tent or other enclosed shelter, vehicle, or trailer. Further, applicant agrees to return the special event location to public use promptly upon the expiration of the special event permit without damage, to remove all personal property, equipment, vehicles, other property, and trash from the special event location, and to be responsible for leaving the special event location in a clean and orderly condition.

#### **SECTION 4-5-5. APPLICATION – FEES – COST RECOVERY**

(1) Application for a permit to hold an actual or anticipated special event shall be made in writing to the Santaquin City Event Review Committee on an application form prepared by the City.



(2) The application shall contain a certification made upon oath or affirmation that the statements contained therein are true and correct to the best knowledge of the applicant and shall be signed and sworn to or affirmed by the person making the application, or the person's duly authorized agent. A false statement shall be unlawful.

(3) The application shall contain and disclose:

(a) The name, age, residence and mailing address of the individual signing the application and the names and addresses of the person(s) applying for the special event permit; and, in the case of a person not a natural person, a certified copy of the legal document(s) creating said entity;

(b) The address and legal description of all property upon which the assembly is to be held together with the name, residence and address of the record owner(s) of such property or a map providing such information;

(c) If the property is not owned or controlled by Santaquin City, proof of ownership, lease, license or right to use all property upon which the special event is to be held or a statement made upon oath or affirmation by the record owner(s) of all such property that the applicant has permission to use such property for the special event;

(d) The nature or purpose of the special event;

(e) The total number of days and/or hours during which the special event will be held;

(f) The maximum number of persons, vehicles, and animals which the applicant shall permit to assemble at any time, not to exceed the maximum number which can reasonably assemble at the location of the special event as provided by this Chapter;

(g) The maximum number of tickets to be sold, if any;

(h) A complete description of all plans and arrangements made to comply with Section 4-5-4, Santaquin City Code, including the following information:

(i) If the event is or includes a parade:

(i) The proposed route to be traveled, including the starting point and the termination point;

(ii) The approximate number of persons who, and number and type of animals and vehicles which, will constitute the parade;

(iii) The proposed time when the parade will start and terminate;

(iv) A statement as to whether the parade is intended to occupy all or only a portion of the width of the streets proposed to be traversed;

(v) The proposed location of any assembly and disbanding areas for such parade;

- (vi) The proposed time at which units of the parade will begin to assemble at the assembly area and will be finished disbanding at the disbanding area;
- (vii) Minimum and maximum speed of parade units;
- (viii) Maximum interval of space to be maintained between parade units;
- (ix) The maximum length of the parade in miles or fractions thereof;
- (j) The portions of the streets or sidewalks that may be occupied by the special event;
- (k) The number and location of tents, booths, bleachers, or other temporary structures to be used;
- (l) The timing, location, and use of fireworks, smoke, or special effects or activities that may create a risk of fire or injury;
- (m) A description of any sound amplification equipment, including the number and the proposed amplifying range and decibel level;
- (n) A description of any banners, signs, or other attention getting devices proposed to be used in connection with the event;
- (o) A description of the types of animals; the types of vehicles to be used; the number of bands and other musical units and sound trucks to be used;
- (p) The number of persons who will be designated to monitor the event and the name of the person in charge; and
- (q) Such other information as the Fire Chief and/or Police Chief, or the Police Chief and/or Fire Chief's designee(s) shall find necessary for the proper enforcement of this Chapter and the preservation of public safety.

(4) An application review fee shall be collected at the time an application is submitted to the City's Licensing Division. The application review fee for special events shall be the amount set forth in the Santaquin City Uniform Fee Schedule. This fee is intended to cover the City's cost of reviewing the application and therefore is not refundable even if the permit is denied.

(5) If the application requires or requests the use of any City services, the applicant shall reimburse the City for all charges applicable for any such services agreed to be provided by the City. Unless rates for City services have been established by ordinance of the City Council, standardized rates for City services may be established by the Mayor, which rates may not exceed the reasonable costs of providing such service. Rates established by the Mayor shall be reviewed annually and are subject to revision or updating, as needed, because of such review.

(6) Immediately after the special event, the permit holder shall be responsible for cleaning the special event area of litter and debris, and disposing of all waste in accordance with City rules and regulations unless the City has agreed to provide such services. The permit holder shall also be responsible for immediately restoring property damaged, disturbed, or defaced in connection with the special event to the same condition existing before the event.

(7) Prior to the issuance of a special event permit, the applicant shall provide a deposit, in an amount equal to an estimate of:

(a) All City services agreed to be provided by the City; and

(b) The City's cost of cleaning the special event area of litter and debris and restoring any City property damaged in connection with the special event, if not adequately performed by the applicant.

