

underscored material = new ~~[bracketed material]~~ = delete

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2020-20

INTRODUCED BY:

AN ORDINANCE

CREATING EFFICIENCIES, ENHANCING EFFECTIVENESS, AND ELIMINATING
SILOS BY REORGANIZING CERTAIN CITY DEPARTMENTS, ORGANIZING THE
ECONOMIC DEVELOPMENT DIVISION, AFFORDABLE HOUSING OFFICE, LAND
USE DEPARTMENT, TOURISM SANTA FE DEPARTMENT, RECREATION
DIVISION, AND THE ARTS AND CULTURE DEPARTMENT AS DIVISIONS OF A
COMMUNITY DEVELOPMENT DEPARTMENT; ORGANIZING THE COMMUNITY
SERVICES DEPARTMENT, POLICE DEPARTMENT, FIRE DEPARTMENT, AND
OFFICE OF EMERGENCY MANAGEMENT AS DIVISIONS OF A COMMUNITY
HEALTH & SAFETY DEPARTMENT; AND PLACING THE CONSTITUENT AND
COUNCIL RELATIONS DEPARTMENT INTO THE CITY CLERK'S OFFICE;
AMENDING SECTION 2.6-3; REPLACING SECTION 2-8 SFCC 1987 WITH A NEW
SECTION 2-8 SFCC 1987 THAT ESTABLISHES ALL CITY DEPARTMENTS;
REORGANIZING EXISTING SECTIONS 2-8, 2-14, 2-15, 2-19, AND 2-10 AS
SUBSECTIONS OF THE NEW SECTION 2-8; ESTABLISHING IN ORDINANCE THE
EXISTING INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS
DEPARTMENT AND THE CONSTITUENT AND COUNCIL SERVICES
DEPARTMENT; AND REPEALING THE SECTIONS OF CHAPTER 2 THAT
ESTABLISH DEPARTMENTS THAT ARE EITHER BECOMING DIVISIONS OR NO
LONGER EXIST, SECTIONS 2-9, 2-10, 2-11, 2-12, 2-13, 2-16, 2-19, 2-21, AND 2-23 SFCC

1 1987; AMENDING SECTION 2-22 SFCC 1987 TO PROVIDE CONTRACT INTERNAL
2 AUDIT FUNCTIONS; AND AMENDING SECTIONS 26-1.6 AND 26-3.5 REGARDING
3 THE OFFICE OF AFFORDABLE HOUSING.

4
5 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

6 Section 1. Section 2-6.3 SFCC 1987 (being Code 1953, § 2-60; Code 1973, § 2-
7 84; SFCC 1981, § 2-1-24, as amended) is hereby amended to read:

8 2-6.3 - Duties of the city clerk. The city clerk shall:

9 A. Keep in custody all minutes, ordinances and resolutions approved by the governing
10 body;

11 B. Attend all meetings of the governing body;

12 C. Record all proceedings, ordinances and resolutions of the governing body;

13 D. Upon request, furnish copies of municipal records. The city clerk may charge a
14 reasonable fee for the cost of furnishing copies of municipal records;

15 E. Administer the municipal election and perform other election duties required pursuant
16 to Articles 8 and 9, Chapter 3 NMSA 1978;

17 F. Have custody of, and safely keep, all official records and documents, such as contracts,
18 agreements, deeds, of the city, the originals of which are to stay in the office, except upon
19 request of the city attorney for purposes of litigation;

20 G. Administer and process the filing and release of liens for the city as prescribed by
21 Article 36, Chapter 3 NMSA 1978 or as otherwise provided by law; ~~and~~

22 H. Administer and manage the Constituent and Council Services Department; and

23 I. [H]. Perform other duties prescribed by law, ordinance or city rules and regulations.

24 Section 2. Section 2-8 SFCC 1987 (being Ord. No. 1983-33, § 4, as amended) is
25 hereby repealed.

1 Section 3. A new Section 2-8 SFCC 1987 is hereby ordained to read:

2 [NEW MATERIAL] 2-8 CITY DEPARTMENTS.

3 2-8.1 Finance Department.

4 A. Creation of department.

5 There is created a department of city government to be known as the "finance
6 department".

7 B. Finance officer.

8 (1) *Position Established.* The position of finance officer is established.
9 The finance officer is the city treasurer and manager of the finance department of the
10 city. The designation as finance officer shall not be considered separate employment
11 nor occasion any additional salary.

12 (2) *Duties.* The finance officer shall:

13 (a) Receive all money due and payable to the city;

14 (b) Keep his accounts and records in the manner prescribed by
15 generally accepted accounting principles;

16 (c) Keep the money of the city separate from any other money in
17 his possession;

18 (d) Expend the money only as directed by the governing body;

19 (e) Submit monthly, or more often if required by the governing
20 body, a report of the receipts and expenditures of the city;

21 (f) Supervise the depositing and safekeeping of all money
22 belonging to the city;

23 (g) With the advice and consent of the governing body designate
24 banks qualified to receive or deposit money entrusted in his care;

1 (h) Prepare annually, for the close of the fiscal year, a
2 comprehensive annual financial report showing the receipts, expenditures and
3 balances for each fund. A copy of the financial report shall be filed in the
4 finance officer; and

5 (i) Perform other duties prescribed by law, ordinance or city rules
6 and regulations.

