

CITY OF ALBUQUERQUE - ORDINANCES

CHAPTER 2 - GOVERNMENT

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Office of Anti-Graffiti Coordination, see § 11-7-4

PART 1: ADMINISTRATION DEPARTMENT

§ 2-7-1-1 SHORT TITLE.

Sections 2-7-1-1 et seq. may be cited as the "Administration Code."

('74 Code, § 1-8-1) (Ord. 64-1974)

§ 2-7-1-2 CREATION OF ADMINISTRATION DEPARTMENT; DIRECTOR.

There is created as a department of city government an Administration Department. The executive and administrative head of the Administration Department shall be the Director of Administration who shall be appointed by the Mayor. The Director shall hold office at the pleasure of the Mayor and shall be qualified by experience and training in governmental administrative and financial affairs.

('74 Code, § 1-8-2) (Ord. 64-1974)

§ 2-7-1-3 AUTHORITY AND DUTIES OF THE DIRECTOR OF ADMINISTRATION.

The Director of Administration shall be ultimately responsible to the Mayor for the performance of his duties and in exercising his authority, but he shall be subject to the supervision of the Chief Administrative Officer in the daily operations of the Department. The Director has all those duties imposed upon him under the Administration Code, and when any provision of the code imposes a duty upon the Administration Department, the Director is responsible for fulfilling that duty. The Director has all authority necessary for carrying out his duties and, without limiting that authority, has express authority to:

(A) Organize the Administration Department into those subordinate units that he deems necessary to provide a capability for efficiently fulfilling the Department's responsibilities and functions;

(B) Administer the Administration Department and supervise and direct its employees;

(C) Delegate appropriate functions and authorities to subordinates; and

(D) Adopt and promulgate rules, regulations and orders necessary to implement any authority delegated to him or duty imposed upon him under the Administration Code.

('74 Code, § 1-8-3) (Ord. 64-1974)

PART 2: LEGAL DEPARTMENT; CITY ATTORNEY

§ 2-7-2-1 CREATION OF THE LEGAL DEPARTMENT; CITY ATTORNEY.

There is created a department of the city, the Legal Department. The executive and administrative head of the Legal Department shall be the City Attorney.

('74 Code, § 1-20-1) (Ord. 64-1987)

§ 2-7-2-2 AUTHORITY AND DUTIES OF THE CITY ATTORNEY.

The City Attorney, both personally and through his or her assistant city attorneys, shall represent the city in the courts. He or she shall also advise the Mayor and the Council as to legal matters.

('74 Code, § 1-20-2) (Ord. 64-1987)

§ 2-7-2-3 APPOINTMENT OF THE CITY ATTORNEY.

The City Attorney shall be appointed by the Mayor with the advice and consent of the Council.

('74 Code, § 1-20-3) (Ord. 64-1987)

§ 2-7-2-4 CITY COUNCIL PERFORMANCE REVIEW OF THE CITY ATTORNEY.

The City Council shall conduct a performance evaluation of the City Attorney within 90 days following every 18 month period of consecutive service as City Attorney. The 18 month period shall begin after the Council's approval, the City Attorney's appointment or after the prior performance evaluation, whichever is more recent. The Council shall develop written evaluation criteria for this purpose. The City Council shall present its findings in a public written report to the Mayor and Chief Administrative Officer.

(Ord. 13-1994)

§ 2-7-2-5 CONTRACTING WITH ATTORNEYS TO PROVIDE LEGAL SERVICES.

(A) It is the policy of the city to use attorneys who are city employees for litigation unless there are special reasons for using contract attorneys. When the City Attorney weighs whether outside legal counsel should be retained to handle litigation, the City Attorney shall elect to hire or propose such outside counsel only when:

- (1) There is a conflict of interest within the Legal Department that ethically requires outside counsel to be used;
- (2) The city has no staff attorney with both the expertise and the time available to handle the needed work; or
- (3) When the city has an insurance policy in which the insurer reserves the right to select defense counsel.

(B) Contract attorneys paid by the city shall report to an overseeing attorney who will evaluate and advise on the appropriateness of the litigation strategy of the contract litigator and will also review and evaluate the billing levels of the contract litigator.

