

City of Santa Fe, New Mexico

memo

DATE: June 28, 2016

TO: Governing Body

VIA: Public Works, C.I.P., & Land Use Committee

FROM:


Matthew O'Reilly, P.E.
Asset Development Director

RE: **SUBSTITUTE BILL:** AN ORDINANCE RELATING TO SECTION 23-5 SFCC 1987, "REGULATIONS FOR THE USE OF THE PLAZA AND PLAZA PARK" AND TO SECTION 18-8.9 SFCC 1987, THE "VEHICLE VENDOR ORDINANCE"; AMENDING SUBSECTION 23-5.1 TO ADD A DEFINITION OF "CANYON ROAD PERIPHERY AREA"; AMENDING SUBSECTION 18-8.9 TO CLARIFY THE DEFINITION OF VEHICLE VENDORS TO EXCLUDE TRANSPORTATION SERVICES AND TO CLARIFY THE CUSTOMER SERVICE ENTRY LOCATION ON VEHICLES USED FOR VENDING; AND MAKING OTHER SUCH CHANGES THAT ARE NECESSARY TO CARRY OUT THE PURPOSE OF THIS ORDINANCE.

AND: **SUBSTITUTE RESOLUTION:** A RESOLUTION AUTHORIZING MOBILE VEHICLE VENDORS WITHIN THE CANYON ROAD PERIPHERY AREA AT SPECIFIC LOCATIONS, PURSUANT TO THE VEHICLE VENDOR ORDINANCE, 18-8.9 SFCC 1987.

BACKGROUND

On May 13, 2015 the Governing Body adopted the "Vehicle Vendor Ordinance" (Ordinance 2015-13). The ordinance renamed and amended the so-called "Street Vendor Ordinance" which had been in place for many years. Among a number of amendments¹, the Vehicle Vendor Ordinance retained the existing provision prohibiting Vehicle Vendors within the Plaza Periphery area².

On May 27, 2015, in accordance with the provisions of the Vehicle Vendor Ordinance, the Governing Body adopted Resolution 2015-55 authorizing Mobile Vehicle Vendors at three specific locations within the Plaza Periphery area beginning on June 8, 2015.

¹ Ordinance 2015-13 also included the option for the Governing Body to authorize Vehicle Vendors within the Plaza Periphery area by adoption of a Resolution.

² As defined by Section 23-5.1(V) SFCC 1987, the "Plaza periphery area means an area outside the Plaza Park, not including the Plaza Park, bounded by Sandoval and Grant Streets on the west, Alameda Street on the south, Paseo de Peralta on the east and Marcy Street on the north. This area includes both sides of the boundary streets."

INITIAL BILL & RESOLUTION

The subject Bill and accompanying Resolution under consideration, as initially introduced, were approved by the Public Works Committee and the Finance Committee along with various amendments. The initial Bill and Resolution were then heard by the Governing Body on May 27, 2016. The Governing Body heard public testimony and postponed action on the Bill and Resolution with direction that both be sent back to the Public Works Committee prior to returning to the Governing Body for action on July 27, 2016.

In postponing action, the Governing Body directed staff to: 1) explore the possibility of expanded hours of operation of vehicle vendors beyond those proposed by the initial Resolution; and 2) to explore additional parking spaces for Vehicle Vendors within the proposed Canyon Road Periphery Area including side streets and possibly along Canyon Road itself.

Staff explored these possibilities as directed and presented a draft Substitute Bill and Resolution to representatives of the Canyon Road Gallery Owner's Association, Axle Contemporary gallery, and Councilors Maestas and Lindell at a meeting on June 21. Feedback was received at that meeting which was incorporated into the attached Substitute Bill and Resolution.

PROPOSED SUBSTITUTE BILL

The Substitute Bill contains two sections:

Section 1

Section 1 of the Substitute Bill remains the same as the initial amended Bill. It establishes a new area called the "Canyon Road Periphery Area" and defines the area's geographic boundaries.

Section 2

Section 2 of the Substitute Bill remains the same as the initial amended Bill with respect to transportation services. It amends the definition of "Vehicle Vendor" to clarify that "transportation services" are not among the services associated with vehicle vending.

New material is added to relax the previously-proposed prohibition against vehicle vendors within the Canyon Road Periphery Area to now include a prohibition only against vehicle vendors parked on streets (where safety concerns have been greatest) and to thereby remove any prohibitions against vehicle vending on private property within the Canyon Road Periphery Area. Of course, the general requirement that all vehicle vendors must operate in compliance with all other provisions of the Vehicle Vehicle Ordinance remains unaffected.