7 (3) *Reports to Governing Body.* The finance officer shall be responsible
8 and report to the governing body through the city manager.

9 (4) *Records Open for Inspection.* The records of the finance officer shall
10 be open to inspection by any citizen during the regular business hours of the city.

11 **2-8.2 Community Health and Safety Department.**

12 **A. Creation of department.**

13 There is created a department of city government to be known as the
14 "community health and safety department", comprised of four divisions: the police
15 department, the fire department, the community services department, and the office of
16 emergency management.

17 **B. Police Department.**

18 (1) Powers and duties generally. Police officers shall execute and return all writs and
19 processes directed to them by the municipal judge and, in criminal cases or cases of
20 violations of city ordinances, they may serve the same in any part of the country. They
21 shall suppress all riots, disturbances and breaches of the peace, apprehend all disorderly
22 persons within the city and shall pursue and arrest any person fleeing from justice.
23 They shall apprehend any person in the act of committing any offense against the laws
24 of the state or the ordinances of the city, and forthwith bring such persons before a
25 competent authority for examination and trial. They shall have, in the discharge of their

1 proper duties, like powers and be subject to like responsibilities as sheriffs or
2 constables in similar cases.

3 (2) Appointment of police officers; commissions.

4 No person shall assume or exercise the functions, powers, duties and privileges incident
5 or belonging to the office of municipal policeman without first having received his
6 appointment in writing, known as his "commission", from the governing body. The
7 advice of the chief of police shall be obtained in the employment and commissioning of
8 all policemen of the department.

9 (3) Training schools and examinations.

10 (a) There shall be held and conducted at such times as may be prescribed by the
11 chief of police, with the approval of the governing body, schools for training in
12 modern police methods and practices. The schools for training and the checking
13 of the qualifications and general fitness of applicants for positions in the police
14 department shall be under the direction and supervision of the chief of police.

15 (b) All members of the police department shall take such examinations as may
16 be prescribed.

17 (c) In the taking of all written examinations there shall be assigned to each
18 applicant a number which shall be endorsed on his examination papers, and the
19 grading of the examinations shall be by number only.

20 (d) Except as otherwise provided, no member shall be retained in the police
21 department and no applicant shall be appointed to the police department unless
22 such member or applicant, after taking the prescribed training courses, has
23 successfully passed the prescribed examinations, written and oral; provided,
24 that the minimum educational qualifications required by the City Personnel Act
25 shall not apply to members of the present police department who are otherwise

1 qualified under the provisions hereof; provided further, that in passing on the
2 qualifications of members of the present police department, consideration shall
3 be given to:

- 4 (i) Length of service and faithfulness to duty; and
- 5 (ii) General aptitude for police work as disclosed by the individual
6 records of such members to be confirmed by oral examinations.

7 (4) Extra or emergency police officers.

8 The city manager may employ on behalf of the city such extra or emergency police
9 officers as may be required in the proper administration of municipal affairs.

10 (5) Police department reserve.

11 (a) Created. There is created the city "police department reserve force",
12 hereinafter referred to as the "reserve".

13 (b) Control by Chief of Police. The reserve is under the exclusive control of the
14 chief of the city police department who shall have the sole and exclusive
15 authority to:

- 16 (i) Summarily discipline or dismiss members without appeal to any
17 body or tribunal;
- 18 (ii) Approve or disapprove all bylaws, rules and regulations of the
19 reserve; and
- 20 (iii) Approve or disapprove all officers, employees or agents of the
21 reserve.

22 c. Authority. The reserve and its individual members shall only have authority
23 in law enforcement on specific request by the city police chief. A specific
24 request shall be made for each individual instance of service.

25 d. Powers and Duties.

1 (i) The duties of the reserve are to assist in enforcement of law by
2 cooperating with all law enforcement agencies and regulatory bodies.

3 (ii) The reserve or its members when acting upon call, and only when
4 acting upon call, of the city police chief, for the city or for another law
5 enforcement agency or regulatory authority, shall be possessed of the
6 same powers and duties as a city police officer or an officer of such law
7 enforcement agency or regulatory authority.

8 e. Call of Members. When the city police chief calls up the members of the
9 reserve, the call shall be in writing, list the names of each member of the
10 reserve called, the purpose of the call, and the date and time the call begins and
11 terminates. Except when on call, reserve members shall have no more authority
12 in law enforcement than that of any private citizen.

13 f. Requests for Assistance. Should any law enforcement agency or regulatory
14 body desire assistance from the reserve, the request shall be made to the city
15 police chief who may authorize it, if:

16 (i) Reserve members are fully covered by the workman's compensation
17 insurance policy of the assisted agency or body, and this is evidenced
18 by a writing presented to the chief; and

19 (ii) Any and all liability that may arise against the city, its officers,
20 employees or agents, the reserve, or its members as a result of such
21 assistance, is assumed in writing by the assisted agency or body.

