

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2015-13

INTRODUCED BY:

Councilor Signe Lindell

Mayor Javier Gonzales

Councilor Peter Ives

Councilor Carmichael Dominguez

Councilor Chris Rivera

AN ORDINANCE

**RELATING TO THE ESTABLISHMENT OF A VEHICLE VENDOR ORDINANCE;
AMENDING SUBSECTION 18-1.2 TO AMEND THE DEFINITIONS OF "ITINERANT
FOOD VENDOR" AND "ITINERANT VENDOR"; AMENDING THE TITLE OF SECTION
18-8; REPEALING SUBSECTION 18-8.9 "STREET VENDORS; PERMIT
REQUIREMENTS" AND CREATING A NEW SUBSECTION 18-8.9 ENTITLED "VEHICLE
VENDORS"; AMENDING SUBSECTION 18-8.10 TO ESTABLISH SPECIAL EVENT
VENDOR FEES AND VEHICLE VENDOR FEES; AMENDING SUBSECTION 23-5.2
RELATED TO SPECIAL EVENT SPONSOR LICENSES; AND MAKING SUCH OTHER
CHANGES THAT ARE NECESSARY TO CARRY OUT THE PURPOSE OF THIS
ORDINANCE.**

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

**Section 1. Subsection 18-1.2 SFCC 1987 (being Ord. #1981-64, §2, as amended) is
amended to amend the following definitions:**

~~[Itinerant food]~~ Special event vendor means any person ~~[associated with organizations that~~

1 ~~have been issued a city special use permit, and]~~ who offers for sale food, beverages, merchandise, or
2 services, at one or more special events in the city with the permission of a special event sponsor
3 ~~[occasionally or temporarily, food products, or samples, in the city].~~

4 *Itinerant vendor* means any person ~~[with no]~~ that does not have an established business
5 location within ~~[the geographical boundaries of]~~ the city who brings into the city ~~[food products,~~
6 ~~stocks or samples of goods, wares and merchandise or goods crafted primarily of manufactured~~
7 ~~materials and processes and/or made by someone other than the vendor and offers the same for sale,~~
8 ~~or who offers services, on private property of another person.]~~ and offers for sale food, beverages,
9 merchandise, or services on the appropriately zoned private property of another person.

10 **Editor's Note: Re-alphabetize definitions.**

11 **Section 2. Section 18-8 SFCC 1987 (being Ord. #2009-49, §2) is amended to read:**

12 **18-8 [PUSHCART] PUSHCARTS ON PRIVATE PROPERTY; [STREET] VEHICLE**
13 **VENDORS.**

14 **Section 3. Subsection 18-8.9 SFCC 1987 (being Ord. No. 1981-39, §8) is repealed**
15 **and a new Subsection 18-8.9 SFCC 1987 is ordained to read:**

16 **18-8.9 [NEW MATERIAL] Vehicle Vendors.**

17 A. *Short Title.* This Subsection 18-8.9 may be cited as the "Vehicle Vendor Ordinance".

18 B. *Definitions.* As used in this Subsection 18-8.9:

19 *Mobile vehicle vendor* means a vehicle vendor that parks at one or more locations
20 within a twenty-four (24) hour period, at each location for a period of three (3) hours or less,
21 or for any period of time during a special event permitted by the city or otherwise authorized
22 by a resolution of the governing body, subject to and in conformance with the provisions of
23 Subsections 18-8.9(C) and (D).

24 *Motorized vehicle* means a licensed and insured motor vehicle as defined by the state
25 of New Mexico motor vehicle division that meets all requirements of the same for operation

1 on public streets and is operated by a licensed driver.

2 *Special event* means an event that is permitted by the city pursuant to Subsection 18-
3 8.9 SFCC 1987, Section 23-4 SFCC 1987, Subsection 23-5.2 SFCC 1987 or by resolution of
4 the governing body.

5 *Stationary vehicle vendor* means a vehicle vendor that parks at a location for a period
6 of more than three (3) hours within a twenty-four (24) hour period subject to and in
7 conformance with the provisions of Subsection 18-8.9(C) and (E).

8 *Travel trailer* means a licensed and insured travel trailer as defined by the state of
9 New Mexico motor vehicle division that meets all requirements of the same for operation on
10 public streets and is operated by a licensed driver.

11 *Utility trailer* means a licensed and insured utility trailer as defined by the state of
12 New Mexico motor vehicle division that meets all requirements of the same for operation on
13 public streets and is operated by a licensed driver.

14 *Vehicle vendor* means a person who offers for sale food, beverages, merchandise, or
15 services from a motorized vehicle, from a utility trailer or travel trailer pulled by a motorized
16 vehicle, or from a peddle-operated vehicle.

