

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Richard Doyle
City Attorney

SUBJECT: SKATEBOARD ORDINANCE

DATE: June 8, 2006

RECOMMENDATION

Approval of an ordinance amending Chapter 13.21 of Title 13 of the San Jose Municipal Code to require skateboarders using City-owned skate parks to wear helmets and associated safety equipment and authorizing skate boarding to occur on temporary skateboard equipment installed in the Downtown and Willow Glen Skateboard Prohibition Zones, if the skateboarding activity is covered by a City permit or agreement from the City's property manager, as a part of an outdoor special event.

OUTCOME

By approving the ordinance, the City will be able to take advantage of limited immunities available under state law, from certain lawsuits related to use of the City's skateparks.

Furthermore, if the ordinance is adopted by City Council, the City may allow "Skatesonic" to occur as a part of Zero One Festival in August, and in future outdoor special events in the Downtown Skateboard Prohibition Zone and the Willow Glen Skateboard Prohibition Zone.

BACKGROUND

In recent years, the City has been constructing temporary or permanent skate parks in various areas of the City. The City cannot totally insulate itself from the possibility of lawsuits or from liability for injuries that may occur at a City-owned or operated skateboard park. However, a state statute provides some protection to publicly owned or operated skateboard parks. The proposed ordinance would amend the current Skateboard ordinance (found in Chapter 13.21 of the San Jose Municipal Code) to comply with the provisions of this state statute.

Furthermore, the current Skateboard Prohibition in the Downtown Skateboard Prohibition Zone (also found in Chapter 13.21 of the San Jose Municipal Code) does not allow skateboarding to occur in the Downtown Skateboard Prohibition Zone, even if the skateboarding is a temporary element of an outdoor special event. On August 7 – 13, 2006, *ZeroOne San Jose: A Global Festival of Arts on the Edge* will take place at

locations throughout Downtown San Jose. Focusing on the intersection of art and technology, *ZeroOne* will showcase approximately 150 innovative artworks in outdoor public spaces, and in City and private facilities. The event producer has requested to place an artwork known as "Skatesonic" in an outdoor area of the Civic Auditorium Complex, a City facility managed by Team San Jose.

"Skatesonic" features a freestyle and ramp skateboarding performance on specially designed boards, which use the motions and sounds of the skateboards to create music. Each move translates to musical parameters and the rider ends up skating through a landscape of music (which s/he influences over time). An estimated 150 spectators are anticipated for the August 9, 2006, evening performance.

ANALYSIS

State law provides that no operator of a skateboard park shall permit anyone to ride a skateboard in its skateboard park without a helmet and safety pads (Health and Safety Code Section 115800). State law further provides that a local agency may satisfy the helmet and safety pad requirement at unsupervised skateboard parks by *adopting an ordinance requiring helmets and safety pads at its skateboard parks*, and by posting signage at the park requiring helmets and pads. The state law further provides a local agency who has adopted an ordinance and posted the require signage, may receive limited immunity from liability for injuries at public skateboard parks. We believe that it is to the City's benefit to adopt an ordinance with the elements required under H&S Code Section 115800.

The Downtown Skateboard Prohibition Zone (one of two designated Skateboard Prohibition Zones) includes the proposed location of "Skatesonic," and would preclude placement of that artwork. The proposed ordinance revision would revise the skateboard prohibitions to address those unique circumstances when skateboarding activity could occur as a component of a special event or other City-permitted activity; or as a component of an activity within a City facility permitted by a third party through an appropriate Management Agreement with the City.

PUBLIC OUTREACH

Not applicable.

COORDINATION

This memorandum has been coordinated with the Department of Parks, Recreation and Neighborhood Services, the Office of Economic Development and the Office of Cultural Affairs.

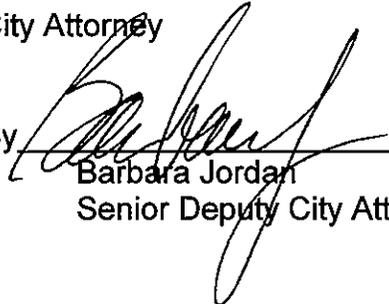
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CEQA

Exempt, PP06-101.

