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CITY OF SANTA FE, NEW MEXICO

BILL NO. 2020-\_\_

INTRODUCED BY:

Councilor Signe I. Lindell

Councilor Renee Villarreal

Councilor Carol Romero-Wirth

Councilor JoAnne Vigil Coppler

AN ORDINANCE

RELATING TO THE NUISANCE ABATEMENT ORDINANCE, SECTION 10-9 SFCC  
1987; AMENDING SECTION 10-9.2 TO ALIGN THE INTENT WITH THE PURPOSE  
OF THE BILL; AMENDING SECTION 10-9.3 TO AMEND AND ADD DEFINITIONS;  
AMENDING SECTION 10-9.4 TO MAKE THE PROPERTY OWNER RESPONSIBLE;  
REPEALING AND READOPTING A NEW SECTION 10-9.5 TO ESTABLISH A  
PROCESS FOR A NUISANCE INVESTIGATION AND ABATEMENT PROCESS;  
REPEALING AND READOPTING A NEW SECTION 10-9.6 TO ESTABLISH  
TENANTS' RIGHTS; AMENDING SECTION 10-9.7 TO ESTABLISH ENFORCEMENT  
PROVISIONS TO HOLD THE PROPERTY OWNER ACCOUNTABLE; AMENDING  
SECTION 10-9.8 REGARDING RESERVATION OF LEGAL OPTIONS; AMENDING  
SECTION 10-9.9 REGARDING APPEALS; AMENDING SECTION 10-9.10 TO  
REMOVE EXTRANEOUS LANGUAGE; REPEALING SECTION 10-9.11 REGARDING  
SUPPLEMENTARY REMEDIES FOR PUBLIC NUISANCES; AND AMENDING

1 SECTION 10-9.13 REGARDING THE RIGHT OF ENTRY.

2  
3 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

4 Section 1. Section 10-9.2 of SFCC 1987 (being Ord. No. 2005-1 § 9, as  
5 amended) is amended to read:

6 10-9.2 Intent.

7 A. The abatement of public nuisances for the protection of public health, safety,  
8 and ~~[welfare]~~ well-being is a matter of local concern. The purpose of this section is to abate  
9 public nuisances. ~~[The remedies provided in this section are directed at the property involved~~  
10 ~~without regard to ownership, title or right of possession and the culpability or innocence of~~  
11 ~~those who hold these rights.]~~ The remedial actions provided in this section are intended to be  
12 civil in nature.

13 B. The purpose of this section is to ~~[reduce the costs of providing police, fire,~~  
14 ~~and other emergency response services]~~ prevent the use of property as a public nuisance and  
15 to minimize the impact of nuisance properties on surrounding neighborhoods by imposing a  
16 civil fee against ~~[person responsible]~~ the property owner for conducting, aiding, allowing,  
17 permitting, or condoning a public nuisance at a ~~[residence or other private]~~ property ~~[for the~~  
18 ~~recovery of costs associated with providing law enforcement, fire, and other emergency~~  
19 ~~response services to public nuisances].~~ If the city deems the property owner to be non-  
20 compliant with the required abatement plan, the city may issue fines and may request that a  
21 district court place a lien on the property pursuant to Section 10-9.7 SFCC 1987.

22 Section 2. Section 10-9.3 of SFCC 1987 (being Ord. No. 2005-1 § 10, as  
23 amended) is amended to read:

24 10-9.3 Definitions.

25 For the purposes of this section the following definitions shall apply unless the context

1 clearly indicates or requires a different meaning.

2 *Abate* means to repair, replace, remove, destroy, bring to a halt, eliminate, or, where  
3 that is not possible or feasible, to suppress, reduce, or minimize.