New material is also added to clarify that those vehicle vendors that are parked on streets and that allow the public to enter their vehicles do so from the rear- or sidewalk-side of the vehicle only for safety.

PROPOSED SUBSTITUTE RESOLUTION

The Substitute Resolution contains several differences from the previously-proposed version.

First, the idea of a single parking location for mobile vehicle vendors at the city's municipal parking lot on Canyon Road is abandoned in favor of two, 25-foot on-street locations on Canyon Road itself as shown on the attached map. Second, these parking spaces would be available at all times of the day and would have no time-of-day restrictions other than the 3-hour restriction already present in the Vehicle Vendor Ordinance. Third, these spaces would be posted as reserved only for mobile vehicle vendors; parking by other vehicles would be prohibited. Fourth, a city street sign would be installed at the western end of Canyon Road near Paseo de Peralta as notification that mobile vehicle vendors are prohibited within the Canyon Road Periphery Area except at posted locations. Finally, the effective date of the resolution is changed to August 1, 2016. All other provisions of the Substitute Resolution are the same as the initially-proposed Resolution.

REQUESTED ACTION

If the Governing Body desires to adopt the Substitute Resolution, the Substitute Bill must first be adopted.

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2016-__

INTRODUCED BY:

Councilor Joseph M. Maestas

Councilor Peter N. Ives

AN ORDINANCE

RELATING TO SECTION 23-5 REGULATIONS FOR THE USE OF THE PLAZA AND
PLAZA PARK AND TO SECTION 18-8.9 VEHICLE VENDORS; AMENDING
SUBSECTION 23-5.1 TO ~~[AMEND THE]~~ ADD A DEFINITION OF “[~~PLAZA~~]CANYON
ROAD PERIPHERY AREA” ~~[AS IT RELATES TO THE VEHICLE VENDOR ORDINANCE~~
~~TO INCLUDE PORTIONS OF THE CANYON ROAD AREA];~~ AMENDING SUBSECTION
18-8.9 TO CLARIFY THE DEFINITION OF VEHICLE VENDORS TO EXCLUDE
TRANSPORTATION SERVICES AND TO CLARIFY THE CUSTOMER ENTRY LOCATION
ON VEHICLES USED FOR VENDING; 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 23-5.1 SFCC 1987 (being Ord. #1990-6, as amended) is
amended to read:

23-5.1 Definitions.

As used in this chapter:

1 A. *Artist/artisan* means a person who designs and creates arts or crafts.

2 B. *Artwork* means an object for sale by an artist/artisan.

3 C. *Bicycle* means a vehicle with two (2) wheels tandem, a steering handle, a saddle seat,
4 and pedals by which it is propelled.

5 **D. Canyon Road Periphery Area means an area bounded by Paseo de Peralta on the**
6 **west, the southern right-of-way line of East Alameda Street on the north, East Palace Avenue and**
7 **Camino del Monte Sol on the east, and Canyon Road and Acequia Madre Street on the south. This**
8 **area includes both sides of the boundary streets, except along the southern right-of-way line of**
9 **East Alameda Street.**

10 [D]E. *Collective* means a nonprofit organization that shares the use of the license among
11 three (3) to seven (7) nonrelated artists/artisans.

12 [E]F. *Collective license* means a Plaza Park artist/artisan license issued to a collective.

13 [F]G. *Commercial use* means any function or event at which goods, artwork, foodstuffs,
14 merchandise of any kind are offered for sale.

15 [G]H. *Community Days Festival* means a city sponsored event promoting the programs and
16 services offered by local nonprofit organizations, performances by multicultural, youth, and school
17 groups and celebrating the diversity of Santa Fe.

18 [H]I. *Findings* mean mechanical fittings in a great variety, either commercially available or
19 handmade, used to hold jewelry to the clothing or the person, i.e., ear wires, screw backs, broach pins,
20 chains, gallery bezel wire or hollow beads.

21 [I]J. *Handmade* means the design and creation of the artwork from raw materials and its
22 finishing and decoration were accomplished by hand labor and by manually controlled methods that
23 permit the maker to control and vary the construction shape, design and/or finish of each individual
24 piece, but does not exclude the use of findings, hand tools and equipment nor does it exclude the hand
25 assembly of premanufactured components in a creative manner.

1 [J]K. *Immediate family* means the spouse, children and stepchildren of a Plaza Park
2 artist/artisan. The city may require proof of relationship for family members.

3 [K]L. *Individual license* means a Plaza Park artist/artisan license issued to an individual
4 artist/artisan licensee pursuant to the provisions of subsection 23-5.3 SFCC 1987.