22 g. Workmen's Compensation. The city shall immediately take steps to provide
23 necessary workmen's compensation insurance for the reserve and necessary
24 liability insurance covering liability that may arise against the city, its officers,
25 employees or agents as a result of the activities of the reserve on behalf of the

city. If any or a portion of such liability is to be self-insured, the self-insurance fund shall be increased accordingly.

C. Fire Department.

(1) Volunteer firefighters. There is created in the city "fire department, volunteer firefighters force", hereinafter referred to as the volunteer firefighters.

(a) The volunteer firefighters shall be subject to all regulations of the fire department of the city of Santa Fe and along with paid firemen be subject to the authority of the chief of city fire department who shall have sole and exclusive authority to:

(i) approve or disapprove of membership in the volunteer firefighters.

(ii) discipline or dismiss members of the volunteer firefighters subject to the same grievance procedure as set out in Ordinance No. 1983-44.

(b) The volunteer firefighters and its individual members shall have authority in fire protection only upon request by the city fire dispatch.

(c) Volunteer firefighters; powers and duties.

(i) The duties of the volunteer firefighters are to provide safe and efficient fire fighting by adhering to any and all city of Santa Fe standard operating procedures, as referenced herein, or as may be amended from time to time, in Exhibit A, attached hereto.

(ii) The volunteer firefighters shall be summoned and will respond simultaneously with fire apparatus. Volunteer firefighters and paid firefighters shall possess the same powers and perform the same duties.

(d) Volunteer firefighters; insurance.

(i) The city shall provide necessary liability insurance covering liability that may arise against the city, its officers, employees, volunteer

1 firefighters, or agents as a result of activities of the volunteer
2 firefighters on behalf of the city. If any or a portion of such liability is
3 to be self-insured, the self-insurance fund shall be increased
4 accordingly.

5 (ii) Active volunteer firefighter members are covered by an accident,
6 sickness, or disability insurance policy which is paid by the City of
7 Santa Fe.

8 (2) Department authority and powers.

9 (a) Pursuant to Section 3-18-1F. and G. NMSA 1978 and 3-18-11B(1), the city
10 may provide proper means for protection from fire and protect the property of
11 its municipality and its inhabitants and preserve the health, safety, peace and
12 order within the municipality. Therefore, the stated purpose of this subsection
13 is to grant the fire department all authority necessary to protect life and
14 property from the hazards created by fire, explosion, and similar emergencies.

15 (b) The fire department shall have full and complete authority in connection
16 with fighting, mitigating, and preventing the spread of any fire that may arise
17 within the city, with the power to do and perform all necessary or expedient
18 acts for the fighting of fire. When called to a fire, the fire department shall
19 have:

20 (i) Full and complete authority of the premises to which it has been
21 summoned until the fire has been extinguished and the premises are
22 deemed safe by the fire department; and

23 (ii) By emergency vehicle or by foot, the right of ingress and egress on
24 all public or private streets, alleyways, roads, driveways, and
25 thoroughfares located within the city limits or the city annexation areas.

1 (c) The fire department shall have full and complete authority in connection
2 with the provision of prehospital emergency medical services within the city,
3 with the power to do and perform all necessary or expedient acts for the
4 provision of these services.

5 (d) The fire chief shall have full authority to sign agreements, approved by the
6 city attorney's office, with landowners to implement fire hazard mitigation
7 activities.

8 (3) Department members designated as special police officers. Every member duly
9 enrolled and in good standing in the fire department shall be a special police officer of
10 the city with power to act as such from the time of the sounding of any fire alarm until
11 the apparatus and equipment for fighting fire has been returned to the fire station.

12 (4) Obstructing or interfering with firemen. It is unlawful for any person to obstruct,
13 annoy, or interfere with firemen while in the discharge of their duties.

14 (D) Community Services Division. The community services division includes senior services,
15 libraries, and family and youth services.

16 (F) Office of Emergency Management.

17 (1) In accordance with Section 12-10-5, the "office of emergency management," shall
18 consist of:

19 (a) An emergency manager who shall be appointed in accordance with Section
20 12-10-5 NMSA 1978, and who shall be subject to the personnel system of the
21 city;

22 (b) Additional professional and administrative personnel as may be required to
23 effectively carry out the emergency management program; and

24 (c) All other city officers and employees, together with those volunteer forces
25 enrolled to aid the city during periods of disaster or emergency.

1 (2) Definitions.

2 *Civil emergency* means conditions of unrest, including but not limited to riot, civil
3 disturbance, unlawful assembly, hostile military or paramilitary action, war, terrorism,
4 or sabotage.

5 *Comprehensive emergency management plan (CEMP)* means a written document that
6 describes the city's overall emergency management plan. A CEMP specifies the
7 purpose, organization, responsibilities, and facilities of the agencies and officials of the
8 city in the mitigation of, preparation for, response to, and recovery from emergencies
9 and disasters.

10 *Curfew* means a period of time declared by the mayor, during which no person or
11 persons, other than persons authorized by the mayor by administrative order, may be
12 upon the public streets, sidewalks, grounds, or semi-public property, either on foot or in
13 vehicles of any type, within the city.

