

**CITY OF SANTA FE, NEW MEXICO**

**BILL NO. 2009-53**

**INTRODUCED BY:**

Councilor Bushee

**AN ORDINANCE**

**CREATING A NEW ARTICLE 23-8 SFCC 1987 REGULATING STREET PERFORMERS  
ON PUBLIC PROPERTY; AND AMENDING SECTION 18-8.10 SFCC 1987 REGARDING  
BUSINESS LICENSE FEES.**

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

**Section 1. A new Article 23-8 SFCC 1987 is ordained to read:**

**23-8 [NEW MATERIAL] STREET PERFORMERS ON PUBLIC PROPERTY.**

**Section 2. A new Section 23-8.1 SFCC 1987 is ordained to read:**

**23-8.1 [NEW MATERIAL] Legislative Findings.** The governing body of the city of  
Santa Fe finds that:

- A. Street performers enhance the character of the city of Santa Fe; and
- B. Street performers are professional entertainers whose livelihood comes from  
gratuities received; and
- C. Street performers have a right to perform on public property; and
- D. Street performers gather crowds who are entertained by their widely varied and

1 creative performances; and

2 E. At some locations that street performers choose to entertain there is not enough  
3 room for a crowd, therefore, public safety matters occur because sidewalks, passageways, streets  
4 or entrances to buildings are blocked; and

5 F. Conflicts among street performers, between street performers and local  
6 businesses and sponsors of permitted events often arise because of the proximity of the street  
7 performers to other street performers, local businesses, or permitted events; and

8 G. Conflicts occur because the sound level of a street performance may interfere  
9 with other street performances, business dealings or other permitted events; and

10 H. In order to facilitate and encourage street performers, there is a need to establish  
11 regulation and licensing standards for street performers related to the times and public locations  
12 for street performances, distance requirements, public safety and compliance with current  
13 ordinances.

14 **Section 3. A new Section 23-8.2 SFCC 1987 is ordained to read:**

15 **23-8.2 [NEW MATERIAL] Purpose.** The purpose of this Ordinance is to ensure the  
16 ability of street performers to perform in public spaces and to promote harmony among street  
17 performers, local businesses, permitted event sponsors, residents and visitors to Santa Fe by:

18 A. Addressing public safety concerns; and

19 B. Balancing the interests of the street performers with those of the local businesses,  
20 permitted event sponsor, residents and visitors to Santa Fe; and

21 C. Establishing. regulation and licensing standards for street performers.

22 **Section 4. A new 23-8.3 SFCC 1987 is ordained to read:**

23 **23-8.3 [NEW MATERIAL] Definitions as used in this section:**

24 *Perform or performance* means entertainment such as, but not limited to reciting or  
25 singing, acting, dancing, miming, pantomiming, playing a musical instrument or performing a

1 theatrical or literary work.

2 *Street performer* means an individual who performs, as defined herein, on public property  
3 within the city of Santa Fe.

4 **Section 5. A new Section 23-8.4 SFCC 1987 is ordained to read:**

5 **23-8.4 [NEW MATERIAL] Business License Required.**

6 A. Street performers shall be required to obtain a city business license in accordance  
7 with Section 18-1 SFCC 1987, which may be applied for each calendar year.

8 B. Only one member of a street performer group is required to obtain a business  
9 license, unless a member or members of the group also perform individually, then that member or  
10 those members shall be required to obtain an individual business license.

11 C. A street performer who performs for no more than one thirty (30) day period per  
12 year may obtain a short term business license.

13 D. Street performers shall pay license fees in accordance with Section 18-8.10  
14 SFCC 1987.

15 E. At all times street performers shall have available the performer's business  
16 license and proof of identification for review by the city.

17 **Section 6. A new Section 23-8.5 SFCC 1987 is ordained to read:**

18 **23-8.5 [NEW MATERIAL] Regulations.** Street performers may perform on public  
19 property within the city of Santa Fe provided that they comply with the following regulations.

20 A. Street performers shall not block, or cause the blocking of, any sidewalk,  
21 passageway, street, or entrance to a building.

22 B. Street performers shall not sell goods or wares on public property other than  
23 goods or wares that directly relate to their performance.

24 C. Street performers shall not perform on private property unless permission is  
25 granted from the property owner.

1 D. Street performers shall not infringe on events for which a city permit has been  
2 issued so as not to detract from the stated purpose of the permit including, but not limited to,  
3 Indian Market, Spanish Market, Fiesta Arts and Crafts, Fiesta and midday or evening  
4 performances at the bandstand on the Plaza. Any performance at such events shall only be with  
5 the written permission of the sponsor.

6 E. Use of fire, spray paint or aerosol in performances is prohibited.

7 F. Street performers shall stay at least 150 feet away from other street performers.

8 G. The sound level from street performances shall be kept at such a level that other  
9 street performances are not disturbed.

10 H. Street performers shall remain at one location no longer than two hours and shall  
11 not return to that location for two hours, availability of the location permitting.