5 [L]M. *Machine made* means the producing or reproducing of artwork in mass production by
6 mechanical processes such as stamping, blanking, weaving, molds or offset printing and other
7 printing methods that allow mass production except as allowed by these regulations.

8 [M]N. *Major commercial event* means any commercial use for which the entire Plaza is
9 used.

10 [N]O. *Minor rework* means taking a machine made or mass produced item and making only
11 minor additions or changes to the item.

12 [O]P. *Noncommercial use* means any function or event at which nothing is offered for sale
13 and at which no money or other valuable consideration is exchanged for goods or services. This use
14 includes, but is not limited to, patriotic observances, political rallies, televised news media events and
15 motion picture filming activities.

16 [P]Q. *Nonprofit organization* means an organization that is registered as a New Mexico
17 nonprofit organization with the New Mexico Public Regulatory Commission.

18 [Q]R. *Original* means the single, one of a kind, master that can be used as the model for a
19 reproduction.

20 [R]S. *Plaza* means that inclusive area bounded on the north by the north curblineline of Palace
21 Avenue running in front of the Palace of the Governors, and on all other sides by the facades of the
22 buildings, excluding portals, or property lines lying to the east, south and west of the Plaza Park as
23 outlined in the map prepared by the city, labeled "Plaza Park Map."*

24 [S]T. *Plaza Park* means that inclusive area bounded by the inside back of the curb
25 surrounding the Plaza as outlined in the map prepared by the city, labeled "Plaza Park Map."*

1 [T]U. *Plaza Park artist/artisan* means an artist/artisan or an artist/artisan represented by a
2 collective issued a Plaza Park artist/artisan license.

3 [U]V. *Plaza Park artist/artisan license* means a license issued to an artist/artisan by the city
4 for the purpose of commercial sales on the Plaza Park.

5 [V]W. *Plaza periphery area* means an area outside the Plaza Park, not including the Plaza
6 Park, bounded by Sandoval and Grant Streets on the west, Alameda Street on the south, Paseo de
7 Peralta on the east and Marcy Street on the north. ~~[For the purposes of Subsection 18-8.9 SFCC~~
8 ~~1987, the "Vehicle Vendor Ordinance", the *Plaza periphery area* also means an additional area~~
9 ~~bounded by Paseo de Peralta on the west, East Alameda Street on the north, East Alameda~~
10 ~~Street and Camino del Monte Sol on the east, and Canyon Road and Acequia Madre Street on~~
11 ~~the south.] [This] [These] *This* area[s] include[s] both sides of the boundary streets.~~

12 [W]X. *Plaza pushcart vendor* means a vendor who uses a non-permanent, non-motorized
13 cart, barrow or unit that can be pushed by hand for the purpose of selling food products and is
14 authorized by the city to be located in the Plaza Park, the Plaza, excluding the Plaza Park, or at any
15 location in the Plaza periphery area.

16 [X]Y. *Portrait artist* means a person who creates portraits, cartoons, caricatures, or
17 silhouettes.

18 [Y]Z. *Portrait artist license* means a Plaza Park artist/artisan license issued to a portrait
19 artist.

20 [Z]AA. *Pushcart* means a non-permanent, non-motorized cart, barrow or unit that can be
21 pushed by hand.

22 [AA]BB. *Raw materials* mean any material that can be converted by manufacture or
23 processing or a combination of manufacture and processing into a new and useful product.

24 [BB]CC. *Recreational object* means any object that can be thrown, kicked or struck,
25 including, but not limited to, balls, frisbees or any object used in game or sport.

1 [CC]DD. *Reproduction* means the production of multiples of a single piece, the
2 original or master, applicable to each medium.

3 [DD]EE. *Resident of Santa Fe County* means a person whose primary residence is in
4 Santa Fe County. Residency shall be established by any standard identification that proves residency
5 such as a driver's license, passport or voter registration, utility bills or other documentation.

6 [EE]FF. *Roller skates or in-line skates* means a shoe with a set of wheels attached for
7 skating over a flat surface.

8 [FF]GG. *Rotating license* means a Plaza Park artist/artisan license issued to seven (7)
9 artists/artisans to be used on a rotating basis.

10 [GG]HH. *Service animal* means any animal trained to assist mobility of impaired,
11 blind, or deaf people or trained for and actively employed by a police department.

12 [HH]II. *Skateboard* means a narrow board about two feet (2') long mounted on roller skate
13 wheels.