14 *Disaster* means the occurrence of a natural catastrophe, technological accident, or
15 human-caused event that has resulted in environmental damage, property damage,
16 deaths, and/or multiple injuries, which may exceed the response capability of the local
17 jurisdiction, necessitating state, and potentially federal, involvement.

18 *Emergency* means any occasion or instance, such as a terrorist attack, terrorist threat,
19 civil unrest, wildland and urban fire, flood, hazardous materials spill, nuclear accident,
20 aircraft accident, earthquake, hurricane, tornado, tropical storm, tsunami, war-related
21 disaster, public health or medical emergency, other occurrence requiring an emergency
22 response, or any other condition that warrants action to protect life, property, or the
23 environment.

24 *Emergency management* means an approach to prevent, protect against, respond to,
25 recover from, and mitigate the effects of incidents.

1 *Emergency operations center (EOC)* means the physical location at which the
2 coordination of information and resources to support incident management (on-scene
3 operations) activities normally takes place.

4 *Emergency plan* means an ongoing plan for responding to a wide variety of potential
5 hazards.

6 *Hazard mitigation plan* means the representation of the city's commitment to reduce
7 risks from natural hazards, serving as a guide for decision makers as they commit
8 resources to reducing the effects of natural hazards.

9 *National Incident Management System (NIMS)* means the federal government's
10 standardized framework of doctrines, concepts, principles, terminology, and
11 organizational processes for emergency management.

12 (3) Purpose.

13 (a) The purpose of the office of emergency management is to coordinate the
14 efforts of all municipal agencies and employees, nongovernmental agencies,
15 and private sector partners to prepare for and function in the event of disasters
16 and emergencies endangering the lives of persons in the city, property of the
17 residents of the city, or public property in the city.

18 (b) The duty of the office of emergency management is to coordinate the
19 development of emergency plans for the effective employment of municipal
20 resources to protect the lives and health of the residents of the city and the
21 private and public property therein from the effects of emergencies or natural or
22 man-caused disasters.

23 (c) The office of emergency management shall coordinate the implementation
24 of such plans in preparation for, during, and after periods of emergency or
25 disaster. Such plans shall be coordinated with those of the county and in

1 consonance with the state emergency management plans.

2 (4) Emergency manager. The emergency manager shall:

3 (a) Be responsible to the ~~[city manager]~~ Director of Community Health and
4 Safety for the organization, administration, and operation of the emergency
5 management program of the city;

6 (b) Coordinate the emergency management activities of all municipal
7 departments and agencies of the city, nongovernmental agencies, and private
8 sector partners;

9 (c) Be the liaison and cooperate with the emergency management agencies of
10 the federal government, the state, the county, and the other political
11 subdivisions therein;

12 (d) Develop an organizational structure for the office of emergency
13 management, subject to the approval of the governing body and recommend
14 appointments to fill the positions established therein subject to the city
15 manager's authority;

16 (e) Manage the emergency operations center ("EOC"); establish the overall
17 structure, roles, responsibilities, and direction for the operation of the EOC; and
18 ensure that the EOC is appropriately sited, staffed, equipped, and maintained;

19 (f) Maintain written emergency plans, including but not limited to all chapters,
20 annexes, and appendices of the Comprehensive Emergency Management Plan
21 and Hazard Mitigation Plan, and annually review the plans to identify any
22 recommendations for revisions; and

23 (g) Maintain records documenting compliance with requirements of federal and
24 state emergency management programs, including the National Incident
25 Management System.

1 (5) Financing.

2 (a) Funds for necessary expenses of the office of emergency management,
3 including salaries for approved positions, may be made available through
4 appropriations by the governing body in accordance with Section 12-10-7
5 NMSA 1978.

6 (b) The emergency manager shall prepare and submit to the governing body an
7 annual proposed budget for emergency management expenditures and shall
8 indicate those amounts eligible for matching funds under the federal grant
9 programs.

10 (c) During an emergency, purchases may be exempt from the city's
11 procurement code, as permitted pursuant to Section 11-13 SFCC 1987.

12 **2-8.3 Community Development Department.**

13 There is created a department of city government to be known as the
14 "community development department" that shall include the following divisions:
15 economic development division, office of affordable housing, land use division,
16 tourism Santa Fe division, recreation division, and the arts and culture division.

17 **2-8.4 Information Technology and Telecommunications Department.**

18 There is created a department of city government to be known as the
19 "information technology and telecommunications department".

20 **2-8.5 Public Works Department.**

21 There is created a department of city government to be known as the "public
22 works department".

23 **2-8.6 Public Utilities Department.**

24 There is created a department of city government to be known as the "public
25 utilities department".

1 **2-8.7 Human Resources Department.**

2 There is created a department of city government to be known as the "human
3 resources department".

4 **2-8.8 Council and Constituent Relations Department.**

5 There is created a department of city government to be known as the "council
6 and constituent relations department," within the office of the city clerk.

7 **Section 4.** Section 2-9 SFCC 1987 (being _____) is hereby repealed.

8 **Section 5.** Section 2-10 SFCC 1987 (being _____) is hereby repealed.

9 **Section 6.** Section 2-11 SFCC 1987 (being Ord. No. 1983-33, § 1, as amended) is
10 hereby repealed.

