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**CITY OF SANTA FE, NEW MEXICO**

**BILL NO. 2020-20**

**INTRODUCED BY:**

Mayor Alan Webber

**AN ORDINANCE**

**CREATING EFFICIENCIES, ENHANCING EFFECTIVENESS, AND ELIMINATING  
SILOS BY REORGANIZING CERTAIN CITY DEPARTMENTS, ORGANIZING THE  
ECONOMIC DEVELOPMENT DIVISION, OFFICE OF AFFORDABLE HOUSING  
~~OFFICE~~, PLANNING AND 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, RECREATION DIVISION, AND  
OFFICE OF EMERGENCY MANAGEMENT AND SAFETY AS DIVISIONS OF A  
COMMUNITY HEALTH AND SAFETY DEPARTMENT; AND PLACING ~~THE~~  
CONSTITUENT AND COUNCIL RELATIONS ~~DEPARTMENT~~ INTO THE CITY  
CLERK'S OFFICE TO FORM AN OFFICE OF COMMUNITY ENGAGEMENT;  
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**

1 SUBSECTIONS OF THE NEW SECTION 2-8; ESTABLISHING IN ORDINANCE THE  
2 EXISTING INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS  
3 DEPARTMENT AND ~~[THE]~~ CONSTITUENT AND COUNCIL SERVICES  
4 ~~[DEPARTMENT]~~; AND REPEALING THE SECTIONS OF CHAPTER 2 THAT  
5 ESTABLISH DEPARTMENTS THAT ARE EITHER BECOMING DIVISIONS OR  
6 NOLONGER EXIST, SECTIONS 2-9, 2-10, 2-11, 2-12, 2-13, 2-16, 2-19, 2-21, AND 2-23  
7 SFCC 1987; AMENDING SECTION 2-22 SFCC 1987 TO PROVIDE CONTRACT  
8 INTERNAL AUDIT FUNCTIONS; ~~[AND]~~ AMENDING SECTIONS 26-1.6 AND 26-3.5  
9 REGARDING THE OFFICE OF AFFORDABLE HOUSING; AND MAKING SUCH  
10 OTHER CHANGES AS ARE NECESSARY.

11  
12 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

13 Section 1. Section 2-6.3 SFCC 1987 (being Code 1953, § 2-60; Code 1973, § 2-  
14 84; SFCC 1981, § 2-1-24, as amended) is hereby amended to read:

15 2-6.3 Duties of the city clerk. The city clerk shall:

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

18 B. Attend all meetings of the governing body;

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

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

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

24 F. Have custody of, and safely keep, all official records and documents, such as  
25 contracts, agreements, deeds, of the city, the originals of which are to stay in the office, except

1 upon request of the city attorney for purposes of litigation;

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

4 H. Administer and manage the office of community engagement, which includes  
5 constituent and council services [Department]; and

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

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

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

10 **[NEW MATERIAL] 2-8 CITY DEPARTMENTS.**

11 **2-8.1 Finance Department.**

12 A. Creation of department.

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

15 B. Finance officer.

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

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

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

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

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

- 1 (d) Expend the money only as directed by the governing body;
- 2 (e) Submit monthly, or more often if required by the governing
- 3 body, a report of the receipts and expenditures of the city;
- 4 (f) Supervise the depositing and safekeeping of all money
- 5 belonging to the city;
- 6 (g) With the advice and consent of the governing body designate
- 7 banks qualified to receive or deposit money entrusted in his care;
- 8 (h) Prepare annually, for the close of the fiscal year, a
- 9 comprehensive annual financial report showing the receipts, expenditures and
- 10 balances for each fund. A copy of the financial report shall be filed in the
- 11 finance officer; and
- 12 (i) Perform other duties prescribed by law, ordinance or city rules
- 13 and regulations.

14 (3) *Reports to Governing Body.* The finance officer shall be responsible

15 and report to the governing body through the city manager.