Such deposit shall be in the form of a cash deposit, or a bond issued by surety acceptable to the City or an irrevocable letter of credit issued by a federally insured bank or savings institution licensed by the State of Utah, which bond or letter of credit shall be in a form approved by the City Attorney or the City Attorney's designee. Such deposit may be reduced for good performance by the applicant for three (3) consecutive years at previous special events as evidenced by prior events or other documentation and no outstanding amount owed to the City.

(8) Within a reasonable time after the conclusion of the event, the City shall mail or deliver to the permit holder an invoice for the cost of City services provided by the City and any costs incurred by the City in restoring the site. If the amount exceeds any cash deposit, the permit holder shall pay the unpaid portion of the invoice amount within thirty (30) days of the date that the invoice was mailed or delivered. If the amount is less than any cash deposit, the City shall return the excess to the permit holder within thirty (30) days.

(9) Provision of City services is based on availability. If such services are not available from the City, it shall be the applicant's responsibility to procure the services, either desired by the applicant or determined to be necessary by the City, at the sole expense of the applicant. Notwithstanding anything to the contrary in this Chapter, the City shall not be required to provide any service beyond basic public safety services and those services that are necessary to keep the peace and maintain order.

(10) Indigent applicants for planned public assembly permits may be exempted from certain fees upon compliance with Sections 4-5-4 (5) and (6) Santaquin City Code.

(11) The City shall also be entitled to recover from the special event applicant any costs incurred by the City that are attributable to the unlawful conduct of the applicant and any fees originally waived by the City for the applicant for a planned public assembly permit who claimed indigency on the application, but who is found not to be indigent.

(12) Applications for special event permits shall be submitted at least forty-five (45) days prior to the date of the desired special event. Applications submitted after forty-five (45) days

may be denied if the City in the ordinary course of business is unable to arrange the necessary support services for the special event. Applications for a special event shall not be accepted sooner than October 1 of the prior calendar year.

(13) Applications for a special event shall:

- (a) Be evaluated on a content-neutral basis to the extent required by law;
- (b) Be evaluated and responded to by the City within thirty (30) days from the receipt of the application, or within five (5) business days from the receipt of a completed permit application for a planned public assembly (i) that is intended to respond to current events, and (ii) which depends for its value on a timely response.

(14) Special event applications that require support services shall be referred to and reviewed by the Special Events Review Committee. Given the City's limited resources and the impact to the community, the Mayor shall have authority to limit the number of special event permits in any one calendar year and may establish courses for parades and races to minimize disruption to the public or prevent conflict among groups seeking to use the same route, time, location, or resources.

#### **SECTION 4-5-6. ISSUANCE, SUSPENSION, REVOCATION – CURE – APPEAL**

(1) *Issuance.* The Licensing Division shall issue a permit only after receipt of an application together with evidence that all terms, conditions, and provisions of this Chapter have been met.

(2) *Suspension or Revocation.* A special event permit may be suspended or revoked by the ERC, or by the Chief of Police or Fire Chief, or their respective designees, if it is determined that any required information submitted by the applicant was materially incorrect or fraudulently provided, or that the permittee has violated any of the terms, conditions or provisions of the permit, any of the provisions of this Chapter, or other Federal, State, or City law, ordinance, regulation or administrative directive.

(3) *Service of Notice.* Where reasonably possible, a copy of the notice of revocation and notice to cure shall be provided to the holder of the permit. At the applicant's request, a copy of the notice may be sent by mail, fax, or email.

(4) *Cure.* If the person responsible for the revocation or suspension under Subsection 2 of this Section or the ERC determines that any permit that has been suspended or revoked pursuant to this Chapter is subject to reinstatement if certain conditions are met, notice to cure may be provided and the permit holder may be provided a reasonable opportunity to cure the unfulfilled condition, deficiency, or violation within a reasonable time frame.

(5) *Failure to Cure.* Failure to cure within the time frame designated in the notice shall result in the permit's permanent suspension or revocation.

(6) *Appeal.* If for any reason an opportunity to cure is denied, an application is denied or not issued, or a permit is suspended or revoked, the applicant or the permit holder may appeal that decision to the Mayor by following the administrative hearing process set forth in Section 2-4-7 of the Santaquin City Code with modifications as necessary for the purposes of this Section.