11 **Section 7.** Section 2-12 SFCC 1987 (being Ord. No. 2007-45) is hereby repealed.

12 **Section 8.** Section 2-13 SFCC 1987 (being Ord. No. 1987-26, § 2, as amended) is
13 hereby repealed.

14 **Section 9.** Section 2-16 SFCC 1987 (being Ord. No. 1975-20, as amended) is
15 hereby repealed.

16 **Section 10.** Section 2-19 SFCC 1987 (being Ord. No. 2014-22, § 2) is hereby
17 repealed.

18 **Section 11.** Section 2-21 SFCC 1987 (being Ord. No. 2014-22, § 3) is hereby
19 repealed.

20 **Section 12.** Section 2-22 SFCC 1987 (being Ord. No. 1983-33, § 4, as amended) is
21 hereby amended to read:

22 **2-22 INTERNAL AUDIT [DEPARTMENT].**

23 **2-22.1 Short title.**

24 Section 2-22 SFCC 1987 shall be cited as the "Internal Audit [Department] Ordinance."

25 **2-22.2 Findings; purpose; goals.**

1 A. The governing body finds that good governance, transparency and
2 accountability are critical in the public sector for the effective and credible functioning of a
3 healthy democracy, and in fulfilling the government's responsibility to citizens and taxpayers.

4 B. Transparent and reliable reporting and effective auditing in government serve
5 to promote accountability, enhance the effectiveness of government services to its citizens,
6 and increase the public's confidence in their government.

7 C. The members of the governing body share a duty to insure that the actions of
8 public officials, employees and contractors of the city are carried out in the most responsible
9 manner possible and that city policies, budgets, goals and objectives are fully implemented.

10 D. To accomplish this, the city requires the services of an independent office or
11 contractor to provide independent, objective assurance and review services designed to
12 promote transparency, accountability, efficiency and effectiveness of city government.

13 E. The governing body does hereby establish the internal audit department, an
14 independent city department of city government or an independent contractor reporting to the
15 city manager, which shall oversee the functions hereby established. To ensure independence
16 and compliance with generally accepted governmental auditing standards, the internal auditor:

17 (1) Shall report results to the city manager, the audit committee, the
18 finance committee and the governing body;

19 (3) Has access to the governing body in accordance with the Open
20 Meeting Act; and

21 (4) Is sufficiently removed from political pressures to conduct audits and
22 report findings, opinions, and conclusions objectively without fear of political
23 reprisal.

24 F. The ~~[governing body also directs the]~~ internal audit department, in
25 cooperation with the audit committee, shall establish job descriptions and department policies

1 and procedures based on generally accepted governmental auditing standards; and to adopt the
2 Code of Ethics as defined by the Institute of Internal Auditors.

3 **2-22.3 Definitions.**

4 For the purpose of this section, the following definitions shall apply, unless the context
5 clearly indicates or requires a different meaning.

6 *Auditees* mean the city related departments, programs, activities, agencies, vendors,
7 contractors, employees, public officials or other city related entities affected by an audit or
8 investigation.

9 *Committee* means the City of Santa Fe audit committee.

10 *Contractors* mean all city contractors.

11 *Employee* means a city employee.

12 *Internal auditor* means the internal auditor who is the head of the internal audit
13 department or the city's primary contact for the internal audit contractor.

14 *Official* means the mayor or a city councilor.

15 *Report* means an audit, a special audit, an investigation and/or an examination.

16 *Special investigation or special audit* means additional procedures or audits undertaken
17 because the need was not previously foreseen.

18 **2-22.4 Creation of the internal audit department; resources; staff.**

19 A. The internal audit department is created as an independent office of city
20 government. The internal auditor [is] shall either be the head of the internal audit department
21 or an independent contractor and shall report to the city manager.

22 B. The audit committee shall review applications for and make a
23 recommendation to the city manager for hiring an internal auditor~~[, a city employee]~~.

1 C. The internal auditor shall review applications and make recommendations to
2 the city manager for hiring other internal audit department employees[;] or procuring
3 independent contractors [~~to be procured~~] for assistance with the internal audit [~~department~~].

4 D. In accordance with law and in consultation with the city attorney's office, the
5 city manager shall report proposed personnel actions, such as hiring, discipline, or
6 termination, relating to the internal auditor to the audit committee in executive session, in
7 accordance with the New Mexico Open Meetings Act. Nothing in this paragraph shall prohibit
8 the city manager from immediately placing the internal auditor on administrative leave due to
9 a proposed personnel action; however, the city manager shall report the proposed personnel
10 action to the audit committee, within seven (7) business days from the date the internal auditor
11 is placed on administrative leave.