17 C. *Vehicle Vendors – General Requirements.*

18 (1) In addition to the vendors permitted by the Plaza Pushcart Ordinance and the
19 Santa Fe Plaza Park Artist/Artisan Program Ordinance, vehicle vendor permits may be
20 approved by the city manager or his designee pursuant to the requirements of Section 23-4
21 SFCC 1987 and this Subsection 18-8.9 SFCC 1987.

22 (2) Vehicle vendors shall license or register their businesses with the city
23 pursuant to the requirements of Section 18-1 SFCC 1987 or 18-2 SFCC 1987, as applicable.

24 (3) Each business license or registration application for a vehicle vendor shall
25 state the make, model and license plate number of each vehicle to be used for vending. Only

1 those vehicles listed on the application shall be used for vending.

2 (4) Each vehicle used for vending shall be individually permitted and shall
3 clearly display the corresponding vehicle vendor permit on the outside of the vehicle at all
4 times.

5 (5) A vehicle vendor intending to sell food or beverages shall furnish the city
6 with a valid food establishment permit issued by the state of New Mexico environment
7 department. The food establishment permit shall be clearly displayed on the outside of the
8 vehicle at all times.

9 (6) An annual vehicle vendor fee shall be paid to the city for each vehicle used
10 for vehicle vending pursuant to Subsection 18-8.10(A) SFCC 1987.

11 (7) Vehicle vendors are not permitted in the Plaza, Plaza Park or the Plaza
12 periphery area as defined by Section 23-5 SFCC 1987 unless authorized by resolution of the
13 governing body.

14 (8) Use of loudspeakers or amplification of sound by vehicle vendors is
15 prohibited.

16 (9) Vehicle vendors shall at all times keep the area immediately surrounding the
17 outside of their vehicle free of litter and refuse that originates from vending operations and
18 shall remove litter and refuse that originates from vending operations for proper disposal
19 offsite of the vending location.

20 (10) If after fifteen (15) days written notice from the city to a vehicle vendor of
21 violations of the Santa Fe Municipal Code or state law and the violations are not corrected,
22 then the related vehicle vendor permit(s) shall be revoked by the city manager and the vehicle
23 vendor shall be subject to penalties pursuant to Section 1-3 SFCC 1987. The vehicle vendor
24 may appeal the decision of the city manager to revoke a vehicle vendor permit to the
25 governing body within fifteen (15) days of the revocation.

1 D. Mobile Vehicle Vendors - Additional Requirements. In addition to the general
2 requirements of this Subsection 18-8.9 SFCC 1987, mobile vehicle vendors are subject to the
3 following requirements:

4 (1) Mobile vehicle vendors are permitted to vend only on public streets or in
5 public parking lots, or on private streets or in private parking lots with the written permission
6 of the property owner;

7 (2) Mobile vehicle vendors shall not vend within or adjacent to the boundaries of
8 city parks during events scheduled by the city unless authorized by the city manager;

9 (3) Mobile vehicle vendors are prohibited from parking for more than three (3)
10 hours per day at any location or within a three hundred (300) foot radius of any location at
11 which they have previously parked during the same day unless the mobile vehicle vendor is
12 participating in a special event permitted by the city and has obtained the written permission
13 of the special event sponsor;

14 (4) Mobile vehicle vendors that sell food or beverages are prohibited from
15 parking within a one hundred fifty (150) foot radius of the street-level entrance of any
16 restaurant during the restaurant's hours of operation unless the mobile vehicle vendor has
17 obtained the written permission of the restaurant owner, or is participating in a special event
18 permitted by the city and has obtained the written permission of the special event sponsor, or
19 is authorized by resolution of the governing body;

20 (5) Use of parking spaces on public streets and public parking lots by mobile
21 vehicle vendors shall be on a first-come-first-served basis. Mobile vehicle vendors shall not
22 reserve parking spaces by the placement of obstructions intended to block parking areas or by
23 engaging other parties to park and hold parking areas for their use;

24 (6) Mobile vehicle vendors parked on public streets or in public parking lots
25 shall park only in legal parking spaces;

1 (7) Mobile vehicle vendors shall pay all parking fees associated with the
2 locations at which they are parked.

3 (8) The city may temporarily or permanently prohibit the use of all or a portion
4 of any public or private parking area by mobile vehicle vendors if the use of the area
5 adversely affects public safety or the operation of the parking area;

6 (9) The customer service window of a mobile vehicle vendor parked on a public
7 or private street shall face the adjacent sidewalk or edge of roadway;

8 (10) All vending from mobile vehicle vendors shall take place from the vehicle
9 itself. Generators, electrical wiring, menu boards, tables, chairs, tents or other furniture or
10 items associated with the mobile vehicle vendor shall not be placed outside of the vehicle.

