




City of Santa Fe New Mexico


Memorandum



Date: June 7, 2021

To: Economic Development Advisory Committee, Quality of Life Committee, Public Works and Utilities Committee, Finance Committee, and Governing Body

From: Jesse Guillen, Legislative Liaison 

Via: Erin McSherry, City Attorney 

RE: Lease length requirement for alcohol service on City property

EXECUTIVE SUMMARY:

The proposed Bill removes the 6-month minimum lease requirement for the sale and/or consumption of alcohol on City property. The amendments will allow restaurants to continue to use City property for the sale and consumption of alcohol that began as a result of the COVID-19 pandemic.

BACKGROUND:

On June 24th, 2020 the Governing Body adopted Ordinance No. 2020-14 that allowed for the sale and consumption of alcohol on designated City property provided the establishment met certain criteria. The provisions included as part of Ordinance No. 2020-14 were set to expire on October 31, 2020. On October 14th, 2020 the Governing Body adopted Ordinance No. 2020-28 extended the expiration date of this subsection until October 31, 2021.

Restaurants have approached the City about the potential for a more permanent presence on City property, including in parking spaces, streets, and other rights-of-way. The amendment contained in this Bill would allow these restaurants to enter into shorter-term leases with the City for the use of City property.

The establishments would need to receive the necessary approvals from the Alcoholic Beverage Control Division of the New Mexico Regulation and Licensing Department for the expanded alcohol service area prior to commencing service in the leased area.

Structures erected for longer than 90 days will need land use approvals and, for structures located within the Historic District, approval from the Historic Districts Review Board will be required. Any other applicable approvals required by the State or City must be obtained prior to installation of any supplemental structures.

ACTION REQUESTED:

Staff recommends approval of the Bill as presented.

ATTACHMENTS:

Bill
FIR

underscored material = new
[bracketed material] = delete

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CITY OF SANTA FE, NEW MEXICO

BILL NO. 2021-__

INTRODUCED BY:

Councilor Signe I. Lindell

Mayor Alan Webber

AN ORDINANCE

**AMENDING SECTION 23-6.2 SFCC 1987 TO REMOVE THE SIX-MONTH MINIMUM
LEASE DURATION FOR THE SALE AND CONSUMPTION OF ALCOHOL ON CITY
PROPERTY.**

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

**Section 1. Section 23-6.2 of SFCC 1987 (being Ord. No. 2012-20, § 1, as
amended) is amended to read:**

23-6.2 Permitted locations for the sale and consumption of alcohol on city property.

A. The sale or consumption of alcoholic beverages is permitted at the following
locations on city property:

(1) The Santa Fe community convention center and adjacent outdoor spaces
under the center's control;

(2) That area of the Santa Fe regional airport main terminal building and
adjacent areas operated as a restaurant;

(3) The Marty Sanchez links de Santa Fe (golf course);

1 (4) Buildings owned by another party located on land owned by the city;

2 (5) On land or buildings owned by the city, located within the Santa Fe
3 Railyard, as described in the Railyard Master Plan, for which the city has entered into a
4 lease with another party for six (6) months or more except for the Railyard park, Plaza
5 and Alameda (as defined in the amended and restated Deed of Conservation Easement
6 dated [~~October 1, 2004~~] May 30, 2018) where alcohol is prohibited, unless specifically
7 permitted under subsection 23-6.2 SFCC 1987;

8 (6) On land or buildings owned by the city for which the city has entered
9 into a lease with another party [~~for six (6) months or more~~];

10 (7) In or on railroad cars located on railroad tracks except as prohibited by
11 state or federal law; and

12 (8) During professional baseball games, the area of Fort Marcy ballpark
13 designated for concessions and seating.

14 B. The only alcohol sales and consumption permitted at Fort Marcy ballpark are
15 beer and wine.

16 C. The governing body may approve by resolution the sale and consumption of
17 alcohol at all other locations on city property, except within the Plaza as defined by
18 subsection 23-5.1(S). The resolution specifying the event, date, hours, location, number of
19 expected attendees, type of alcohol to be served, required permits, and insurance shall be adopted
20 at least thirty (30) days in advance of the event. The resolution shall be limited to authorization
21 for a single event, unless otherwise stated in the resolution.

22 D. All other applicable approvals required by state or city laws and regulations shall
23 be obtained prior to the sale or consumption of alcoholic beverages on the property described in
24 this subsection 23-6.2.

25 E. As a response to the May 27, 2020, public health order issued by the New Mexico

1 department of health allowing limited outdoor dining service for qualified restaurants, and to
2 enhance physical distancing restrictions due to the COVID-19 pandemic, sale and consumption
3 of alcohol on any city sidewalk, street, right-of-way, or other specified property that has been
4 designated and approved for temporary use by a current liquor licensee may occur pursuant to
5 the following limitations:

6 1. A licensed establishment shall obtain and maintain a general liability
7 policy in the amount of one million dollars (\$1,000,000.00) and a liquor liability policy
8 in the amount of two million dollars (\$2,000,000.00) and must name the city, officers,
9 employees, and agents as additional insureds.