12 E. The internal auditor's work shall result in a complete written final report being
13 made of each annual audit, special audit, investigation and/or examination made ("report")
14 and shall be delivered to the city manager, except if the city manager is the subject of the
15 audit, then the report shall be delivered to the mayor. The internal auditor shall also notify the
16 governing body in writing that the final report has been delivered. Each report, in its final
17 form, shall set out in detail, in a separate section, any violation of law or good accounting
18 practices found. Such reports are confidential under this section until placed on the finance
19 committee's agenda or put in their final form, whichever occurs first. Reports shall not exist in
20 a draft form for more than thirty (30) days without presentation to the finance committee.
21 Final reports shall also be timely presented to the audit committee. If the draft report is not
22 ready to be delivered to the city manager in its final form or is not ready to be presented to the
23 finance committee after thirty (30) days, then staff shall inform the finance committee, in
24 writing, the specific date, absent court order not exceeding twenty (20) days, when the final

1 report will be delivered to the city manager or presented to the finance committee and the
2 stated basis for the additional time needed.

3 F. Any final report for presentation to city committees or the governing body
4 shall be included in the meeting packet and such meeting packets shall be posted on the city's
5 website.

6 G. Prior to the committee meeting a final report placed on a committee agenda
7 shall be accessible by all members of the governing body and the public, and at such time
8 shall become a public record consistent with the Inspection of Public Records Act and its
9 exemptions.

10 H. Within thirty (30) days after receipt of the report, the employee and/or
11 division and/or department audited may notify the internal auditor of any errors in the report.
12 If the internal auditor is satisfied from data or documents at hand, or by an additional
13 investigation, that the report is erroneous, the internal auditor shall correct the report and
14 furnish copies of the corrected report to all parties receiving the original report.

15 I. The internal auditor may disclose audit information or audit documentation
16 that is confidential, without losing the confidentiality under this Ordinance to an independent
17 external auditor in connection with a special audit, performance audit, attestation engagement,
18 or other existing or potential engagement regarding the financial affairs and transactions of
19 the city.

20 J. The auditor's budget shall be reflected in the city manager's proposed budget
21 as a separate department. The budget shall be sufficient to allow the organization to carry out
22 its responsibilities, including sufficient funding for annual continuing professional education
23 requirements and professional certification as required by the generally accepted
24 governmental auditing standards. The auditor's proposed budget shall be prepared and
25 presented to the finance director and the city manager.

1 **2-22.5 Internal auditor's duties; responsibilities; authority; administrative**
2 **subpoena power.**

3 A. If the internal auditor detects instances of possible fraud, waste, or abuse or
4 potential violations of law by an auditee, ~~[he]~~ the auditor shall report the irregularities to the
5 city manager and the audit committee.

6 (1) In accordance with Section 12-6-6 NMSA 1978 and state auditor's
7 Rule 2.2.2.10K(3), a notification letter regarding the possible fraud, waste, or abuse
8 shall also be sent to the state auditor's office whether or not an investigation by the
9 internal auditor is conducted.

10 (2) If the irregularity is criminal in nature, the internal auditor shall
11 immediately refer the irregularity to the appropriate prosecuting authority.

12 (3) If the irregularity warrants a special investigation, audit, and/or
13 special audit, then the internal auditor shall conduct a special investigation, audit
14 and/or special audit. The report shall be submitted to the city manager, the audit
15 committee, the auditee, the governing body through the finance committee.

16 (4) The internal auditor shall not accept complaints related to
17 discrimination or labor law matters. In some cases, it may be appropriate for internal
18 audit to work with investigators or legal authorities, or withdraw from or defer further
19 audit work on the audit or portion of the audit to avoid interfering with an ongoing
20 investigation or legal proceeding.

21 B. The internal auditor shall adhere to generally accepted governmental auditing
22 standards in conducting its work and will be considered independent as defined by those
23 standards.

24 C. The internal auditor's work department ~~department~~ is subject to a peer review by an
25 appropriate professional non-partisan objective group every three (3) to five (5) years if the

1 internal auditor is an employee; contract internal auditors shall serve for no more than four
2 consecutive years. A copy of the written report by an objective group shall be furnished to the
3 city manager, audit committee, and governing body, via the finance committee.

4 D. The internal auditor shall have the power to subpoena witnesses, administer
5 oaths, and require the production of records subject to the New Mexico Rules of Civil
6 Procedure. In the case of a refusal to obey a subpoena issued to any person, the internal
7 auditor may make application to any district court in the state that shall have the jurisdiction
8 to order the witness to appear before the internal auditor and to produce evidence if so
9 ordered, or to give testimony touching on the matter in question.

10 **2-22.6 Scope of audits.**

11 A. Audits, except for special audits or special investigations/examinations, will
12 be conducted based on an annual audit plan developed in accordance with applicable
13 professional auditing standards. This plan and any modifications thereof, are to be reviewed
14 by the audit committee and recommended for approval.

15 (1) Within sixty (60) days before the beginning of each fiscal year, the
16 internal auditor shall submit a one-to-five-year audit plan to the audit committee, the
17 city manager and the governing body for review and comments, but the internal
18 auditor shall have final authority to select the audits planned. The proposed plan shall
19 include the rationale for the selections, for auditing departments, offices, boards,
20 activities, subcontractors and agencies for the period. This plan may be amended after
21 review;

22 (2) The final plan and any amendments will be presented to the audit
23 committee, the city manager, and subject to approval of the governing body;

24 (3) In the selection of audit areas and audit objectives, the
25 determination of audit scope and the timing of audit work, the internal auditor should

1 consult with federal, state, and other external auditors so that the desirable audit
2 coverage is provided and audit effort is properly coordinated.