11 E. Stationary Vehicle Vendors - Additional Requirements. In addition to the general
12 requirements of this Subsection 18-8.9, stationary vehicle vendors are subject to the following
13 requirements:

14 (1) Stationary vehicle vendors shall be located only in zoning districts where the
15 type of vending proposed is a permitted use pursuant to Article 14-6 of the city of Santa Fe
16 Land Development Code;

17 (2) Stationary vehicle vendors shall be located only on private property and only
18 with the written permission of the property owner;

19 (3) A stationary vehicle vendor permit shall allow vending at a single location
20 and for the hours of operation and duration of operation approved by the city.

21 **Section 4. Subsection 18-8.10SFCC 1987 (being Ord. No. 1981-64, §3, as amended)**
22 **is amended to read:**

23 18-8.10 Business License - Fees.

24 A. Pursuant to Section 3-38-1 through 3-38-6 NMSA 1978, it is hereby declared by the
25 governing body of the city of Santa Fe, that in order to protect the public health, general welfare and

1 morals of the citizens of the city of Santa Fe, and for purposes of business regulation in the public
2 interest, a business licensee fee shall be assessed as follows:

3 (1) Adult bookstores, as defined in Section 14-12 SFCC 1987, fifty dollars
4 (\$50.00) per year, for each place of business;

5 (2) Adult motion picture theaters, as defined in Section 14-12 SFCC 1987, fifty
6 dollars (\$50.00) per calendar year, for each place of business;

7 (3) Alarm installation companies and alarm monitoring companies, seventy-five
8 dollars (\$75.00) per calendar year, for each place of business.

9 (4) Antique dealers, ten dollars (\$10.00) per year, for each place of business;

10 (5) Artist/artisan, ten dollars (\$10.00) per calendar year;

11 (6) Auctions, one hundred dollars (\$100.) per day;

12 (7) Carnivals, under the conditions prescribed in Section 18-7 SFCC 1987, one
13 hundred fifty dollars (\$150.) per day;

14 (8) Circuses, under the conditions prescribed in Section 18-7 SFCC 1987, one
15 hundred fifty dollars (\$150.) per day;

16 (9) Core recyclers, as defined in subsection 18-4.1 SFCC 1987, fifty dollars
17 (\$50.00) per calendar year for each place of business.

18 (10) ~~[Itinerant food]~~ Special event vendors, as defined in subsection 18-1.2[G],
19 ten dollars (\$10.00) for each vendor per calendar year. ~~[, per location. Prior to applying for an~~
20 ~~itinerant food]~~ Special event vendors ~~[license, the applicant]~~ intending to sell food or
21 beverages shall meet any applicable federal, state, and city requirements, and shall furnish the
22 city with a copy of a valid food ~~[purveyors certificate issued by the state environmental~~
23 ~~division, and a certificate of occupancy issued by the city code enforcement department]~~
24 establishment permit issued by the state of New Mexico environment department;

25 (11) Itinerant vendors, ten dollars (\$10.00) per calendar year, per location;

1 (12) Jewelry auctions as defined by subsections 18-5.4 through 18-5.23 SFCC
2 1987, one hundred dollars (\$100.) per day. These auctions shall be licensed per the provisions
3 of subsections 18-5.4 through 18-5.23 SFCC 1987 and the provisions of this section shall not
4 apply if they conflict with Section 18-5 SFCC 1987;

5 (13) Junk dealers as defined in subsection 18-4.1 SFCC 1987, fifty dollars
6 (\$50.00) per year, for each place of business;

7 (14) Massage parlors, fifty dollars (\$50.00) per year, for each place of business;

8 (15) Mobile home parks, as defined by Section 14-12 SFCC 1987, two dollars
9 (\$2.00) per space, with a minimum charge of fifty dollars (\$50.00) per park;

10 (16) Pawnbrokers, as defined in subsection 18-4.1 SFCC 1987, under the
11 conditions prescribed by Section 18-4 SFCC 1987, two hundred fifty dollars (\$250.) per year,
12 for each place of business;

13 (17) Precious metal dealers, as defined in subsection 18-4.1 SFCC 1987, fifty
14 dollars (\$50.00) per year, for each place of business;

15 (18) Private day-care nurseries, facilities and kindergartens, under the conditions
16 prescribed in Section 14-6.2(B)(4) SFCC 1987, ten dollars (\$10.00) per year, for each place
17 of business;