14 [II]JJ. *Special event* means an event that is permitted by the city pursuant to subsection 18-
15 8.9 SFCC 1987, Section 23-4 SFCC 1987, subsection 23-5.2 SFCC 1987 or resolution of the
16 governing body.

17 ***Editor's Note:** A copy of the Canyon Road Periphery Area can be found at the end of this chapter.

18 **Section 2. Subsection 18-8.9 SFCC 1987 (being Ord. #2015-13) is amended to read:**
19 **18-8.9 Vehicle Vendors.**

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

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

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

1 *Motorized vehicle* means a licensed and insured motor vehicle as defined by the state of New
2 Mexico motor vehicle division that meets all requirements of the same for operation on public streets
3 and is operated by a licensed driver.

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

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

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

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

16 *Vehicle vendor* means a person who offers for sale food, beverages, merchandise, or services
17 (except transportation services) from a motorized vehicle, from a utility trailer or travel trailer pulled
18 by a motorized vehicle, or from a peddle-operated vehicle.

19 C. *Vehicle Vendors – General Requirements.*

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

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

1 (3) Each business license or registration application for a vehicle vendor shall
2 state the make, model and license plate number of each vehicle to be used for vending. Only those
3 vehicles listed on the application shall be used for vending.

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

6 (5) A vehicle vendor intending to sell food or beverages shall furnish the city
7 with a valid food establishment permit issued by the state of New Mexico environment department.
8 The food establishment permit shall be clearly displayed on the outside of the 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 18-8.10A 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) Vehicle vendors are not permitted on public or private streets in the**
15 **Canyon Road Periphery Area as defined by Section 23-5 SFCC 1987 unless authorized by**
16 **resolution of the governing body.**

17 ~~(8) Use of loudspeakers or amplification of sound by vehicle vendors is~~
18 ~~prohibited.~~

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

23 ~~(10) If after fifteen (15) days written notice from the city to a vehicle~~
24 ~~vendor of violations of the Santa Fe Municipal Code or state law and the violations are not corrected,~~
25 ~~then the related vehicle vendor permit(s) shall be revoked by the city manager and the vehicle vendor~~

1 shall be subject to penalties pursuant to Section 1-3 SFCC 1987. The vehicle vendor may appeal the
2 decision of the city manager to revoke a vehicle vendor permit to the governing body within fifteen
3 (15) days of the revocation.

4 D. *Mobile Vehicle Vendors - Additional Requirements.* In addition to the general
5 requirements of this subsection 18-8.9 SFCC 1987, mobile vehicle vendors are subject to the
6 following requirements:

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

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

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

17 (4) Mobile vehicle vendors parked at a metered parking space in any one (1)
18 hour or two (2) parking meter zones, and that pay the meter, may remain at the metered space for up
19 to three (3) hours without violating the posted meter time zone restrictions;

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

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

5 (7) Mobile vehicle vendors parked on public streets or in public parking lots
6 shall park only in single, legal parking spaces designated for parallel parking;

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

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

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

14 **(11) The customer entry door of a mobile vehicle vendor parked on a public or**
15 **private street shall face the adjacent sidewalk or edge of roadway, or be located at the rear of the**
16 **vehicle;**

17 ~~(11)~~ (12) All vending from mobile vehicle vendors shall take place from the
18 vehicle itself. Generators, electrical wiring, menu boards, tables, chairs, tents or other furniture or
19 items associated with the mobile vehicle vendor shall not be placed outside of the vehicle.

20 E. *Stationary Vehicle Vendors - Additional Requirements.* In addition to the general
21 requirements of this subsection 18-8.9, stationary vehicle vendors are subject to the following
22 requirements:

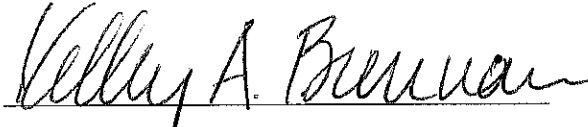
23 (1) Stationary vehicle vendors shall be located only in zoning districts where the
24 type of vending proposed is a permitted use pursuant to Article 14-6 of the City of Santa Fe Land
25 Development Code;

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

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

APPROVED AS TO FORM:


KELLEY A. BRENNAN, CITY ATTORNEY

City of Santa Fe Fiscal Impact Report (FIR)

This Fiscal Impact Report (FIR) shall be completed for each proposed Bill or Resolution as to its direct impact upon the City's operating budget and is intended for use by any of the standing committees of and the Governing Body of the City of Santa Fe. Bills or Resolutions with no fiscal impact still require a completed FIR. Bills or Resolutions with a fiscal impact must be reviewed by the Finance Committee. Bills or Resolutions without a fiscal impact generally do not require review by the Finance Committee unless the subject of the Bill or Resolution is financial in nature.