16 (4) *Records Open for Inspection.* The records of the finance officer shall

17 be open to inspection by any citizen during the regular business hours of the city.

18 **2-8.2 Community Health and Safety Department.**

19 A. Creation of department.

20 There is created a department of city government to be known as the

21 "community health and safety department", comprised of ~~four~~ five divisions: the

22 police department, the fire department, the community services department, the

23 recreation division, and the office of emergency management and safety.

24 B. Police Department.

25 (1) Powers and duties generally. Police officers shall execute and return all

1 writs and processes directed to them by the municipal judge and, in criminal cases or  
2 cases of violations of city ordinances, they may serve the same in any part of the  
3 country. They shall suppress all riots, disturbances and breaches of the peace,  
4 apprehend all disorderly persons within the city and shall pursue and arrest any person  
5 fleeing from justice. They shall apprehend any person in the act of committing any  
6 offense against the laws of the state or the ordinances of the city, and forthwith bring  
7 such persons before a competent authority for examination and trial. They shall have, in  
8 the discharge of their proper duties, like powers and be subject to like responsibilities  
9 as sheriffs or constables in similar cases.

10 (2) Appointment of police officers; commissions. No person shall assume  
11 or exercise the functions, powers, duties and privileges incident or belonging to the  
12 office of municipal [~~police~~man] police officers without first having received his  
13 appointment in writing, known as his "commission", from the governing body. The  
14 advice of the chief of police shall be obtained in the employment and commissioning of  
15 all [~~police~~men] police officers of the department.

16 (3) Training schools and examinations.

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

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

25 (c) In the taking of all written examinations there shall be assigned

1 to each applicant a number which shall be endorsed on his examination papers,  
2 and the grading of the examinations shall be by number only.

3 (d) Except as otherwise provided, no member shall be retained in  
4 the police department and no applicant shall be appointed to the police  
5 department unless such member or applicant, after taking the prescribed  
6 training courses, has successfully passed the prescribed examinations, written  
7 and oral; provided, that the minimum educational qualifications required by the  
8 City Personnel Act shall not apply to members of the present police department  
9 who are otherwise qualified under the provisions hereof; provided further, that  
10 in passing on the qualifications of members of the present police department,  
11 consideration shall be given to:

12 (i) Length of service and faithfulness to duty; and

13 (ii) General aptitude for police work as disclosed by the  
14 individual records of such members to be confirmed by oral  
15 examinations.

16 (4) Extra or emergency police officers.

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

19 (5) Police department reserve.

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

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

25 (i) Summarily discipline or dismiss members without

1 appeal to any body or tribunal;

2 (ii) Approve or disapprove all bylaws, rules and regulations  
3 of the reserve; and

4 (iii) Approve or disapprove all officers, employees or  
5 agents of the reserve.

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

9 d. Powers and Duties.

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

13 (ii) The reserve or its members when acting upon call, and  
14 only when acting upon call, of the city police chief, for the city or for  
15 another law enforcement agency or regulatory authority, shall be  
16 possessed of the same powers and duties as a city police officer or an  
17 officer of such law enforcement agency or regulatory authority.

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

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

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

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

g. Workmen's Compensation. The city shall immediately take steps to provide necessary workmen's compensation insurance for the reserve and necessary liability insurance covering liability that may arise against the city, its officers, 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~~



1 ~~have authority in fire protection only upon request by the city fire dispatch.~~

2 ~~(c) — Volunteer firefighters; powers and duties.~~

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

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

11 ~~(d) — Volunteer firefighters; insurance.~~

12 ~~(i) — The city shall provide necessary liability insurance~~  
13 ~~covering liability that may arise against the city, its officers,~~  
14 ~~employees, volunteer firefighters, or agents as a result of activities of~~  
15 ~~the volunteer firefighters on behalf of the city. If any or a portion of~~  
16 ~~such liability is to be self insured, the self insurance fund shall be~~  
17 ~~increased accordingly.~~