18 (19) Private detectives or private detective agencies, as defined in subsection 20-
19 24.1 SFCC 1987, and under the conditions prescribed by Section 20-24 SFCC 1987, fifty
20 dollars (\$50.00) per year, for each place of business;

21 (20) Sales of goods brought into the city temporarily by itinerant vendors, as
22 described in Section 18-3 SFCC 1987, under the conditions prescribed in subsections 18-3.1
23 through 18-3.3 SFCC 1987, two hundred dollars (\$200.) per occurrence;

24 (21) Secondhand dealers, as defined in subsection 18-4.1 SFCC 1987, under the
25 conditions prescribed by Section 18-4 SFCC 1987, fifty dollars (\$50.00) per year, for each

1 place of business;

2 (22) Special policemen or special police agencies as defined in subsection 20-24.1
3 SFCC 1987, under the conditions prescribed in Section 20-24 SFCC 1987, fifty dollars
4 (\$50.00) per year. Those special police exempted under subsection 20-24.4 SFCC 1987 shall
5 not be required to obtain a business license;

6 (23) Septic tank cleaners or septage haulers, under the conditions prescribed in
7 Section 22-2 SFCC 1987, fifty dollars (\$50.00) per year, for each place of business.

8 (24) Street performers, as defined in subsection 23-8.3 SFCC 1987, thirty-five
9 dollars (\$35.00) per year, unless a street performer will perform for no more than one thirty
10 (30) day period per year, ten dollars (\$10.00).

11 (25) Taxicab service, as defined in subsection 18-6.4 SFCC 1987, two hundred
12 fifty dollars (\$250.) per year for each place of business.

13 (26) Transient precious metals dealer, as defined in subsection 18-4.1 SFCC 1987,
14 one hundred dollars (\$100.) per separate event and location as described in the license
15 application.

16 (27) Vehicle vendors, as defined in Subsection 18-8.9 SFCC 1987, one hundred
17 dollars (\$100) per vehicle per calendar year. The annual vehicle vendor fee shall include any
18 applicable annual fire inspection fees required pursuant to Subsection 12-2.2 SFCC 1987.

19 B. Before a license is granted, the following businesses shall execute and deliver a bond
20 to the city clerk to be approved by the clerk and the city attorney with a corporate surety authorized
21 by the laws of the state to write surety bonds and conditioned for the lawful conduct of the businesses
22 and for the true and faithful observance of applicable provisions of the SFCC 1987; such bond shall
23 be for the benefit of the city and every person damaged by breach of any condition thereof;

24 (1) Pawnbrokers, in the amount of five thousand dollars (\$5,000.); and

25 (2) Jewelry auctions, as defined in subsections 18-5.4 through 18-5.23 SFCC

1 1987, in the amount of five thousand dollars (\$5,000.), as set forth in subsection 18-5.15
2 SFCC 1987.

3 C. It is unlawful for any person to engage in the businesses, professions or trades
4 defined in this section as requiring a license, within the corporate limits of the city, without first
5 obtaining a license as prescribed by this section and pursuant to Section 3-38-1 NMSA 1978.

6 D. The license fees established in this subsection are hereby declared to have been
7 reviewed on a case-by-case basis by the governing body of the city of Santa Fe and are hereby found
8 to bear a reasonable relationship to the costs of regulations of each business by the city of Santa Fe.

9 E. Prior to engaging in any business to which this section applies, there shall be paid to
10 the city of Santa Fe the applicable license fee and in the event the fee is paid after the beginning of the
11 calendar year, it shall not be prorated.

12 F. Any person filing an application for issuance or renewal of any business license shall
13 include on the application his current revenue division taxpayer identification number or evidence of
14 application for a current revenue division taxpayer identification number. No license shall be issued
15 unless such number or application has been furnished.

16 **Section 5. Subsection 23-5.1 SFCC 1987 (being Ord. #1981-39, §15, as amended)**
17 **is amended to create the following definition:**

18 II. *Special event means* an event that is permitted by the city pursuant to Subsection
19 18-8.9 SFCC 1987, Section 23-4 SFCC 1987, Subsection 23-5.2 SFCC 1987 or resolution of the
20 governing body.