Section A. General Information

(Check) Bill: Resolution: _____

(A single FIR may be used for related Bills and/or Resolutions)

Short Title(s): AN ORDINANCE RELATING TO SECTION 23-5 REGULATIONS FOR THE USE OF THE PLAZA AND PLAZA PARK AND TO SECTION 18-8.9 VEHICLE VENDORS; AMENDING SUBSECTION 23-5.1 TO [AMEND THE] ADD A DEFINITION OF "[PLAZA] CANYON ROAD PERIPHERY AREA" [AS IT RELATES TO THE VEHICLE VENDOR ORDINANCE TO INCLUDE PORTIONS OF THE CANYON ROAD AREA]; AMENDING SUBSECTION 18-8.9 TO CLARIFY THE DEFINITION OF VEHICLE VENDORS TO EXCLUDE TRANSPORTATION SERVICES AND TO CLARIFY THE CUSTOMER ENTRY LOCATION ON VEHICLES USED FOR VENDING; AND MAKING SUCH OTHER CHANGES THAT ARE NECESSARY TO CARRY OUT THE PURPOSE OF THIS ORDINANCE.

Sponsor(s): Councilors Maestas and Ives

Reviewing Department(s): Asset Development Office

Person Completing FIR: Matt O'Reilly

Date: 4/14/16

Phone: x6213

Reviewed by City Attorney:

Valley A. Burman
(Signature)

Date:

6/28/16

Reviewed by Finance Director:

[Signature]
(Signature)

Date:

6-28-2016

Section B. Summary

Briefly explain the purpose and major provisions of the Bill/Resolution.

The bill adds a definition of "Canyon Road Periphery Area" to Subsection 23-5.1 SFCC 1987 so that for the purposes of the Vehicle Vendor Ordinance (Section 18-8.9 SFCC 1987) the Canyon Road Periphery Area includes the area around Canyon Road. The bill also amends the definition of "Vehicle Vendor" found in the Vehicle Vendor Ordinance to clarify that Vehicle Vendors do not include vehicles that provide transportation services, and also clarifies the requirements for customer entry locations on vehicles used for vending.

Section C. Fiscal Impact

Note: Financial information on this FIR does not directly translate into a City of Santa Fe budget increase. For a budget increase, the following are required:

- The item must be on the agenda at the Finance Committee and City Council as a "Request for Approval of a City of Santa Fe Budget Increase" with a definitive funding source (could be same item and same time as bill/resolution)
- Detailed budget information must be attached as to fund, business units, and line item, amounts, and explanations (similar to annual requests for budget)
- Detailed personnel forms must be attached as to range, salary, and benefit allocation and signed by Human Resource Department for each new position(s) requested (prorated for period to be employed by fiscal year)*

1. Projected Expenditures:

- Indicate Fiscal Year(s) affected – usually current fiscal year and following fiscal year (i.e., FY 03/04 and FY 04/05)
- Indicate: "A" if current budget and level of staffing will absorb the costs
"N" if new, additional, or increased budget or staffing will be required
- Indicate: "R" – if recurring annual costs
"NR" if one-time, non-recurring costs, such as start-up, contract or equipment costs
- Attach additional projection schedules if two years does not adequately project revenue and cost patterns
- Costs may be netted or shown as an offset if some cost savings are projected (explain in Section 3 Narrative)

X Check here if no fiscal impact

| Column #: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|----------------------------|----------|-----------------------------------------------|-------------------------------------------|----------|-----------------------------------------------|---------------------------------------------|---------------|
| Expenditure Classification | FY 14/15 | "A" Costs Absorbed or "N" New Budget Required | "R" Costs Recurring or "NR" Non-recurring | FY 15/16 | "A" Costs Absorbed or "N" New Budget Required | "R" Costs – Recurring or "NR" Non-recurring | Fund Affected |

| | | | | | | | |
|---------------------------|----------|-------|-------|----------|-------|-------|-------|
| Personnel* | \$ _____ | _____ | _____ | \$ _____ | _____ | _____ | _____ |
| Fringe** | \$ _____ | _____ | _____ | \$ _____ | _____ | _____ | _____ |
| Capital Outlay | \$ _____ | _____ | _____ | \$ _____ | _____ | _____ | _____ |
| Land/ Building | \$ _____ | _____ | _____ | \$ _____ | _____ | _____ | _____ |
| Professional Services | \$ _____ | _____ | _____ | \$ _____ | _____ | _____ | _____ |
| All Other Operating Costs | \$ _____ | _____ | _____ | \$ _____ | _____ | _____ | _____ |
| Total: | \$ _____ | | | \$ _____ | | | |

* Any indication that additional staffing would be required must be reviewed and approved in advance by the City Manager by attached memo before release of FIR to committees. **For fringe benefits contact the Finance Dept.