18 ~~(ii) — Active volunteer firefighter members are covered by an~~  
19 ~~accident, sickness, or disability insurance policy which is paid by the~~  
20 ~~City of Santa Fe.]~~

21 ~~(2)](1) Department authority and powers.~~

22 (a) Pursuant to Section 3-18-1F. and G. NMSA 1978 and 3-18-  
23 11B(1), the city may provide proper means for protection from fire and protect  
24 the property of its municipality and its inhabitants and preserve the health,  
25 safety, peace and order within the municipality. Therefore, the stated purpose

1 of this subsection is to grant the fire department all authority necessary to  
2 protect life and property from the hazards created by fire, explosion, and  
3 similar emergencies.

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

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

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

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

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

23 (3) Department members designated as special police officers. Every  
24 member duly enrolled and in good standing in the fire department shall be a special  
25 police officer of the city with power to act as such from the time of the sounding of any

1 fire alarm until the apparatus and equipment for fighting fire has been returned to the  
2 fire station.

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

5 D. Community Services ~~[Division]~~ Department. The community services  
6 ~~[division]~~ department includes senior services, libraries, and family and youth services.

7 F. Office of Emergency Management and Safety.

8 (1) In accordance with Section 12-10-5 NMSA 1978, the "office of  
9 emergency management and safety," shall consist of:

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

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

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

18 (2) Definitions.

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

22 *Comprehensive emergency management plan (CEMP)* means a written  
23 document that describes the city's overall emergency management plan. A CEMP  
24 specifies the purpose, organization, responsibilities, and facilities of the agencies and  
25 officials of the city in the mitigation of, preparation for, response to, and recovery from

1 emergencies and disasters.

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

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

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

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

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

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

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

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

4                    (3) Purpose.

5                    (a) The purpose of the office of emergency management and safety  
6 is to coordinate the efforts of all municipal agencies and employees,  
7 nongovernmental agencies, and private sector partners to prepare for and  
8 function in the event of disasters and emergencies endangering the lives of  
9 persons in the city, property of the residents of the city, or public property in  
10 the city.

11                    (b) The duty of the office of emergency management and safety is  
12 to coordinate the development of emergency plans for the effective  
13 employment of municipal resources to protect the lives and health of the  
14 residents of the city and the private and public property therein from the effects  
15 of emergencies or natural or man-caused disasters.

16                    (c) The office of emergency management and safety shall  
17 coordinate the implementation of such plans in preparation for, during, and  
18 after periods of emergency or disaster. Such plans shall be coordinated with  
19 those of the county and in consonance with the state emergency management  
20 plans.

21                    (d) The office of emergency management and safety shall ensure  
22 that safety is a priority throughout the city's operations and coordinate and  
23 oversee safety protocols and implementation for the city.

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

25                    (a) Be responsible to the [~~city manager~~] director of community

1 health and safety for the organization, administration, and operation of the  
2 emergency management program of the city;

3 (b) Coordinate the emergency management activities of all  
4 municipal departments and agencies of the city, nongovernmental agencies, and  
5 private sector partners;

6 (c) Be the liaison and cooperate with the emergency management  
7 agencies of the federal government, the state, the county, and the other political  
8 subdivisions therein;

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

13 (e) Manage the ~~[emergency operations center ("EOC")]~~; establish  
14 the overall structure, roles, responsibilities, and direction for the operation of  
15 the EOC; and ensure that the EOC is appropriately sited, staffed, equipped, and  
16 maintained;

17 (f) Maintain written emergency plans and safety protocols,  
18 including but not limited to all chapters, annexes, and appendices of the  
19 comprehensive emergency management plan and hazard mitigation plan, and  
20 annually review the plans to identify any recommendations for revisions; and

21 (g) Maintain records documenting compliance with requirements  
22 of federal and state emergency management programs, including the ~~[national  
23 incident management system]~~ NIMS.