(1) The overseeing attorney shall normally be the City Attorney or a city staff attorney assigned by the City Attorney; the overseeing attorney shall not be a person overseeing the legal case preparation for another party who may have separate interests from those of the party represented by the contract attorney.

(2) If the estimated cost of securing the services of contract attorneys for a case, to be established at the initiation of the legal work, exceeds \$100,000, the City Attorney

shall request the Director of the Office of Internal Audit and Investigations to retain a different contract attorney to review the work of the contract litigator retained by the city. The contract attorney so retained shall advise and consult with the overseeing attorney concerning his or her conclusions.

(3) If the City Attorney believes that he or she may be named personally as a defendant in the suit in question or a related suit, or if he or she believes that the Mayor, the Chief Administrative Officer, or a Deputy or Assistant Chief Administrative Officer may be similarly named in the litigation and they are personally implicated based on the specific facts of the lawsuit, the City Attorney shall request the Director of the Office of Internal Audit and Investigations to retain a different contract attorney to review the work of the contract litigator retained by the city. The contract attorney so retained shall advise and consult with the overseeing attorney concerning his or her conclusions.

(4) If the overseeing attorney believes the contract litigator is not acting in the best interests of the city but when so advised the contract litigator elects not to alter his or her approach, the overseeing attorney shall report this to the person who appointed him or her. Such report by the overseeing attorney shall be at the conclusion of the litigation unless he/she feels the problem is one that must be immediately addressed by the city. Following receipt of such a report, the City Attorney shall share the concern with the Mayor and the President of the City Council; the Director of the Office of Internal Audit and Investigations, after receipt of such report, shall share the report with the Accountability in Government Committee. For cases in which the city is the client, members of the City Council and authorized members of the City Council staff shall have unrestricted access to the overseeing attorney and the case record during the course of the legal work and after its conclusion.

(5) In cases for which it has been estimated that the cost of securing the services of contract attorneys exceeds \$100,000, the overseeing attorney shall forward for review all legal billings to the Risk Management Division of the Department of Finance and Management. Staff of the Risk Management Division shall work with the overseeing attorney to evaluate the reasonableness of billings and to control contract attorney costs.

(6) The above provisions of division (B) do not apply to defense of Workers' Compensation cases; in those cases, the City Risk Manager shall provide oversight of contract litigators' litigation strategy and billing levels.

(Ord. 14-1994; Am. Ord. 1-2005)

PART 3: DEPARTMENT OF FINANCE AND MANAGEMENT

§ 2-7-3-1 DEPARTMENT OF FINANCE AND MANAGEMENT.

Wherever the term DEPARTMENT OF ADMINISTRATION appears in this code, it shall also mean "Department of Finance and Management," and wherever the term DIRECTOR OF ADMINISTRATION appears in this code it shall also mean "Director of Finance and Management."

('74 Code, § 1-8-14) (Ord. 19-1975; Am. Ord. 3-1992)

Cross-reference:

City budget, see §§ 2-11-1 et seq.

Department of Administration; Director established, see § 2-7-1-1 et seq.

§ 2-7-3-2 FINANCIAL RESPONSIBILITY.

Under the direction and authority of the Mayor and the Chief Administrative Officer, the Department of Finance and Management shall be responsible for administering and managing the financial affairs of the city.

('74 Code, § 1-8-15) (Ord. 19-1975; Am. Ord. 3-1992)

PART 4: DEPARTMENT OF HUMAN SERVICES

§ 2-7-4-1 CREATION.

There is hereby created a Department of Human Services. The Mayor shall organize the Department of Human Services and shall include within the Department any city organization he deems proper. The Director of the Department of Human Services shall be appointed by the Mayor.

('74 Code, § 1-18-1) (Ord. 75-1978)

§ 2-7-4-2 DUTIES AND RESPONSIBILITIES.