2. Revenue Sources:

- a. To indicate new revenues and/or
- b. Required for costs for which new expenditure budget is proposed above in item 1.

| Column #: 1 | 2 | 3 | 4 | 5 | 6 |
|-----------------|----------|-------------------------------------------|----------|---------------------------------------------|---------------|
| Type of Revenue | FY 14/15 | "R" Costs Recurring or "NR" Non-recurring | FY 15/16 | "R" Costs – Recurring or "NR" Non-recurring | Fund Affected |

| | | | | | |
|----------|----------|-------|----------|-------|-------|
| \$ _____ | \$ _____ | _____ | \$ _____ | _____ | _____ |
| _____ | \$ _____ | _____ | \$ _____ | _____ | _____ |
| _____ | \$ _____ | _____ | \$ _____ | _____ | _____ |
| Total: | \$ _____ | | \$ _____ | | |

3. Expenditure/Revenue Narrative:

Explain revenue source(s). Include revenue calculations, grant(s) available, anticipated date of receipt of revenues/grants, etc. Explain expenditures, grant match(s), justify personnel increase(s), detail capital and operating uses, etc. (Attach supplemental page, if necessary.)

N/A.

Section D. **General Narrative**

1. Conflicts: Does this proposed Bill/Resolution duplicate/conflict with/companion to/relate to any City code, approved ordinance or resolution, other adopted policies or proposed legislation? Include details of city adopted laws/ordinance/resolutions and dates. Summarize the relationships, conflicts or overlaps.

This bill does not duplicate/conflict with any City code, approved ordinance or resolution, or other adopted policies or proposed legislation, but rather clarifies an aspect of an existing ordinance (see Items 2B and 4 below).

2. Consequences of Not Enacting This Bill/Resolution:

Are there consequences of not enacting this Bill/Resolution? If so, describe.

A) Section 1 of the bill creates a Canyon Road Periphery Area to include the area around Canyon Road and thereby would prohibit Vehicle Vendors from operating within the Canyon Road area. If the Bill is not enacted, Mobile Vehicle Vendors in particular would continue to be allowed in this area where problems have arisen due to the lack of on-street parking from which to vend and the lack of available sidewalks from which customers can safely access the vendors' vehicles.

B) Section 2 of the bill clarifies that vehicles that provide transportation services, i.e. taxicabs, pedi-cabs, etc. are not considered "Vehicle Vendors". If the bill is not enacted, any confusion that has arisen over this issue would persist. The bill also clarifies the locations for customer entry into vehicles used for vending to ameliorate concerns that have arisen. Failure to adopt this bill would not clarify this issue.

3. Technical Issues:

Are there incorrect citations of law, drafting errors or other problems? Are there any amendments that should be considered? Are there any other alternatives which should be considered? If so, describe.

None identified.

4. Community Impact:

Briefly describe the major positive or negative effects the Bill/Resolution might have on the community including, but not limited to, businesses, neighborhoods, families, children and youth, social service providers and other institutions such as schools, churches, etc.

The major positive effects of Section 1 of this bill would be an increase in public safety and available on-street parking in an area where such parking is limited. A negative effect of the bill would be that the one or two Mobile Vehicle Vendors who from time to time vend on Canyon Road would have to find other locations. (Note: a companion resolution to this bill is designed to address this issue.)

Section 2 of this bill would have the positive effect of clarifying that vehicles providing transportation services are not considered Vehicle Vendors thereby eliminating any confusion related to that issue.

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2016-22

INTRODUCED BY:

Councilor Joseph M. Maestas

Councilor Peter Ives

AN ORDINANCE

RELATING TO SECTION 23-5 REGULATIONS FOR THE USE OF THE PLAZA AND
PLAZA PARK AND TO SECTION 18-8.9 VEHICLE VENDORS; AMENDING
SUBSECTION 23-5.1 TO AMEND THE DEFINITION OF "PLAZA PERIPHERY AREA" AS
IT RELATES TO THE VEHICLE VENDOR ORDINANCE TO INCLUDE PORTIONS OF
THE CANYON ROAD AREA; AMENDING SUBSECTION 18-8.9 TO CLARIFY THE
DEFINITION OF VEHICLE VENDORS TO EXCLUDE TRANSPORTATION SERVICES;
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 23-5.1 SFCC 1987 (being Ord. #1990-6, as amended) is
amended to read:

23-5.1 Definitions.