3 B. The internal auditor is authorized to conduct the following audits as defined in
4 generally accepted governmental auditing standards:

5 (1) *Performance/Management Audits.* Performance audits are defined as
6 engagements that provide assurance or conclusions based on an evaluation of
7 sufficient and appropriate evidence against stated criteria, such as specific
8 requirements, measures, or defined business practices.

9 (2) *Financial Audits.*

10 (3) *Attestation Engagements.* Attestation engagements result in an
11 examination, a review, or agreed upon procedures about a subject matter that is the
12 responsibility of another party. This includes special audits.

13 (4) *Advisory (Non-Audit) Services.* This includes special investigations.
14 The issued report shall not include an opinion statement or a statement indicating the
15 investigation was done in accordance with generally accepted government auditing
16 standards. These services are subject to applicable professional standards.

17 C. The auditor shall have the authority to conduct performance and financial
18 audits, attestation engagements or to provide advisory (non-audit) services to independently
19 and objectively determine whether:

20 (1) The city, state or federal law authorizes the implemented activities
21 and programs that are the subject of the audit;

22 (2) The objectives intended by city, state, or federal law are efficiently
23 and effectively accomplished in the implementation of activities and programs;

24 (3) The expenditure of funds was or is in compliance with applicable
25 laws;

1 (4) The revenues were or are properly collected, deposited, and accounted
2 for;

3 (5) The entity, programs, activities, functions, or policies are effective,
4 including the identification of any causes of inefficiencies or uneconomical practices;

5 (6) The desired result or benefits are being achieved;

6 (7) Resources, including funds, property and personnel, were or are
7 adequately safeguarded, controlled, and used in a faithful, effective, and efficient
8 manner;

9 (8) Financial and other reports fairly and fully disclosed all information
10 as required by law necessary to evaluate and ascertain the nature and scope of
11 programs and activities;

12 (9) Management established operating and administrative procedures and
13 practices, accounting internal control systems and internal management controls were
14 and are adequate and functioning as intended;

15 (10) City policies, budgets, goals, and objectives were and are fully
16 implemented; and

17 (11) Indications of fraud, waste, abuse, or illegal acts are valid and need
18 further investigation.

19 **2-22.7 Reports.**

20 A. The internal auditor shall report results of all types of audits, investigations
21 and/or engagements in their final report form to the audit committee, the city manager, the
22 auditees, and the governing body via the finance committee.

23 B. All types of audit reports, investigations, and/or engagements, in their final
24 report form, are public records, available for public inspection.

1 C. The internal auditor's reports, including attestation engagements, shall follow
2 the guidelines as specified in generally accepted governmental auditing standards, or in the
3 case of a non-audit service applicable professional auditing standards.

4 D. At a minimum audit and attestation engagement reports should include:

5 (1) Statements describing the objectives, scope and methodology of the
6 audit;

7 (2) A statement that the audit was performed in accordance with generally
8 accepted government auditing standards;

9 (3) Background information, audit results, and findings as appropriate;

10 (4) A conclusion based on the audit objectives and the audit findings;
11 and

12 (5) The findings in the audit report should present sufficient, appropriate
13 evidence to support the conclusion in relation to the audit objectives.

14 E. Responses submitted by the city manager relevant to the audit findings must
15 include a remediation plan specifying dates and corrective action to be taken to
16 resolve the issue.

17 (1) A response is required within fourteen (14) days of receipt of a final
18 report;

19 (2) If no response is received, the internal auditor will note that fact in the
20 transmittal letter and will release the report without a remediation plan.

21 F. The internal auditor shall submit an annual report to the audit committee, city
22 manager, and governing body via the finance committee within sixty (60) days after
23 fiscal year end indicating all audits, investigations, and/or engagements completed,
24 major findings, corrective actions taken by administrative managers, and significant
25 issues which have not been fully addressed by management.

1 **2-22.8 Reporting.**

2 The internal auditor shall follow the internal audit plan, report to the governing body
3 via the finance committee, the auditees, the city manager, and the audit committee regarding all
4 audit activities, results, and conclusions. Depending on the type of audit, the internal auditor
5 shall report more frequently when requested.

6 **2-22.9 Contract auditors, consultants, and experts.**

7 Within budgetary constraints, the internal auditor may obtain the services of certified
8 public accountants, qualified management consultants, certified fraud examiners, forensic
9 auditors, or other professional experts necessary to perform the functions of the internal audit
10 department. Contractors performing an audit shall not have any financial interest in the
11 affairs of the auditees, officials, or employees. The internal auditor shall coordinate and
12 monitor auditing performed by persons under contract to the internal auditor.