4 *Abatement plan* means a document including the name and address of the property  
5 owner and, if applicable, the person(s) in charge of the property; the street address or a  
6 description sufficient for identification of the property, building, structure, or land upon or  
7 within which the nuisance is occurring; a description of or reference to the relevant nuisance  
8 activities; an outline of the steps required to rectify the public nuisance(s), including a timeline  
9 for completion; and an agreement by the property owner that the city may (1) inspect the  
10 property as necessary to determine compliance with the abatement plan; (2) if the property  
11 owner fails to comply with the abatement plan by the deadline outlined within the abatement  
12 plan, abate the nuisance and recover costs, expenses, and monetary penalties pursuant to 10-9.7  
13 SFCC 1987.

14 *Alcohol* means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever  
15 source or by whatever process produced.

16 *Alcoholic beverage* means alcohol, spirits, liquor, wine, beer, and every liquid or solid  
17 containing alcohol, spirits, wine, or beer, and which contains one-half of one percent (.5%) or  
18 more of alcohol by volume and which is fit for beverage purposes either alone or when diluted,  
19 mixed, or combined with other substances.

20 *Building* means a structure, as defined herein, which is enclosed with walls and a roof  
21 so that there are no sides left open.

22 *Contraband* means any personal property which is illegal to own.

23 *Juvenile* means any person under eighteen (18) years of age.

24 *Loud or unruly gathering* means a party or gathering of two (2) or more persons at or  
25 on a [~~residence or other private~~] property, who are causing noise that disturbs the peace or

1 obstructs public streets, including crowds of people who have spilled into public streets.

2 *Incident means:*

3 A. A response to the relevant property from law enforcement, fire, or other  
4 emergency response provider;

5 B. Land use code citation; or

6 C. Constituent complaint.

7 *Person* means natural persons and every legal entity whatsoever, including but not  
8 limited to sole proprietors, corporations, limited liability companies, partnerships, limited  
9 partnerships, and associations.

10 *Personal property* means all property of every kind and nature whatsoever, including  
11 cash, vehicles, animals, intangible property, and contraband, but not including real property of  
12 any kind.

13 *Property* means property of all kinds, including real property and personal property, [~~as~~  
14 ~~defined herein~~] including a home, yard, apartment, condominium, hotel, motel, vacant lots,  
15 abandoned buildings, or a hall or meeting room, whether occupied on a temporary or permanent  
16 basis, whether occupied as a dwelling, and whether owned, leased, rented, or used with or  
17 without compensation.

18 *Property owner* means a person who holds fee simple title to any property, or a person  
19 acting lawfully on behalf of the person who holds title.

20 *Public nuisance or nuisance means:*

21 A. Any building or structure which is ruined, damaged or dilapidated to such an  
22 extent, or any real property which is covered with ruins, rubbish, wreckage or debris to such  
23 an extent that the building, structure or real property threatens harm to the public comfort,  
24 health, well-being, peace or safety; or

25 B. Any property or vehicle on or in which any [~~of the following~~] illegal activities

1 as established in federal law, New Mexico state statute, or Santa Fe city code occur or which  
2 is used to commit, conduct, promote, facilitate any illegal activities and, because of such  
3 activity or use, the property threatens harm to the public comfort, health, peace, well-being or  
4 safety. ~~[For purposes of this section, the illegal activity shall have the same definition as that~~  
5 ~~contained in the section of the New Mexico Statutes Annotated (NMSA), as amended, or~~  
6 ~~Chapter XII or XX SFCC 1987, as amended, listed after the illegal activity:~~

7 (1) ~~Prostitution, Section 30-9-2 NMSA; patronizing prostitutes, Section~~  
8 ~~30-9-3 NMSA; promoting prostitution, Section 30-9-4 NMSA; or accepting earnings~~  
9 ~~of a prostitute, Section 30-9-4.1 NMSA;~~

10 (2) ~~Sexual exploitation of children by prostitution, Section 30-6A-4~~  
11 ~~NMSA;~~