As used in this chapter:

A. *Artist/artisan* means a person who designs and creates arts or crafts.

1 B. *Artwork* means an object for sale by an artist/artisan.

2 C. *Bicycle* means a vehicle with two (2) wheels tandem, a steering handle, a saddle seat,
3 and pedals by which it is propelled.

4 D. *Collective* means a nonprofit organization that shares the use of the license among
5 three (3) to seven (7) nonrelated artists/artisans.

6 E. *Collective license* means a Plaza Park artist/artisan license issued to a collective.

7 F. *Commercial use* means any function or event at which goods, artwork, foodstuffs,
8 merchandise of any kind are offered for sale.

9 G. *Community Days Festival* means a city sponsored event promoting the programs and
10 services offered by local nonprofit organizations, performances by multicultural, youth, and school
11 groups and celebrating the diversity of Santa Fe.

12 H. *Findings* mean mechanical fittings in a great variety, either commercially available or
13 handmade, used to hold jewelry to the clothing or the person, i.e., ear wires, screw backs, broach pins,
14 chains, gallery bezel wire or hollow beads.

15 I. *Handmade* means the design and creation of the artwork from raw materials and its
16 finishing and decoration were accomplished by hand labor and by manually controlled methods that
17 permit the maker to control and vary the construction shape, design and/or finish of each individual
18 piece, but does not exclude the use of findings, hand tools and equipment nor does it exclude the hand
19 assembly of premanufactured components in a creative manner.

20 J. *Immediate family* means the spouse, children and stepchildren of a Plaza Park
21 artist/artisan. The city may require proof of relationship for family members.

22 K. *Individual license* means a Plaza Park artist/artisan license issued to an individual
23 artist/artisan licensee pursuant to the provisions of subsection 23-5.3 SFCC 1987.

24 L. *Machine made* means the producing or reproducing of artwork in mass production by
25 mechanical processes such as stamping, blanking, weaving, molds or offset printing and other

1 printing methods that allow mass production except as allowed by these regulations.

2 M. *Major commercial event* means any commercial use for which the entire Plaza is
3 used.

4 N. *Minor rework* means taking a machine made or mass produced item and making only
5 minor additions or changes to the item.

6 O. *Noncommercial use* means any function or event at which nothing is offered for sale
7 and at which no money or other valuable consideration is exchanged for goods or services. This use
8 includes, but is not limited to, patriotic observances, political rallies, televised news media events and
9 motion picture filming activities.

10 P. *Nonprofit organization* means an organization that is registered as a New Mexico
11 nonprofit organization with the New Mexico Public Regulatory Commission.

12 Q. *Original* means the single, one of a kind, master that can be used as the model for a
13 reproduction.

14 R. *Plaza* means that inclusive area bounded on the north by the north curblin of Palace
15 Avenue running in front of the Palace of the Governors, and on all other sides by the facades of the
16 buildings, excluding portals, or property lines lying to the east, south and west of the Plaza Park as
17 outlined in the map prepared by the city, labeled "Plaza Park Map."*

18 S. *Plaza Park* means that inclusive area bounded by the inside back of the curb
19 surrounding the Plaza as outlined in the map prepared by the city, labeled "Plaza Park Map."*

20 T. *Plaza Park artist/artisan* means an artist/artisan or an artist/artisan represented by a
21 collective issued a Plaza Park artist/artisan license.

22 U. *Plaza Park artist/artisan license* means a license issued to an artist/artisan by the city
23 for the purpose of commercial sales on the Plaza Park.

24 V. *Plaza periphery area* means an area outside the Plaza Park, not including the Plaza
25 Park, bounded by Sandoval and Grant Streets on the west, Alameda Street on the south, Paseo de

1 Peralta on the east and Marcy Street on the north. For the purposes of Subsection 18-8.9 SFCC 1987,
2 the “Vehicle Vendor Ordinance”, the Plaza periphery area also means an additional area bounded by
3 Paseo de Peralta on the west, East Alameda Street on the north, East Alameda Street and Camino del
4 Monte Sol on the east, and Canyon Road and Acequia Madre Street on the south. [This] These areas
5 include[s] both sides of the boundary streets.

6 W. *Plaza pushcart vendor* means a vendor who uses a non-permanent, non-motorized
7 cart, barrow or unit that can be pushed by hand for the purpose of selling food products and is
8 authorized by the city to be located in the Plaza Park, the Plaza, excluding the Plaza Park, or at any
9 location in the Plaza periphery area.