#### **SECTION 4-5-7. CONFLICTING APPLICATIONS**

(1) *Conflict Priority Evaluation.* When more than one (1) application for a special event or public assembly, each of which is compliant with this Chapter, is received for the same day and time and for the same or conflicting locations or routes, the Licensing Division shall issue a permit, subject to the other provisions of this Chapter, based on the following order of priorities:

(a) Events planned, organized or presented by State, Federal, or City governmental entities or their agents, if the governmental request is made in good faith and not with the intent or purpose of improperly chilling constitutionally protected rights of competing applicants;

(b) Historic usage by commercially related special events or advance planned free expression activities where the same applicant has been granted use of a particular City forum at a particular date, time, and place for more than three (3) consecutive years;

(c) If neither Subsection (1)(a) nor (b) of this Section is applicable, priority shall be given to a first in time filing; and

(d) Notwithstanding anything in this Subsection to the contrary, exceptions may occur when the ERC finds that one (1) event provides greater benefit to the public than the competing event.

(2) *Consideration for Unsuccessful Applicant.* After granting the successful applicant's request for the time, place, manner and date, the Licensing Division shall authorize the unsuccessful applicant to use an appropriate public forum at another suitable time, place, date and manner.

#### **SECTION 4-5-8. ENFORCEMENT**

(1) The provisions of this Chapter may be enforced by any remedy available in law or equity.

(2) The holding of a special event in violation of any of the provisions or conditions contained in this Chapter shall be unlawful and shall be deemed a public nuisance, which may be abated as such.

(3) If a sworn law enforcement officer or fire official determines that any failure to cure a violation of this Chapter creates the clear and present danger of immediate significant harm to life, public safety, or property; such danger cannot be reasonably mitigated by increased public safety enforcement; and such danger, on balance, outweighs the constitutionally protected rights of the organizers or participants in the special event or public assembly, then

the applicant, or the applicant's on-site representative, shall be notified that the permit is revoked and that the special event or public assembly must immediately cease and desist. Such a determination may only be made after consultation with the Police Chief or Fire Chief, or their respective designee.

(4) Any person who violates a cease and desist order issued pursuant to Subsection 3 of this Section, or who fails or refuses to comply with, do, undertake, or perform any representation in their special event application or the plans thereto, shall be guilty of a misdemeanor. Each day that a violation continues shall constitute a separate violation.

#### **SECTION 4-5-9. FREE EXPRESSION REGULATION**

(1) It is the policy of Santaquin City that persons and groups have a right to organize and participate in peaceful expressive activities including demonstrations, rallies, parades, signature gathering, marches, picketing or other similar actions conducted for the purpose of exercising their constitutional rights on those public grounds of the City, as defined herein, subject to reasonable time, place and manner restrictions designed to protect public safety, persons, and property and to accommodate the interests of persons not participating in the assemblies, including their interests in using the streets and sidewalks to travel to their intended destinations, and to use the parks and park facilities for recreational purposes. In accordance with Section 11-61-104, Utah Code, Santaquin City may impose a generally applicable time, place, and manner restriction on expressive activity on public grounds:

(a) By ordinance; or

(b) By policy or practice that comports with this Section.

(2) For purposes of this Section:

(a) **"Public grounds"** means the area outside a public building, as that term is defined in Section 11-61-102(6), Utah Code, that is a traditional public forum where members of the public may safely gather to engage in expressive activity;

(b) **"Traditional public forum"** refers to: a public park or street, or a public sidewalk, as defined by the United States Supreme Court, or as that Court may later define it;

(c) **"Public grounds"** do not include:

(i) The interior of a public building; or

(ii) Any public property that is not a traditional public forum, such as, but not limited to, sidewalks constructed primarily to assist patrons to negotiate the space between a parking lot and the entrance of a Santaquin City facility as defined in accordance with the rulings of the United States Supreme Court.

(3) In accordance with Section 11-61-103, Utah Code, this Section does not apply to:

(a) A restriction on expressive activity on public grounds that is imposed to comply with Title 20A, Utah Code, Election Code;

(b) Property that Santaquin owns or leases:

(i) That is closed to public access; or

(ii) Where State or Federal law restricts expressive activity; or

(c) A limited or nonpublic forum.

(4) A generally applicable or individually applicable time, place, and manner restriction on expressive activity on public grounds imposed by City ordinance, policy, or practice shall comport with State law, constitutional law, and case law, and, in accordance with Section 11-61-104 of the Utah Code, shall be:

(a) Narrowly tailored to serve an important governmental interest, including public access to the public building, public safety, and protection of public property;

(b) Unrelated to the suppression of a particular message or the content of the expressive activity that the restriction addresses; and

(c) Leave open reasonable alternative means for the expressive activity.

(5) The Mayor is authorized to establish policies and practices consistent with this Section for City property and may delegate such authority to department directors regarding the City property they manage.

(6) This Section is not intended to infringe on the rights individuals have to use public forums in accordance with State law.