12 (3) ~~Sexual exploitation of children, Section 30-6A-3 NMSA;~~

13 (4) ~~Trafficking in controlled substances, Section 30-31-20 NMSA;~~  
14 ~~distributing controlled substances to a minor, Section 30-31-21 NMSA; distribution of~~  
15 ~~a controlled substance, Section 30-31-22 NMSA; possession of a controlled~~  
16 ~~substance, Section 30-31-23 NMSA; distributing a counterfeit controlled substance,~~  
17 ~~Section 30-31-22B NMSA; distributing, manufacture, or possession of an imitation~~  
18 ~~controlled substance, Section 30-31A-4 NMSA; sale of an imitation controlled~~  
19 ~~substance to a minor, Section 30-31A-5 NMSA;~~

20 (5) ~~Unlawful possession, delivery, manufacture or delivery to a minor of~~  
21 ~~drug paraphernalia, Section 30-31-25.1 NMSA;~~

22 (6) ~~Commercial gambling, Section 30-19-3 NMSA; permitting premises~~  
23 ~~to be used for gambling, Section 30-19-4 NMSA; dealing in gambling devices,~~  
24 ~~Section 30-19-5 NMSA;~~

25 (7) ~~Unlawful carrying of a deadly weapon, Section 30-7-2 NMSA~~

1 and Section 20-19 SFCC 1987; unlawful possession of a handgun, Section 30-7-2.2  
2 NMSA; negligent use of a weapon, Section 30-7-4 NMSA; unlawful possession of a  
3 switchblade, Section 30-7-8 NMSA; receipt, transportation or possession by a felon of  
4 a firearm or destructive device;

5 (8) ~~Dangerous use of explosives, Section 30-7-5 NMSA; negligent use of~~  
6 ~~explosives, Section 30-7-6 NMSA; unlawful sale, possession or transportation of~~  
7 ~~explosives, Section 30-7-7 NMSA; possession of explosives, Section 30-7-19 NMSA;~~  
8 ~~possession of explosive device or incendiary device, Section 30-7-19.1 NMSA;~~

9 (9) ~~Shooting at a dwelling or occupied building or shooting at or from a~~  
10 ~~motor vehicle, Section 30-3-8 NMSA;~~

11 (10) ~~Selling, serving, giving away, disposing of, exchanging, delivering,~~  
12 ~~procuring, possessing or permitting the sale of alcoholic beverages to, for or by any~~  
13 ~~person under lawful age or to an intoxicated person, Sections 60-7A-16 and 60-7B-1~~  
14 ~~NMSA; using property to provide, offer or permit the consumption of intoxicating~~  
15 ~~liquors by persons under the age of twenty one (21) without a parent's or guardian's~~  
16 ~~knowledge or consent or the order of a practicing physician, or as part of a religious~~  
17 ~~ceremony, or failing to use reasonable control and ordinary care to keep persons under~~  
18 ~~the age of twenty one (21) from consuming intoxicating liquors on one's property.~~

19 (11) ~~The sale of alcoholic beverages at any place other than a valid (not~~  
20 ~~suspended or revoked) licensed premises, Section 60-7A-4.1 NMSA; or the unlawful~~  
21 ~~manufacture of alcoholic beverages, Section 60-7A-7 NMSA; or~~

22 (12) ~~Dog fighting, Section 30-18-9 NMSA; or]~~

23 C. A loud or unruly gathering as defined in this subsection.

24 D. A nuisance as defined or described in any other section of the city code.

25 E. Knowingly creating, performing, or maintaining anything affecting any

number of citizens without lawful authority that is either:

- (1) Injurious to public health, safety, ~~[morals]~~ or ~~[welfare]~~ well-being; or
- (2) Interferes with the exercise and enjoyment of public rights, including the right to use public or private property.

*Real property* means land and all improvements, buildings, and structures, and all estates rights and interests, legal and equitable, in the same, including, but not limited to, all forms of ownership and title, future interests, condominium rights, time-share rights, easements, water rights, mineral rights, oil and gas rights, space rights, and air rights.

~~[Residence or other private property means a home, yard, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, whether occupied on a temporary or permanent basis, whether occupied as a dwelling, party or other social function, and whether owned, leased, rented, or used with or without compensation.]~~

~~*Response costs* means the costs associated with responses by law enforcement, fire and other emergency response providers to loud or unruly gatherings including, but not limited to:~~

~~A. Salaries and benefits of law enforcement, fire or other emergency response personnel for the amount of time spent responding to, remaining at, or otherwise dealing with loud or unruly gatherings, and the administrative costs attributable to such response(s);~~

~~B. The cost of any medical treatment to or for any law enforcement, fire or other emergency response personnel injured responding to, remaining at or leaving the scene of a loud or unruly gathering;~~

~~C. The cost of repairing any city equipment or property damaged, and the cost of the use of any such equipment, in responding to, remaining at or leaving the scene of a loud or unruly gathering.~~

~~*Responsible person* means a person or persons with a right of possession in the residence or other private property on which a public nuisance is located, including, without~~

1 limitation:

2 A. ~~An owner of the residence or other private property; or~~

3 B. ~~A tenant or lessee of the residence or other private property;~~

4 C. ~~The landlord of another person responsible for the gathering;~~

5 D. ~~The person(s) in charge of the residence or other private property; and~~

6 E. ~~The person(s) who organizes, supervises, officiates, conducts or controls the~~  
7 ~~gathering or any other person(s) accepting responsibility for such a gathering].~~

8 *Structure* means anything constructed, erected, or placed upon real property which is so  
9 firmly attached to the land as to be reasonably considered part of the real estate, and includes  
10 building of every type and nature whatsoever.

11 *Underage person* means any person under twenty-one (21) years of age.

12 *Vehicle* means every device in, upon, or by which any person or property is or may be  
13 transported or drawn upon a highway, including any frame, chassis, or body of any vehicle or  
14 motor vehicle, except devices moved exclusively by human power or used exclusively upon  
15 stationary rails or tracks.

16 **Section 3. Section 10-9.4 of SFCC 1987 (being Ord. No. 2011-2 § 4) is amended**  
17 **to read:**

18 **10-9.4 Responsibility.**

19 A. Every property [~~occupant, lessee or holder~~] owner of any possessory interest  
20 of a [~~residence or other private~~] property within the city of Santa Fe is required to maintain,  
21 manage, and supervise the property and all persons thereon in a manner so as not to violate the  
22 provisions of this section. The [~~owner of the~~] property owner remains liable for such  
23 violations regardless of any contract or agreement with any third party regarding the property.

24 B. The [~~responsible person~~] property owner shall not conduct, aid, allow, permit,  
25 or condone a public nuisance at the owner's [~~residence or other private~~] property.



1 C. If ~~[a responsible person for the nuisance]~~ the property owner of the property  
2 on which a nuisance occurs is a juvenile, then the parents or guardians of that juvenile and the  
3 juvenile will be jointly and severally liable for the ~~[response]~~ abatement costs or fines  
4 incurred pursuant to this section.

5 D. ~~[To incur liability for response costs imposed by this section, +]~~ A [responsible  
6 person] property owner need not be present when a nuisance occurs in order for an  
7 investigation, submittal of an abatement plan, fines, or a lien against the property to result [the  
8 response giving rise to the imposition of response costs]. This section therefore imposes  
9 vicarious as well as direct liability upon a ~~[responsible person]~~ property owner.

10 Section 4. Section 10-9.5 of SFCC 1987 (being Ord. No. 2011-2 § 5) is hereby  
11 repealed.

12 Section 5. [NEW MATERIAL] A new Section 10-9.5 of SFCC 1987 is ordained  
13 to read:

14 **10-9.5 Nuisance investigation and abatement plan.**

15 A. Internal nuisance investigation.

16 1. The city shall initiate an internal nuisance investigation when a property  
17 accumulates six (6) incidents within a six (6) month period. Such investigation shall  
18 consider the number and severity of the incidents; law enforcement, fire, or first  
19 responder statements; neighborhood testimony; past abatement plans; the relative impact  
20 of the incidents on the public; and any other available information with which to make a  
21 determination of a nuisance. The city shall not include calls for law enforcement, fire, or  
22 other first responders in an investigation, if the caller was seeking emergency assistance  
23 for the safety of themselves or others.

24 2. When it has initiated an internal nuisance investigation, the city shall  
25 send the property owner a letter describing the relevant incidents and alerting the owner

1 that the City has initiated an investigation.

2 3. If, in consultation with the city attorney's office, the assigned City  
3 representative determines a nuisance exists pursuant to the internal nuisance  
4 investigation, the City shall issue a notice of violation and initiate the abatement process.

5 4. The City may start an internal nuisance investigation before six (6)  
6 incident occur, if the incidents are egregious.

7 B. Abatement process.

8 1. In its notice of violation, the city shall require the property owner to  
9 submit an abatement plan.

10 2. The property owner shall submit the abatement plan to the city within  
11 fifteen (15) days after receipt of the notice of violation. If the deadline for submission  
12 falls on a Saturday, Sunday, or federal or city holiday, the deadline shall be extended to  
13 the next regular business day.

14 3. Corrective action in the abatement plan may include any of the  
15 following:

16 a. More effective screening of tenants, lease provisions, and lease  
17 enforcement;

18 b. Implementing physical improvements;

19 c. Providing security for the property;

20 d. Evicting persons responsible for the nuisance activity; an  
21 abatement plan shall not solely consist of eviction;

22 e. Pursuing other remedies available to the owner pursuant to any  
23 lease or other agreement and approved by the city.

24 4. After review, the city shall approve or deny the abatement plan submitted  
25 by the property owner. If the city determines the abatement plan is inadequate to abate

1 the nuisance(s), it shall be denied. If the city denies the abatement plan, the property  
2 owner shall have five (5) additional days to submit an updated abatement plan. If the  
3 property owner fails to provide an abatement plan, or if the city denies the abatement plan  
4 a second time, the property is noncompliant and the property owner shall be subject to the  
5 enforcement provisions of Section 10-9.7 SFCC 1987.

6 5. If the city approves the abatement plan, it will monitor the property for  
7 compliance pursuant to the timeframe included in the abatement plan. If the property is in  
8 compliance, the City will continue to monitor the property for a period of three (3)  
9 months. If the property does not receive another notice of violation during the probation  
10 period, the property will be considered compliant. The city shall send the property owner  
11 a certified letter verifying compliance and removal from probation.

12 6. If the property owner fails to provide an approved abatement plan within  
13 fifteen (15) days, or does not comply with the abatement plan within thirty (30) days of  
14 approval, or as otherwise provided for in the abatement plan, then the city will consider  
15 the property owner non-compliant.

16 Section 6. Section 10-9.6 of SFCC 1987 (being Ord. No. 2011-2 § 6) is hereby  
17 repealed:

18 Section 7. [NEW MATERIAL] A new Section 10-9.6 of SFCC 1987 is ordained  
19 to read:

20 **10-9.6 Tenants' rights.**

21 Neither a property owner nor the city shall:

22 A. Prohibit or limit a tenant's right to summon police or other emergency assistance  
23 based on the tenant's reasonable belief that the tenant or any other individual is in need of  
24 intervention or emergency assistance; or

25 B. Impose monetary or other penalties on a tenant who summons police or

1 emergency assistance if the assistance was requested or dispatched based on a reasonable belief  
2 that the tenant or other individual was in need of intervention or emergency assistance.

3 Section 8. Section 10-9.7 of SFCC 1987 (being Ord. No. 2011-2 § 6) is amended  
4 to read:

5 **10-9.7 ~~[Billing and collection]~~ Enforcement Provisions.**

6 A. The ~~[response costs]~~ expenses and monetary penalties assessed after a  
7 property is deemed a nuisance shall be a debt owed to the city of Santa Fe by the ~~[responsible~~  
8 ~~person]~~ property owner held liable in subsection 10-9.4 SFCC 1987 for the nuisance and, if  
9 the property owner is a juvenile, the debt shall be owned by the juvenile's parents or  
10 guardians. ~~[Notice of the costs for which the responsible person is liable shall be mailed via~~  
11 ~~certified mail within fourteen (14) days of the response giving rise to such costs. The notice~~  
12 ~~shall contain the following information:~~

13 (1) ~~The name of the person(s) being held liable for the payment of such~~  
14 ~~costs;~~

15 (2) ~~The address of the residence or other private property where the~~  
16 ~~nuisance occurred;~~

17 (3) ~~The date and time of the response;~~

18 (4) ~~The law enforcement, fire or emergency service provider who~~  
19 ~~responded;~~

20 (5) ~~The date and time of any previous warning given pursuant to~~  
21 ~~subsection 10-9.5 SFCC 1987 and previous responses to nuisances at the residence or~~  
22 ~~other private property in question within the previous twelve (12) months; and~~

23 (6) ~~The recovery cost assessed as set forth in the cost recovery schedule.]~~

24 B. ~~[The responsible person shall remit payment of the noticed response cost to the~~  
25 ~~city of Santa Fe within sixty (60) days of the date of the notice.] If the city determines that an~~

1 owner is non-compliant, and the nuisance presents an imminent risk to the health and safety of  
2 the public, the city may abate the nuisance, at the expense of the property owner. Additionally,  
3 the city may charge the property owner a fine of one hundred dollars (\$100.00) per day for each  
4 day of non-compliance.

5 C. ~~[The city may place a lien upon property where the nuisance occurred for any~~  
6 ~~costs not paid within three (3) months of notice in paragraph A. above.]~~ The city shall send  
7 via certified mail notification of the costs and/or fines for which the owner is liable within  
8 fourteen (14) days of the determination of non-compliance giving rise to such costs. The  
9 notice shall contain the following information:

10 (1) The name of the person(s) being held liable for the payment of such  
11 costs and/or fines;

12 (2) The address of the residence or other property where the nuisance  
13 occurred;

14 (3) The date and time of nuisance notices, as well as reports, evidence,  
15 and timeline of non-compliance; and

16 (4) Notice of the opportunity to appeal the determination within fifteen  
17 (15) days, pursuant to Section 10-9.9.

18 D. If the property owner fails to comply with the City's notice and fines, including  
19 non-payment of abatement costs or fines, within ninety (90) days, the city may file an action  
20 against the property owner in district court, recommending any appropriate action including, but  
21 not limited to, placing a lien on the property, forcing the sale of the property, allowing entry  
22 onto the property to abate the nuisance, or seizing the property. After ninety (90) days of non-  
23 compliance the one hundred (\$100.00) per day fine shall no longer accumulate. The maximum  
24 amount of the cumulative fines shall be nine thousand dollars (\$9,000.00).

25 ~~[C. — The city may place a lien upon property where the nuisance occurred for any~~

1 ~~costs not paid within three (3) months of notice in paragraph A. above.]~~ The city may also file  
2 in district court if an internal investigation concludes that three incidents have occurred after a  
3 notice of violation, in any two (2) year period, regardless of the property owner's abatements.

4       **Section 9.**       Section 10-9.8 of SFCC 1987 (being Ord. No. 2011-2 § 8) is amended  
5 to read:

6       **10-9.8 Reservation of legal options.**

7       Nothing in this section shall be construed as a waiver by the city of any right to seek  
8 reimbursement for ~~[response services]~~ abatement costs or unpaid fines through other legal  
9 remedies or procedures. The procedures provided for in this section are in addition to any other  
10 statute, ordinance or law, civil or criminal. ~~[This section in no way limits the authority of peace~~  
11 ~~officers or private citizens to make arrests for any criminal offense arising out of conduct~~  
12 ~~regulated by this section.]~~

13       **Section 10.**       Section 10-9.9 of SFCC 1987 (being Ord. No. 2011-2 § 8) is amended  
14 to read:

15       **10-9.9 Appeals.**

16       Administrative Hearing.

17       A. Request for Hearing. A person who is issued a notice of violation may  
18 request an administrative appeal hearing before a hearing officer, who shall be  
19 appointed by the city manager. A request for hearing must be made in writing and must  
20 be submitted to the address included in the notice, within fifteen (15) days of the date  
21 of receipt of the notice of violation.

22       B. Deposit Pending Appeal. An amount equal to any fines assessed at the  
23 time of notice of violation must accompany a request for hearing. The city shall hold  
24 the payment as a deposit until the hearing officer makes a decision. If the hearing  
25 officer upholds the notice of violation, the city shall apply the deposit towards the fines

1 and/or abatement. If the hearing officer decides in favor of the requestor, the city shall  
2 return the deposit to the requestor.

3 C. Appeal to District Court. [Any] If the hearing officer denies an appeal,  
4 the person upon whom the city [imposes response costs pursuant to subsection 10-  
5 9.4 SFCC 1987] imposed abatement costs or fines shall have the right to petition  
6 district court for a writ of certiorari pursuant to Rule 1-075 NMRA.

7 **Section 11. Section 10-9.10 of SFCC 1987 (being Ord. No. 2011-2 § 8) is**  
8 **amended to read:**

9 **10-9.10 Procedures in general.**

10 A. The remedies provided in this section are cumulative and supplementary to  
11 each other to the criminal remedies provided by any criminal ordinance or statute, other civil  
12 remedies, and any administrative proceedings to revoke, suspend, fine, or take other action  
13 against any license. The city may pursue the remedies provided in this section, or other  
14 ordinances or statutes, other civil actions or remedies, administrative proceedings against a  
15 license, or any one (1) or more of the available remedies, and may do so simultaneously or in  
16 succession.

17 B. All actions under this section are civil and remedial in nature.

18 C. The city attorney for the city of Santa Fe may file a civil action to abate any  
19 nuisance in the District Court for the First Judicial District. ~~[Investigation and assistance to~~  
20 ~~the city attorney shall be by persons designated by the city manager. A private citizen, in the~~  
21 ~~name of the city may also bring an action under this section.]~~

22 D. Actions under this section may affect the use, possession, enjoyment, and title  
23 to real property. Accordingly, the city may file and record a notice of lis pendens against the  
24 real property involved if the use, possession, enjoyment, or title may be affected.

25 E. The defendants to an action under this section and the persons liable for the

1 remedies in this section may include the property itself and any persons owning or claiming  
2 any legal or equitable interest or right of possession in the property.

3 F. In addition to remedies necessary to abate the nuisance, the city shall be  
4 entitled to costs and reasonable attorney's fees.

5 Section 12. Section 10-9.11 of SFCC 1987 (being Ord. No. 2011-2 § 8) is hereby  
6 repealed:

7 Section 13. Section 10-9.13 of SFCC 1987 (being Ord. No. 2011-2 § 8) is  
8 amended to read:

9 **10-9.13 Right of entry of inspection officer for examination of premises.**

10 The inspection officer may enter, at all reasonable times, if the inspection officer has  
11 the occupant's ~~[or custodian's]~~ consent, any ~~[house or premises]~~ property within the city to  
12 ascertain the existence of any nuisance. If the occupant's or ~~[custodian's]~~ consent is ~~[refused]~~  
13 not given or is otherwise unobtainable, an inspection order may be sought or an emergency  
14 inspectorial search conducted pursuant to the procedures set forth in Sections 24-1-16 through  
15 24-1-19 NMSA 1978 of the Public Health Act. The inspection officer may investigate the  
16 conditions found and make reports, provided that such entering and investigation are for the  
17 sole purpose of ascertaining the conditions entrusted to the officer's supervision and provided  
18 further that the officer's reports are limited to matters pertaining to the officer's duties.

19 APPROVED AS TO FORM:

20   
21 \_\_\_\_\_  
22 ERIN K. McSHERRY, CITY ATTORNEY

23  
24  
25 *Legislation/2020/Bills/Nuisance Abatement*