24 (5) Financing.

25 (a) Funds for necessary expenses of the office of emergency

1 management and safety, including salaries for approved positions, may be  
2 made available through appropriations by the governing body in accordance  
3 with Section 12-10-7 NMSA 1978.

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

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

### 10 **2-8.3 Community Development Department.**

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

### 15 **2-8.4 Information Technology and Telecommunications Department.**

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

### 18 **2-8.5 Public Works Department.**

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

### 21 **2-8.6 Public Utilities Department.**

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

### 24 **2-8.7 Human Resources Department.**

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

1 department".

2 ~~**[2-8.8 Council and Constituent Relations Department.**~~

3 ~~There is created a department of city government to be known as the "council and~~  
4 ~~constituent relations department," within the office of the city clerk.]~~

5 **Section 4. Section 2-9 SFCC 1987 (being Code 1953, § 18-1; Code 1973, § 25-1;**  
6 **SFCC 1981, § 5-1-1) is hereby repealed.**

7 **Section 5. Section 2-10 SFCC 1987 (being Ord. No. 1987-55 § 1, as amended) is**  
8 **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; and

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

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

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

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

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

25 **2-22.8 Reporting.**

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

5           **2-22.9 Contract auditors, consultants, and experts.**

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

12           **2-22.10 Penalty; cooperation; retaliation prohibited.**

13           A.       All city officials, employees, and contractors shall provide the internal auditor  
14 full and unrestricted access to all city offices, employees, records, information, data, reports,  
15 plans, projections, matters, contracts, memoranda, correspondence, electronic data, property,  
16 equipment and facilities, and any other materials within their custody. At the internal auditor's  
17 request, an official, employee, or contractor shall prepare reports and provide interviews. If an  
18 auditee, official, employee, vendor, or contractor fails to produce the requested information,  
19 the internal auditor shall notify the city manager requesting his assistance in causing a search  
20 to be made and germane exhibits to be taken from any book, paper, or record, written or  
21 electronic, excepting personal property. The city manager shall require the officials,  
22 employees, vendors, or contractors to produce the requested information. Further, all contracts  
23 with outside contractors and subcontractors shall contain a "right-to-audit" clause providing  
24 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. Section 23-4.9 SFCC 1987 (being Ord. No. 1981-39 § 12, as amended)**  
7 **is hereby amended to read:**

8 A. All requests for use of public parks for organized gatherings, including the  
9 plaza and plaza park, as well as concessions supporting these events, may be approved by the  
10 ~~[parks and recreation]~~ department authorized to do so by the City Manager.

11 B. Applicants for use of city parks shall follow and be subject to the procedures,  
12 requirements, and restrictions adopted by the governing body.

13 **Section 15. 26-1.6 SFCC 1987 (being Ord. No. 2005-30(A), § 35 and Ord. #2007-**  
14 **45, § 30, as amended) is hereby amended to read:**

15 **26-1.6 Creation of office of affordable housing.**

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

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

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

25 **Section 16. 26-3.5 SFCC 1987 (being Ord. No. 2007-23, § 8, as amended) is**

1 hereby amended to read:

2 **26-3.5 Definitions.**

3 *AHTF* means the affordable housing trust fund.

4 *Administrative procedures* refer to the administrative procedures adopted by resolution  
5 that outline application, evaluation, and all other administrative procedures associated with the  
6 AHTF.

7 *Affordable housing* means residential housing primarily for persons or households of low  
8 or moderate income.

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

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

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

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

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

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

22 **Section 16. Editor's Note: SFCC 1987 is hereby amended to strike all references**  
23 **to "land use department" and insert in lieu thereof "planning and land use department".**

24 APPROVED AS TO FORM:

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ERIN K. McSHERRY, CITY ATTORNEY

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*Legislation/2020/Bills/2020-20 Department Reorganization (Substitute)*