10 X. *Portrait artist* means a person who creates portraits, cartoons, caricatures, or
11 silhouettes.

12 Y. *Portrait artist license* means a Plaza Park artist/artisan license issued to a portrait
13 artist.

14 Z. *Pushcart* means a non-permanent, non-motorized cart, barrow or unit that can be
15 pushed by hand.

16 AA. *Raw materials* mean any material that can be converted by manufacture or processing
17 or a combination of manufacture and processing into a new and useful product.

18 BB. *Recreational object* means any object that can be thrown, kicked or struck, including,
19 but not limited to, balls, frisbees or any object used in game or sport.

20 CC. *Reproduction* means the production of multiples of a single piece, the original or
21 master, applicable to each medium.

22 DD. *Resident of Santa Fe County* means a person whose primary residence is in Santa Fe
23 County. Residency shall be established by any standard identification that proves residency such as a
24 driver's license, passport or voter registration, utility bills or other documentation.

25 EE. *Roller skates or in-line skates* means a shoe with a set of wheels attached for skating

1 over a flat surface.

2 FF. *Rotating license* means a Plaza Park artist/artisan license issued to seven (7)
3 artists/artisans to be used on a rotating basis.

4 GG. *Service animal* means any animal trained to assist mobility of impaired, blind, or deaf
5 people or trained for and actively employed by a police department.

6 HH. *Skateboard* means a narrow board about two feet (2') long mounted on roller skate
7 wheels.

8 II. *Special event* means an event that is permitted by the city pursuant to subsection 18-
9 8.9 SFCC 1987, Section 23-4 SFCC 1987, subsection 23-5.2 SFCC 1987 or resolution of the
10 governing body. (Ord. #2015-13 §5)

11 *Editor's Note: A copy of the Plaza Park Map can be found at the end of this chapter.

12 **Section 2. Subsection 18-8.9 SFCC 1987 (being Ord. #2015-13) is amended to read:**

13 **18-8.9 Vehicle Vendors.**

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

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

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

20 *Motorized vehicle* means a licensed and insured motor vehicle as defined by the state of New
21 Mexico motor vehicle division that meets all requirements of the same for operation on public streets
22 and is operated by a licensed driver.

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

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

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

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

10 *Vehicle vendor* means a person who offers for sale food, beverages, merchandise, or services
11 (except transportation services) from a motorized vehicle, from a utility trailer or travel trailer pulled
12 by a motorized vehicle, or from a peddle-operated vehicle.

13 C. *Vehicle Vendors – General Requirements.*

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

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

20 (3) Each business license or registration application for a vehicle vendor shall
21 state the make, model and license plate number of each vehicle to be used for vending. Only those
22 vehicles listed on the application shall be used for vending.

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

25 (5) A vehicle vendor intending to sell food or beverages shall furnish the city

1 with a valid food establishment permit issued by the state of New Mexico environment department.
2 The food establishment permit shall be clearly displayed on the outside of the vehicle at all times.

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

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

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

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

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

20 D. *Mobile Vehicle Vendors - Additional Requirements.* In addition to the general
21 requirements of this subsection 18-8.9 SFCC 1987, mobile vehicle vendors are subject to the
22 following requirements:

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

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

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

8 (4) Mobile vehicle vendors parked at a metered parking space in any one (1)
9 hour or two (2) parking meter zones, and that pay the meter, may remain at the metered space for up
10 to three (3) hours without violating the posted meter time zone restrictions;

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

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

21 (7) Mobile vehicle vendors parked on public streets or in public parking lots
22 shall park only in single, legal parking spaces designated for parallel parking;

23 (8) Mobile vehicle vendors shall pay all parking fees associated with the
24 locations at which they are parked.

25 (9) The city may temporarily or permanently prohibit the use of all or a portion

1 of any public or private parking area by mobile vehicle vendors if the use of the area adversely affects
2 public safety or the operation of the parking area;

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

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

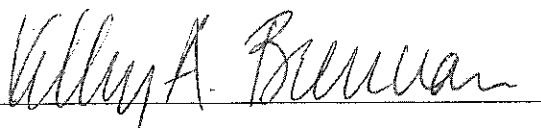
8 E. *Stationary Vehicle Vendors - Additional Requirements.* In addition to the general
9 requirements of this subsection 18-8.9, stationary vehicle vendors are subject to the following
10 requirements:

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

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

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

18
19 APPROVED AS TO FORM:

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21 _____

22 KELLEY A. BRENNAN, CITY ATTORNEY