12 I. Street performers shall perform *no earlier than 8 a.m. and no later than 11 p.m.*  
13 *Sunday through Thursday and 1 a.m. on Friday and Saturday nights except at city parks and*  
14 *recreation areas, where the curfew is 10:00 p.m., Sunday through Saturday, in accordance with*  
15 *Section 16-13.6 SFCC 1987.*

16 **Section 7. A new Section 23-8.6 SFCC 1987 is ordained to read:**

17 **23-8.6 [NEW MATERIAL] Other Compliance.** The conduct and behavior of all  
18 street performers shall be in compliance with the Santa Fe City Code 1987, which includes more  
19 specifically:

20 A. Section 10-2.4 – Noise Prohibited;

21 B. Section 10-2.5 – Zone District Noise Levels; Maximum; Correction;

22 C. Section 23-4.2 – Solicitation on Public Property; and

23 D. Section 23-4.8 – Blocking or Obstructing of Sidewalks.

24 **Section 8. A new Section 23-8.7 SFCC 1987 is ordained to read:**

25 **23-8.7 [NEW MATERIAL] Enforcement.**

1           A.       It shall be the duty of the police department to enforce the provisions of Article  
2 23-8 SFCC 1987.

3           B.       Upon the first violation of the provisions of this Article, the police may issue a  
4 written warning to the person violating this Article.

5           C.       Upon second violation by the same person, the police shall issue a citation.

6           D.       Upon conviction of a third violation in municipal court, the license shall be  
7 revoked for one year.

8           **Section 9.       A new Section 23-8.8 SFCC 1987 is ordained to read:**  
9           **23-8.8 [NEW MATERIAL] Review.** Article 23-8 SFCC 1987 shall be reviewed by the  
10 governing body one year from the date of adoption.

11           **Section 10.       Section 18-8.10 SFCC 1987 (being Ord. #1981-64, §3, as amended) is**  
12 **amended to read:**

13           **18-8.10 Business License - Fees.**

14           A.       Pursuant to Section 3-38-1 through 3-38-6 NMSA 1978, it is hereby declared by  
15 the governing body of the city of Santa Fe, that in order to protect the public health, general  
16 welfare and morals of the citizens of the city of Santa Fe, and for purposes of business regulation  
17 in the public interest, a business licensee fee shall be assessed as follows:

18                   (1)       Adult bookstores, as defined in subsection 14-40.2 SFCC 1987, fifty  
19 dollars (\$50.00) per year, for each place of business;

20                   (2)       Adult motion picture theaters, as defined in subsection 14-40.2 SFCC  
21 1987, fifty dollars (\$50.00) per calendar year, for each place of business;

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

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

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

- 1                   (6)     Auctions, one hundred dollars (\$100.) per day;
- 2                   (7)     Carnivals, under the conditions prescribed in Section 18-7 SFCC 1987,  
3 one hundred fifty dollars (\$150.) per day;
- 4                   (8)     Circuses, under the conditions prescribed in Section 18-7 SFCC 1987,  
5 one hundred fifty dollars (\$150.) per day;
- 6                   (9)     Itinerant food vendors, as defined in subsection 18-1.2G, ten dollars  
7 (\$10.00) for each vendor per calendar year, per location. Prior to applying for an  
8 itinerant food vendors license, the applicant shall meet any applicable federal, state, and  
9 city requirements, and furnish the city with a copy of a valid food purveyors certificate  
10 issued by the state environmental division, and a certificate of occupancy issued by the  
11 city code enforcement department;
- 12                   (10)    Itinerant vendors, ten dollars (\$10.00) per calendar year, per location;
- 13                   (11)    Jewelry auctions as defined by subsections 18-5.4 through 18-5.23 SFCC  
14 1987, one hundred dollars (\$100.) per day. These auctions shall be licensed per the  
15 provisions of subsections 18-5.4 through 18-5.23 SFCC 1987 and the provisions of this  
16 section shall not apply if they conflict with Section 18-5 SFCC 1987;
- 17                   (12)    Massage parlors, fifty dollars (\$50.00) per year, for each place of  
18 business;
- 19                   (13)    Mobile home parks, as defined by Section 14-35 SFCC 1987, two dollars  
20 (\$2.00) per space, with a minimum charge of fifty dollars (\$50.00) per park;
- 21                   (14)    Pawnbrokers, as defined in subsection 18-4.1 SFCC 1987, under the  
22 conditions prescribed by Section 18-4 SFCC 1987, two hundred fifty dollars (\$250.) per  
23 year, for each place of business;
- 24                   (15)    Private day-care nurseries, facilities and kindergartens, under the  
25 conditions prescribed in Section 14-47 SFCC 1987, ten dollars (\$10.00) per year, for each

place of business;

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

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

(18) Secondhand dealers, as defined in subsection 18-4.1 SFCC 1987, under the conditions prescribed by Section 18-4 SFCC 1987, ten dollars (\$10.00) per year, for each place of business;

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

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

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

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

- 1 (1) Pawnbrokers, in the amount of five thousand dollars (\$5,000.); and  
2 (2) Jewelry auctions, as defined in subsections 18-5.4 through 18-5.23 SFCC  
3 1987, in the amount of five thousand dollars (\$5,000.), as set forth in subsection 18-5.15  
4 SFCC 1987.

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

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

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

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

19

20 APPROVED AS TO FORM:

21

22

23

FRANK D. KATZ, CITY ATTORNEY

24

25

*mdb/cm/jpmb/2009 bills/street performers*