21 **Section 6. Subsection 23-5.2SFCC 1987 (being Ord. No. 1981-39, §16, as amended)**
22 **is amended to read:**

23 **23-5.2 Plaza Uses; Events; Allowed Uses.**

24 A. No more than eight (8) permits per calendar year shall be issued by the city for major
25 commercial events held in the Plaza. The events permitted are as follows:

- (1) Challenge New Mexico Arts and Crafts Show;
- (2) Fourth of July Pancake Breakfast;
- (3) Spanish Market;
- (4) Contemporary Hispanic Market;
- (5) Santa Fe Girls' Inc. Arts and Crafts Show;
- (6) Indian Market;
- (7) Santa Fe Fiesta Labor Day Arts and Crafts Market; and
- (8) Santa Fe Fiesta.

B. Each of the major commercial events noted in paragraph A. above shall continue their assigned locations, and the Contemporary Hispanic Market shall be allocated the space along Lincoln Avenue between Palace Avenue and Federal Place.

(1) In order to accommodate the Spanish Market's growth requirements, this subsection will allow the Spanish Colonial Arts Society use of East San Francisco Street from Don Gasper to Cathedral Place and Palace Avenue from Grant Avenue to Cathedral Place. The Spanish Market will also extend thirty-three feet, six inches (33' 6") onto the east side of Lincoln Avenue. This will allow the Spanish Colonial Arts Society the similar configuration as the Southwest Indian Arts' annual Indian Market.

(2) This subsection will allow the Contemporary Hispanic Market use of Lincoln Avenue from Palace Avenue intersection starting at thirty-three feet six inches (33' 6") on the east side and twenty feet (20') from the fire hydrant on the west side all the way to Federal Place. This will allow the Contemporary Hispanic Market the ability to provide for their immediate and future growth needs. Depending upon the number of booths, as an alternative to using Lincoln Avenue between Marcy Street and Federal Place, the city may require booths to be located on Marcy Street between Lincoln Avenue and Sheridan Street.

C. Each of the major commercial events noted in paragraph A. above shall submit a

1 preliminary site plan for their event to city staff for their review and approval no less than three (3)
2 months prior to the event. Adequate access for public health, safety and welfare shall be maintained.
3 Access to existing businesses shall be considered. The city may require specific booth layouts. The
4 city shall provide written comments to the event sponsor on the preliminary site plan within thirty
5 (30) days of receipt of the plan. A final site plan shall be submitted to city staff no less than one (1)
6 month prior to the event for their review and approval. City staff shall conduct inspections at the time
7 of event setup.

8 D. Community Days Festival may occur on the Plaza the Friday, Saturday and Sunday
9 preceding the Memorial Day Weekend.

10 E. No other event shall occur on the Plaza unless it qualifies as a noncommercial use.
11 Sponsoring organizations shall comply with the fees as authorized in subsection 23-4.7 SFCC 1987
12 and established by resolution, unless the event is sponsored by the city.

13 F. Except for the authority to issue Plaza Park artist/artisan licenses for sales activity on
14 the Plaza Park pursuant to subsection 23-5.3 SFCC 1987, a permit or authority to use the Plaza Park
15 shall be granted only to a nonprofit organization and not an organization for profit or an individual.

16 G. The governing body shall, by resolution, authorize either a committee or city staff to
17 receive, review and approve or deny requests for any function of a commercial or noncommercial use
18 on the Plaza or Plaza Park.

19 H. Applicants for use of the Plaza or Plaza Park shall follow and be subject to the
20 procedures, requirements and restrictions adopted by the governing body.

21 I. Any decision by the city manager or the city manager's designee may be appealed to
22 the governing body within thirty (30) days of the decision. This provision does not apply to Plaza
23 Park artist/artisan licenses that shall comply with Section 23-5.3 SFCC 1987.

24 J. The city shall appoint a staff liaison for all major commercial events or
25 noncommercial uses on the Plaza to oversee the administration of city regulations as they apply to

1 each event.

2 K. Fees for the major commercial events shall be established by the governing body by
3 adoption of a resolution. Fees shall not be waived.

4 L. Sponsors of special events [~~shall obtain a special event sponsor license and special~~
5 ~~event sponsor certificate of approved use. Sponsors~~] shall be responsible for insuring that all
6 [~~artists/artisan~~] participants in their event have [~~individual~~] special event vendor licenses. [~~and that all~~
7 ~~food vendors in their event have individual certificates of approved use, and temporary food~~
8 ~~certificates from the state health and environment department.~~] Special event sponsor license
9 applications and special event [~~food~~] vendor license applications shall include a statement signed by
10 the applicant that the applicant agrees to file and pay applicable gross receipts taxes on receipts from
11 the special event. Sponsors shall file with the city the informational material they distribute to the
12 vendors regarding the vendor's responsibility to file and pay gross receipts taxes on their sales at the
13 special event.

14 APPROVED AS TO FORM:

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17 KELLEY A. BRENNAN, CITY ATTORNEY