10 2. The licensed establishment must apply for and receive an obstruction
11 permit from the city that includes the requirement to indemnify the city.

12 3. The licensed establishment must also obtain a temporary
13 change/expansion of liquor license premises issued by the alcoholic beverage control
14 division of the New Mexico regulation and licensing department. Proof of the approved
15 temporary change/expansion of liquor license premises must be produced upon request
16 of police, fire, or other authorized city official.

17 4. The sale and consumption of alcoholic beverages on any city property
18 allowed under this subsection shall be subject to the regulations concerning alcoholic
19 beverages contained in SFCC Section 4-2, 1987.

20 5. Unless extended by ordinance or resolution, any license or permit issued
21 pursuant to this subsection shall expire on October 31, 2021.

22 APPROVED AS TO FORM:

23
24 _____
25 ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2021/Bills/Alcohol on City Property Amendments

FISCAL IMPACT REPORT

General Information:

(Check) Bill: X Resolution: _____


Short Title(s): Alcohol on City Property Amendments

Sponsor(s): Councilor Lindell and Mayor Webber

Reviewing Department(s): Legislative Services

Staff Completing FIR: Jesse Guillen Date: 5/13/21 Phone: 955-6518

Reviewed by City Attorney:  Date: Jun 7, 2021

Reviewed by Finance Director:  Date: Jun 14, 2021
Alexis Lotero, Assistant Finance Director (Jun 14, 2021 14:06 MDT)

Summary:

The proposed Bill removes the 6-month minimum lease requirement in order to permit the sale and/or consumption of alcohol on City property. The amendments will allow restaurants to lease City property for the sale and consumption of alcohol that began as a result of the COVID-19 pandemic.

Departments Affected:

Community and Economic Development, Public Works Department, City Clerk's Office.

Consequences of Not Enacting Legislation:

Restaurants will only be able to continue their auxiliary use of City property for the sale and consumption of alcohol by entering into a lease agreement of at least six months.

Conflict, Duplication, Companionship, or Relationship to Other Legislation:

Section 23-6.2(E) currently allows for the sale and consumption of alcohol on city property by establishments that have received the appropriate licenses through the end of October, 2021.

Performance and Administrative Implications:

Staff will need to work with interested establishments to delineate the permitted property for use, create lease agreements that include the rate the establishment will pay for the use of City property.

Fiscal Implications:

Staff time necessary to negotiate and process each lease will be drawn from other City priorities on an ad hoc basis, thereby delaying the delivery dates of competing activities including Land Use plan review and enforcement, Property Manager licensing, appraisals and archiving, and Traffic Division engineering review. The reduction in community benefits caused by such delays are unquantifiable and may not demonstrably be offset by the direct revenue generated from the lease agreements. At this time only one restaurant has reached out to the City about the possibility of leasing City property on a longer-term basis. The rate the restaurant would pay would also have to be negotiated by the two parties. Therefore the total revenue cannot be estimated at this time. The increased space available to restaurants as a result of a lease agreement could increase sales, and therefore increase the GRT remitted to the City. The increased space available to restaurants as a result of a lease agreement under this change could increase sales, and therefore increase the GRT remitted to the City.

Fiscal Impact

_____ Check here if no fiscal impact

Expenditures

Expenditure Type	FYE __	FYE __	FYE __	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
<u>Personnel and</u>	\$ _____	\$ _____	\$ _____	_____	_____	_____	
<u>Benefits*</u>							
<u>Capital Outlay</u>	\$ _____	\$ _____	\$ _____	_____	_____	_____	
<u>Contractual/</u>	\$ _____	\$ _____	\$ _____		_____	_____	
<u>Professional Services</u>							
<u>Operating</u>	\$ _____	\$ _____	\$ _____		_____	_____	\$ _____
<u>Total:</u>	\$ _____	\$ _____	\$ _____				\$ _____

* This includes all staff time associated with executing the job functions of the proposed legislation.

Expenditure Narrative:

Staff time associated with processing the lease agreements is dependent upon the number of establishments wishing to take advantage of the ability to expand their liquor service area onto City property.

Revenue

Revenue Type	FYE __	FYE __	FYE __	Recurring (R) or Non-recurring (NR)	Fund
General Fund	\$ _____	\$ _____	\$ _____	_____	_____
Special Revenue	\$ _____	\$ _____	\$ _____	_____	_____
CIP	\$ _____	\$ _____	\$ _____	_____	_____
Enterprise	\$ _____	\$ _____	\$ _____	_____	_____
Internal Service	\$ _____	\$ _____	\$ _____	_____	_____
Trust and Agency	\$ _____	\$ _____	\$ _____	_____	_____
Federal	\$ _____	\$ _____	\$ _____	_____	_____
Other	\$ _____	\$ _____	\$ _____	_____	_____
Total	\$ _____	\$ _____	\$ _____		

Revenue Narrative:

Revenue to the City would be dependent on the location of the number of establishments that wish to participate in the program, the location of the property, and the amount agreed upon in the lease. For space occupying existing parking meters, revenue from the lease of the space would at least equal the expected revenue that would be generated from the normal use of the parking meter.

Signature: 

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