13 **2-22.10 Penalty; cooperation; retaliation prohibited.**

14 A. All city officials, employees, and contractors shall provide the internal auditor
15 full and unrestricted access to all city offices, employees, records, information, data, reports,
16 plans, projections, matters, contracts, memoranda, correspondence, electronic data, property,
17 equipment and facilities, and any other materials within their custody. At the internal auditor's
18 request, an official, employee, or contractor shall prepare reports and provide interviews. If an
19 auditee, official, employee, vendor, or contractor fails to produce the requested information,
20 the internal auditor shall notify the city manager requesting his assistance in causing a search
21 to be made and germane exhibits to be taken from any book, paper, or record, written or
22 electronic, excepting personal property. The city manager shall require the officials,
23 employees, vendors, or contractors to produce the requested information. Further, all contracts
24 with outside contractors and subcontractors shall contain a "right-to-audit" clause providing
25 the internal auditor access to the contractor's employees and to all financial and performance

1 related records, property, and equipment purchased in whole or in part with governmental
2 funds.

3 B. No person shall retaliate against, punish, or penalize any other person for
4 complaining to, cooperating with, or assisting the internal auditor in the performance of his
5 office. The internal auditor, all city employees and public officials, and any person
6 cooperating with the internal auditor in performance of duties has the same protections as
7 provided for in the Federal Whistle Blower Protection Act and the New Mexico
8 Whistleblower Protection Act, Sections 10-16C-1 et seq. NMSA 1978.

9 C. Any official or employee who violates this section may be subject to
10 discipline as may be specified in applicable city ordinances or any applicable collective
11 bargaining agreement.

12 **2-22.11 Audits and the Inspection of Public Records Act.**

13 A. This subsection is adopted pursuant to the general welfare and police powers
14 conferred upon the city of Santa Fe by § 3-17-1 et seq. and § 3-18-1 et seq. NMSA 1978,
15 pursuant to the powers conferred upon the city of Santa Fe by the New Mexico Constitution,
16 Article X §§ 6(D) and 6(E) and the Municipal Charter Act § 3-15-1 et seq. NMSA 1978,
17 which have been exercised by the city's adoption of the Santa Fe Municipal Charter. The
18 purpose of this subsection is within both the city's home rule powers and the delegated powers
19 that all municipalities have to provide for the general welfare of their residents by the general
20 welfare clause in Section 3-17-1(B) NMSA 1978 and police power to "protect generally the
21 property of its municipality and its inhabitants" and to "preserve peace and order within the
22 municipality" by Section 3-18-1(F) and (G) NMSA 1978.

23 B. At all times during the audit process and after the report becomes a public
24 record; the internal auditor shall follow applicable standards and 2.2.2 NMAC regarding the
25 release of any information relating to the audit. Applicable standards include but are not

1 limited to the AICPA Code of Ethics Rule 301 and related interpretations and guidance,
2 Institute for Internal Auditors interpretations and guidance and GAGAS 4.30 to 4.32 and
3 GAGAS 4.40 to 4.44.

4 **Section 13.** Section 2-23 SFCC 1987 (being Ord. No. 2020-3, § 1, as amended) is
5 hereby repealed.

6 **Section 14.** 26-1.6 SFCC 1987 (being Ord. No. 2005-30(A), § 35 and Ord. #2007-
7 45, § 30, as amended) is hereby amended to read:

8 **26-1.6 - Creation of office of affordable housing.**

9 A. The office of affordable housing shall be established to administer the Santa Fe homes
10 program in accordance with the provisions of this chapter, and to administer the city's other
11 affordable housing programs. ~~[The office of affordable housing shall be an independent~~
12 ~~department responsible to the city manager.]~~

13 B. In administering this chapter, the office of affordable housing shall work with the land
14 use ~~[department]~~ division to eliminate conflict and duplication in the permitting and development
15 approval process.

16 C. The office of affordable housing shall administer any agreements previously executed
17 by the city and others.

18 **Section 15.** 26-3.5 SFCC 1987 (being Ord. No. 2007-23, § 8, as amended) is
19 hereby amended to read:

20 **26-3.5 - Definitions.**

21 *AHTF* means the affordable housing trust fund.

22 *Administrative procedures* refer to the administrative procedures adopted by resolution
23 that outline application, evaluation, and all other administrative procedures associated with the
24 AHTF.

25 *Affordable housing* means residential housing primarily for persons or households of low

1 or moderate income.

2 *Allowable uses* means those uses for the AHTF which are set forth in subsection 26-3.4
3 SFCC 1987.

4 *Community housing priorities* means priorities established from time to time by the
5 governing body to guide the allocation of funds from the AHTF.

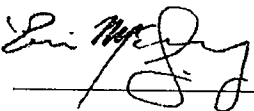
6 *Comprehensive housing strategy* means a services delivery system that addresses the full
7 continuum of housing needs from the homeless to the homebuyer.

8 *Eligible households* means a person or households of low or moderate income as defined
9 in rules adopted by the New Mexico Mortgage Finance Association.

10 *Leverage* means the dollar value of other resources committed to projects for which an
11 application and approval has been received for a loan or grant from the AHTF. Each dollar
12 committed to the project that is not generated from the AHTF shall be considered as leverage.

13 *Office of affordable housing* means the ~~[department]~~ division of the city of Santa Fe or its
14 successor administering affordable housing programs.

15
16 APPROVED AS TO FORM:

17 
18 _____

19 ERIN K. McSHERRY, CITY ATTORNEY

20
21
22 *Legislation/2020/Bills/Department Reorganization*