The Director, subject to the authority of the Mayor and the Chief Administrative Officer, shall administer the Department of Human Services. The Department shall coordinate the human services programs of the city with all city departments and organizations, and the Department shall coordinate the city's human services programs with all non-city government organizations. The Department shall require any organization applying for funds which have been appropriated by the city to submit to the Department of Human Services a plan of action detailing the goals and objectives of the program for which funding is desired, and the means of implementing those plans to attain the stated goals and objectives of the program. The Department shall be responsible for preparing requests for proposals for delivery of services from various outside agencies; and for negotiating contracts with outside agencies selected to deliver human services. The Department shall monitor the performance of the contracts with these outside agencies and prepare periodic evaluations of the programs. The evaluations shall include an analysis of performance indicators to determine the effectiveness of a program in attaining the desired goals and objectives. In addition, the Department shall develop a long-range plan for the delivery of human services and prepare an annual plan for the city's role in human services programs. This annual plan should specify the recommended course of action for the city in coordinating and providing human services to citizens within the geographic confines of the city.

('74 Code, § 1-18-2) (Ord. 75-1978)

PART 5: RESERVED

§ 2-7-5-1 - 2-7-5-7 [RESERVED].

PART 6: CHIEF RECORDS CUSTODIAN

§ 2-7-6-1 INTENT.

The intent of §§ 2-7-6-1 et seq. is to implement the State of New Mexico Inspection of Public Records Act set forth at Section 14-2-1 et seq. NMSA 1978. Recognizing that a representative government is dependent upon an informed electorate, the intent of the Act is to ensure that all persons are provided the greatest possible information regarding the affairs of government and the official acts of public officers and employees. Providing persons with such information is an essential function of a representative government and an integral part of the routine duties of public officers and employees.

(Ord. 44-1994; Am. Ord. 20-2000)

§ 2-7-6-2 FINDINGS.

The New Mexico Inspection of Public Records Act, Section 14-2-1 et seq., NMSA 1978, provides that some classes of records are not subject to public inspection "as otherwise provided by law." Federal law expresses a policy in favor of protecting the privacy of individuals in their social security numbers. 5 U.S.C. § 522a(b). City department heads, other employees and officials have a legitimate and reasonable expectation of privacy in their social security numbers. The legitimate and reasonable expectation of privacy that City employees have in their social security numbers, outweighs the interest in the public in the disclosure of such information. City employees other than department heads and officials have a legitimate expectation of privacy in their home addresses and home telephone numbers in order to protect such information from use for illegal purposes. The legitimate and reasonable expectation of privacy that City employees have in their social security numbers, home addresses and home telephone numbers outweighs the interest in the public in the disclosure of such information. In light of the Congressional policy favoring nondisclosure of social security numbers and the constitutional right to privacy in one's home address and home telephone numbers, the City is justified in enacting legislation codifying such protections for its public employees and officials.

(Ord. 20-2000)

§ 2-7-6-3 CHIEF RECORDS CUSTODIAN.

There is hereby created the position of Chief Records Custodian for the city, who shall receive and respond to requests to inspect public records, provide proper and reasonable opportunities to inspect public records and provide reasonable facilities to make or furnish copies of the public records during usual business hours.

(Ord. 44-1994; Am. Ord. 20-2000)

§ 2-7-6-4 DEPARTMENTAL RECORDS CUSTODIAN.

Each department of the city shall designate a person to be the Records Custodian for said department who shall cooperate and coordinate with the Chief Records Custodian to respond to requests to inspect public records.

(Ord. 44-1994; Am. Ord. 20-2000)

§ 2-7-6-5 PROCESS.

The Chief Records Custodian shall establish a procedure for responding to requests to inspect public records which complies with the requirements of state law as set forth in the Inspection of Public Records Act, Section 14-2-1 et seq. NMSA 1978 as currently enacted or hereinafter amended. The City shall also establish through the office of the Chief Records Custodian, telephone and direct access for purposes of establishing prompt contact between City employees and interested individuals including members of the media.

The social security numbers, home addresses and home telephone numbers of City employees are not public records within the meaning of the New Mexico Inspection of Public Records Act, and shall not be disclosed to any person, except with the express, written consent of the employee or official. The social security numbers of City department heads and officials are not public record and shall not be disclosed to any person except with the express written consent of that person. Home addresses and home telephone numbers of City officials and department heads are public record.

(Ord. 44-1994; Am. Ord. 20-2000)

§ 2-7-6-6 ARCHIVES.

There shall be established an archiving system which shall be accessible to the public through requests to the Chief Records Custodian who shall be responsible for the office of the archives.

(Ord. 44-1994; Am. Ord. 20-2000)