RICHARD DOYLE
City Attorney

By



Barbara Jordan
Senior Deputy City Attorney

cc: Les White

For questions please contact BARBARA JORDAN, SR. DEPUTY CITY ATTORNEY, at
408-535-1900

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ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING
CHAPTER 13.21 OF TITLE 13 OF THE SAN JOSE
MUNICIPAL CODE TO REQUIRE THE USE OF SAFETY
EQUIPMENT AT CITY FACILITIES DESIGNATED AS
SKATE PARKS AND TO REVISE THE SKATEBOARDING
PROHIBITIONS**

WHEREAS, on June 2, 2006 this Ordinance was found to be categorically exempt from environmental review per the provisions of Section 15061(b)(3) of the California Environmental Quality Act of 1970, as amended, under File No. PP06-101;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

Chapter 13.21 of Title 13 of the San José Municipal Code is amended to read as follows:

**CHAPTER 13.21
SKATEBOARDS AND SKATE PARKS
Part 1
Definitions**

13.21.010 Definitions

The definitions set forth in this Part shall govern the application and interpretation of this Chapter.

13.21.020 Director

“Director” means the Director of the Department of Parks, Recreation and Neighborhood Services, or such other director designated by the City Manager to administer any Part of this Chapter.

13.21.030 Downtown Skateboard Prohibition Zone

“Downtown Skateboard Prohibition Zone” means that area bounded by the following streets:

- A. Beginning at the intersection of Julian Street and 4th Street and then going west on Julian Street to San Pedro Street, then going south on San Pedro Street to Santa Clara Street, then going west on Santa Clara Street to Route 87, then going south along Route 87 to Technology Parkway, then going south along Technology Parkway to Balbach Street, then going east on Balbach Street to Almaden Boulevard, then going north on Almaden Boulevard to Viola Avenue, then going east on Viola Avenue to Market Street, then going south on Market Street to Reed Street, then going east on Reed Street to 2nd Street, then going north on 2nd Street to San Carlos Street, then going east on San Carlos Street to 4th Street, then going north on 4th Street to Julian Street.
- B. The boundary of this zone shall include the outermost sidewalks along the zone, except that the boundary along 4th Street shall run down the middle of 4th Street.

13.21.040 Skate Park

“Skate Park” means any City-owned property, designated by the Director or the City Manager, as a Skate Park for use by persons riding skateboards.

13.21.050 Willow Glen Skateboard Prohibition Zone

“Willow Glen skateboard prohibition zone” means the following areas:

- A. Lincoln Street, between Coe Avenue and Michigan Avenue;
- B. Willow Street, between Blewett Avenue and Coolidge Avenue;
- C. Minnesota Street, between Blewett Avenue and Newport Avenue; and
- D. Brace Avenue, between Lincoln Street and Iris Court.

Part 2

Prohibitions and Liability

13.21.200 Skateboarding Prohibitions

No person shall ride or propel a skateboard on or within any of the following:

- A. Any property, building or structure owned by the City, unless (i) the property, building or structure has been designated by the City as a Skate Park in accordance with Section 13.21.040 above; or (ii) the City has issued a permit pursuant to this Municipal Code, which permit specifically authorizes the permittee to install temporary skateboard ramps, or jumps and related temporary skateboard equipment upon the property, including without limitation, a Downtown Special Event pursuant to Chapter 6.55, a Paseo/Plaza Use Permit pursuant to Chapter 13.22, a Parade Permit, or a Street Closure Permit; or (iii) the skateboarding activity has been specifically authorized in a written agreement between the authorized manager of the property and the applicant, allowing the applicant to install temporary skateboard ramp, or jumps and related temporary

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skateboard equipment upon the City property under the following circumstances:

1. The City property, buildings or structures subject to the agreement are managed and operated by a third party through an appropriate Management Agreement with the City; and
 2. The agreement requires the applicant to provide an indemnification of the City and insurance coverage with the insurance naming the City of San Jose as an additional insured, both in a form satisfactory to the City Manager.
- B. The Downtown Skateboard Prohibition Zone; and
- C. The Willow Glen Skateboard Prohibition Zone.

13.21.210 Liability for Installation on City Property

Without limitation of any other law, rule, policy or regulation, any Person who places temporary skateboarding equipment on or within any City property, structure or building, shall be responsible for the proper and safe installation and operation of such equipment, and shall be responsible for and shall indemnify the City against any cost, damage or injury that occurs in connection with the construction, installation, use, operation or removal of such equipment.

13.21.220 Extent of Prohibition

The prohibition set forth in this Chapter shall apply to all streets, alleys, sidewalks, plazas, parks, transit mall, City-owned parking lots and other publicly owned properties within any of the skateboard prohibition zones.

Part 3
Skate Park Regulations

13.21.300 Skate Park Safety Equipment

No person shall ride a skateboard in any Skate Park without wearing a safety helmet suitable for skateboarding, and elbow pads and knee pads.

13.21.310 Skate Park Regulations

The Director may promulgate regulations with respect to use of any Skate Parks designated by the City in accordance with Section 13.21.040.

PASSED FOR PUBLICATION of title this _____ day of _____, 2006, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

RON GONZALES
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk