

**CITY OF SANTA FE, NEW MEXICO**

**ORDINANCE NO. 2020-22**

**AN ORDINANCE**

**CREATING EFFICIENCIES, ENHANCING EFFECTIVENESS, AND ELIMINATING SILOS BY REORGANIZING CERTAIN CITY DEPARTMENTS, ORGANIZING THE ECONOMIC DEVELOPMENT DIVISION, OFFICE OF AFFORDABLE HOUSING , PLANNING AND LAND USE DEPARTMENT, TOURISM SANTA FE DEPARTMENT, 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 CONSTITUENT AND COUNCIL RELATIONS 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 SUBSECTIONS OF THE NEW SECTION 2-8; ESTABLISHING IN ORDINANCE THE EXISTING INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS DEPARTMENT AND CONSTITUENT AND COUNCIL SERVICES ; 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 1987; AMENDING SECTION 2-22 SFCC 1987 TO PROVIDE**

1 **CONTRACT INTERNAL AUDIT FUNCTIONS; AMENDING SECTIONS 26-1.6 AND 26-**  
2 **3.5 REGARDING THE OFFICE OF AFFORDABLE HOUSING; AND MAKING SUCH**  
3 **OTHER CHANGES AS ARE NECESSARY.**

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  
10 governing 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  
16 pursuant to Articles 8 and 9, Chapter 3 NMSA 1978;

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

22 H. Administer and manage the office of community engagement, which includes  
23 constituent and council services ; and

24 I. Perform other duties prescribed by law, ordinance or city rules and regulations.

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

1 hereby repealed.

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

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

4 **2-8.1 Finance Department.**

5 A. Creation of department.

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

8 B. Finance officer.

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

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

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

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

17 (c) Keep the money of the city separate from any other money in  
18 the finance officer's possession;

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

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

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

24 (g) With the advice and consent of the governing body designate  
25 banks qualified to receive or deposit money entrusted in the finance officer's

1 care;

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

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

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

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

12 **2-8.2 Community Health and Safety Department.**

13 A. Creation of department.

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

18 B. Police Department.

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

1 such persons before a competent authority for examination and trial. They shall have, in  
2 the discharge of their proper duties, like powers and be subject to like responsibilities  
3 as sheriffs or constables in similar cases.

4 (2) Appointment of police officers; commissions. No person shall assume  
5 or exercise the functions, powers, duties and privileges incident or belonging to the  
6 office of municipal police officers without first having received an appointment in  
7 writing, known as a "commission", from the governing body. The advice of the chief of  
8 police shall be obtained in the employment and commissioning of all police officers of  
9 the department.

10 (3) Training schools and examinations.

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

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

19 (c) In the taking of all written examinations there shall be assigned  
20 to each applicant a number which shall be endorsed on the applicant's  
21 examination papers, and the grading of the examinations shall be by number  
22 only.

23 (d) Except as otherwise provided, no member shall be retained in  
24 the police department and no applicant shall be appointed to the police  
25 department unless such member or applicant, after taking the prescribed

1 training courses, has successfully passed the prescribed examinations, written  
2 and oral; provided, that the minimum educational qualifications required by the  
3 City Personnel Act shall not apply to members of the present police department  
4 who are otherwise qualified under the provisions hereof; provided further, that  
5 in passing on the qualifications of members of the present police department,  
6 consideration shall be given to:

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

8 (ii) General aptitude for police work as disclosed by the  
9 individual records of such members to be confirmed by oral  
10 examinations.

11 (4) Extra or emergency police officers.

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

14 (5) Police department reserve.

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

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

20 (i) Summarily discipline or dismiss members without  
21 appeal to any body or tribunal;

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

24 (iii) Approve or disapprove all officers, employees or  
25 agents of the reserve.

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

4 d. Powers and Duties.

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

8 (ii) The reserve or its members when acting upon call, and  
9 only when acting upon call, of the city police chief, for the city or for  
10 another law enforcement agency or regulatory authority, shall be  
11 possessed of the same powers and duties as a city police officer or an  
12 officer of such law enforcement agency or regulatory authority.

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

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

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

24 (ii) Any and all liability that may arise against the city, its  
25 officers, employees or agents, the reserve, or its members as a result of

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such assistance, is assumed in writing by the assisted agency or body.

g. Worker's Compensation. The city shall immediately take steps to provide necessary worker'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) Department authority and powers.

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

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

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

(ii) By emergency vehicle or by foot, the right of ingress



1 and egress on all public or private streets, alleyways, roads, driveways,  
2 and thoroughfares located within the city limits or the city annexation  
3 areas.

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

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

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

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

18 D. Community Services Department. The community services department includes  
19 senior services, libraries, and family and youth services.

20 F. Office of Emergency Management and Safety.

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

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

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

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

6 (2) Definitions.

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

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

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

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

23 *Emergency* means any occasion or instance, such as a terrorist attack, terrorist  
24 threat, civil unrest, wildland and urban fire, flood, hazardous materials spill, nuclear  
25 accident, aircraft accident, earthquake, hurricane, tornado, tropical storm, tsunami, war-

1 related disaster, public health or medical emergency, other occurrence requiring an  
2 emergency response, or any other condition that warrants action to protect life,  
3 property, or the environment.

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

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

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

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

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

17 (3) Purpose.

18 (a) The purpose of the office of emergency management and safety  
19 is to coordinate the efforts of all municipal agencies and employees,  
20 nongovernmental agencies, and private sector partners to prepare for and  
21 function in the event of disasters and emergencies endangering the lives of  
22 persons in the city, property of the residents of the city, or public property in  
23 the city.

24 (b) The duty of the office of emergency management and safety is  
25 to coordinate the development of emergency plans for the effective

1 employment of municipal resources to protect the lives and health of the  
2 residents of the city and the private and public property therein from the effects  
3 of emergencies or natural or man-caused disasters.

4 (c) The office of emergency management and safety shall  
5 coordinate the implementation of such plans in preparation for, during, and  
6 after periods of emergency or disaster. Such plans shall be coordinated with  
7 those of the county and in consonance with the state emergency management  
8 plans.

9 (d) The office of emergency management and safety shall ensure  
10 that the safety of all city employees is a priority throughout the city's  
11 operations and coordinate and oversee safety protocols and implementation for  
12 the city.

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

14 (a) Be responsible to the director of community health and safety  
15 for the organization, administration, and operation of the emergency  
16 management program of the city;

17 (b) Coordinate the emergency management activities of all  
18 municipal departments and agencies of the city, nongovernmental agencies, and  
19 private sector partners;

20 (c) Be the liaison and cooperate with the emergency management  
21 agencies of the federal government, the state, the county, and the other political  
22 subdivisions therein;

23 (d) Develop an organizational structure for the office of emergency  
24 management and safety, subject to the approval of the governing body and  
25 recommend appointments to fill the positions established therein subject to the

1 city manager's authority;

2 (e) Manage the EOC; establish the overall structure, roles,  
3 responsibilities, and direction for the operation of the EOC; and ensure that the  
4 EOC is appropriately sited, staffed, equipped, and maintained;

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

9 (g) Maintain records documenting compliance with requirements  
10 of federal and state emergency management programs, including the NIMS.

11 (5) Financing.

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

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

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

22 **2-8.3 Community Development Department.**

23 There is created a department of city government to be known as the "community  
24 development department" that shall include the following divisions: economic development  
25 division, office of affordable housing, planning and land use department, TOURISM Santa Fe

1 department, and the arts and culture department.

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

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

5 **2-8.5 Public Works Department.**

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

8 **2-8.6 Public Utilities Department.**

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

11 **2-8.7 Human Resources Department.**

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

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

16 **Section 5. Section 2-10 SFCC 1987 (being Ord. No. 1987-55 § 1, as amended) is  
17 hereby repealed.**

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

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

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

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

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

1 repealed.

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

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

6 **2-22 INTERNAL AUDIT [DEPARTMENT].**

7           **2-22.1 Short title.**

8           Section 2-22 SFCC 1987 shall be cited as the "Internal Audit Ordinance."

9           **2-22.2 Findings; purpose; goals.**

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

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

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

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

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

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

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

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

8 F. The internal audit department, in cooperation with the audit committee, shall  
9 establish job descriptions and department policies and procedures based on generally accepted  
10 governmental auditing standards; and to adopt the Code of Ethics as defined by the Institute of  
11 Internal Auditors.

12 **2-22.3 Definitions.**

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

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

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

19 *Contractors* mean all city contractors.

20 *Employee* means a city employee.

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

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

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

25 *Special investigation or special audit* means additional procedures or audits undertaken



1 because the need was not previously foreseen.

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

3 A. The internal audit department is created as an independent office of city  
4 government. The internal auditor shall either be the head of the internal audit department or an  
5 independent contractor and shall report to the city manager.

6 B. The audit committee shall review applications for and make a  
7 recommendation to the city manager for hiring an internal auditor.

8 C. The internal auditor shall review applications and make recommendations to  
9 the city manager for hiring other internal audit department employees or procuring  
10 independent contractors for assistance with the internal audit.

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

19 E. The internal auditor's work shall result in a complete written final report being  
20 made of each annual audit, special audit, investigation and/or examination made ("report")  
21 and shall be delivered to the city manager, except if the city manager is the subject of the  
22 audit, then the report shall be delivered to the mayor. The internal auditor shall also notify the  
23 governing body in writing that the final report has been delivered. Each report, in its final  
24 form, shall set out in detail, in a separate section, any violation of law or good accounting  
25 practices found. Such reports are confidential under this section until placed on the finance

1 committee's agenda or put in their final form, whichever occurs first. Reports shall not exist in  
2 a draft form for more than thirty (30) days without presentation to the finance committee.  
3 Final reports shall also be timely presented to the audit committee. If the draft report is not  
4 ready to be delivered to the city manager in its final form or is not ready to be presented to the  
5 finance committee after thirty (30) days, then staff shall inform the finance committee, in  
6 writing, the specific date, absent court order not exceeding twenty (20) days, when the final  
7 report will be delivered to the city manager or presented to the finance committee and the  
8 stated basis for the additional time needed.

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

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

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

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

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

7 **2-22.5 Internal auditor's duties; responsibilities; authority; administrative**  
8 **subpoena power.**

9 A. If the internal auditor detects instances of possible fraud, waste, or abuse or  
10 potential violations of law by an auditee, the auditor shall report the irregularities to the city  
11 manager and the audit committee.

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

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

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

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

1 investigation or legal proceeding.

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

5 C. The internal auditor's work is subject to a peer review by an appropriate  
6 professional non-partisan objective group every three (3) to five (5) years if the internal  
7 auditor is an employee; contract internal auditors shall serve for no more than four  
8 consecutive years. A copy of the written report by an objective group shall be furnished to the  
9 city manager, audit committee, and governing body, via the finance committee.

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

16 **2-22.6 Scope of audits.**

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

21 (1) Within sixty (60) days before the beginning of each fiscal year, the  
22 internal auditor shall submit a one-to-five-year audit plan to the audit committee, the  
23 city manager and the governing body for review and comments, but the internal  
24 auditor shall have final authority to select the audits planned. The proposed plan shall  
25 include the rationale for the selections, for auditing departments, offices, boards,

1 activities, subcontractors and agencies for the period. This plan may be amended after  
2 review;

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

5 (3) In the selection of audit areas and audit objectives, the  
6 determination of audit scope and the timing of audit work, the internal auditor should  
7 consult with federal, state, and other external auditors so that the desirable audit  
8 coverage is provided and audit effort is properly coordinated.

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

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

15 (2) *Financial Audits.*

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

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

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

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

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

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

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

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

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

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

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

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

21 (10) City policies, budgets, goals, and objectives were and are fully  
22 implemented; and

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

25 **2-22.7 Reports.**

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

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

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

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

10           (1)    Statements describing the objectives, scope and methodology of the  
11           audit;

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

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

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

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

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

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

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

25           F.     The internal auditor shall submit an annual report to the audit committee, city

1 manager, and governing body via the finance committee within sixty (60) days after  
2 fiscal year end indicating all audits, investigations, and/or engagements completed,  
3 major findings, corrective actions taken by administrative managers, and significant  
4 issues which have not been fully addressed by management.

5 **2-22.8 Reporting.**

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

10 **2-22.9 Contract auditors, consultants, and experts.**

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

17 **2-22.10 Penalty; cooperation; retaliation prohibited.**

18 A. All city officials, employees, and contractors shall provide the internal auditor  
19 full and unrestricted access to all city offices, employees, records, information, data, reports,  
20 plans, projections, matters, contracts, memoranda, correspondence, electronic data, property,  
21 equipment and facilities, and any other materials within their custody. At the internal auditor's  
22 request, an official, employee, or contractor shall prepare reports and provide interviews. If an  
23 auditee, official, employee, vendor, or contractor fails to produce the requested information,  
24 the internal auditor shall notify the city manager requesting the city manager's assistance in  
25 causing a search to be made and germane exhibits to be taken from any book, paper, or record,



1 written or electronic, excepting personal property. The city manager shall require the officials,  
2 employees, vendors, or contractors to produce the requested information. Further, all contracts  
3 with outside contractors and subcontractors shall contain a "right-to-audit" clause providing  
4 the internal auditor access to the contractor's employees and to all financial and performance  
5 related records, property, and equipment purchased in whole or in part with governmental  
6 funds.

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

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

16 **2-22.11 Audits and the Inspection of Public Records Act.**

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

1 municipality" by Section 3-18-1(F) and (G) NMSA 1978.

2 B. At all times during the audit process and after the report becomes a public  
3 record; the internal auditor shall follow applicable standards and 2.2.2 NMAC regarding the  
4 release of any information relating to the audit. Applicable standards include but are not  
5 limited to the AICPA Code of Ethics Rule 301 and related interpretations and guidance,  
6 Institute for Internal Auditors interpretations and guidance and GAGAS 4.30 to 4.32 and  
7 GAGAS 4.40 to 4.44.

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

10 **Section 14. Section 23-4.9 SFCC 1987 (being Ord. No. 1981-39 § 12, as amended)**  
11 **is hereby amended to read:**

12 A. All requests for use of public parks for organized gatherings, including the  
13 plaza and plaza park, as well as concessions supporting these events, may be approved by the  
14 department authorized to do so by the City Manager.

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

17 **Section 15. 26-1.6 SFCC 1987 (being Ord. No. 2005-30(A), § 35 and Ord. #2007-**  
18 **45, § 30, as amended) is hereby amended to read:**

19 **26-1.6 Creation of office of affordable housing.**

20 A. The office of affordable housing shall be established to administer the Santa Fe  
21 homes program in accordance with the provisions of this chapter, and to administer the city's  
22 other affordable housing programs.

23 B. In administering this chapter, the office of affordable housing shall work with the  
24 planning and land use department to eliminate conflict and duplication in the permitting and  
25 development approval process.

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

3 **Section 16. 26-3.5 SFCC 1987 (being Ord. No. 2007-23, § 8, as amended) is**  
4 **hereby amended to read:**

5 **26-3.5 Definitions.**

6 *AHTF* means the affordable housing trust fund.

7 *Administrative procedures* refer to the administrative procedures adopted by resolution  
8 that outline application, evaluation, and all other administrative procedures associated with the  
9 AHTF.

10 *Affordable housing* means residential housing primarily for persons or households of low  
11 or moderate income.

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

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

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

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

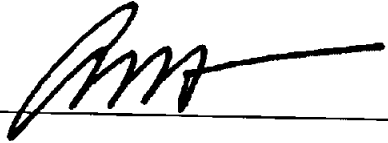
20 *Leverage* means the dollar value of other resources committed to projects for which an  
21 application and approval has been received for a loan or grant from the AHTF. Each dollar  
22 committed to the project that is not generated from the AHTF shall be considered as leverage.

23 *Office of affordable housing* means the division of the city of Santa Fe or its successor  
24 administering affordable housing programs.

25 **Section 16. Editor's Note: SFCC 1987 is hereby amended to strike all references**

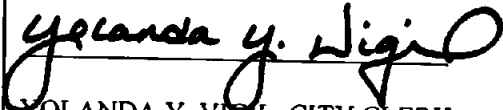
1 to "land use department" and insert in lieu thereof "planning and land use department".

2 PASSED, APPROVED, and ADOPTED this 9<sup>th</sup> day of September, 2020

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6 ALAN WEBBER, MAYOR

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8 ATTEST:

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11 YOLANDA Y. VIGIL, CITY CLERK

12 APPROVED AS TO FORM:

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14 

15 ERIN K. McSHERRY, CITY ATTORNEY

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24 *Bill No. 2020-20*

25 *Legislation/2020/Bills/2020-21 Department Reorganization*