

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SANTA CLARA,
CALIFORNIA TO REPEAL SECTION 2.105.015
("PERFORMANCE OF CITY AUDITOR FUNCTION") AND
TO ADD A NEW CHAPTER 2.29 ("OFFICE OF THE CITY
AUDITOR") AND TO AMEND CHAPTER 2.30
("INDEPENDENT AUDITOR") OF THE "CODE OF THE
CITY OF SANTA CLARA, CALIFORNIA"

BE IT ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:

WHEREAS, City Charter Section 900 states that the City Auditor is a Council-appointed position and City Charter Section 909 states that Council can appoint a City employee to fill the position of City Auditor;

WHEREAS, the City Charter provides discretion to the City Council to appoint a City Auditor who is not already in the City service under Section 900, or appoint an existing City employee to fill the role of City Auditor pursuant to Charter Section 909;

WHEREAS, City Charter Section 909 requires the Council-appointed City Auditor to perform the day-to-day operational audit functions of "audit and approve all bills, invoices, payrolls, demands or charges against the City government before payment and, with the advice of the City Attorney, advise the City Council as to the regularity, legality and correctness of such claims, demands or charges";

WHEREAS, Council may expand the scope of duties of the City Auditor by ordinance pursuant to Charter Section 902;

WHEREAS, in July 2018, recognizing that professional skills and responsibilities have evolved since the adoption of the Charter, the City Council adopted Ordinance No. 1982 (SCCC 2.105.015) appointing an Assistant Finance Director to the position of City Auditor and expanding the role of the City Auditor to include the internal audit duties of

conducting in-depth financial and performance audits, and overseeing the City's performance management system, with the intention of creating an independent internal audit function;

WHEREAS, since the Council's action in July 2018, the Assistant Finance Director appointed to the City Auditor position has taken numerous actions to establish a robust internal audit function and office including creating an Internal Audit Charter and Work Plan, a dedicated web page, and establishing a fraud and waste hotline;

WHEREAS, in February 2020, Council reviewed the City Auditor's Office functions and current business model and voted to continue the "hybrid" model wherein a combination of in-house and outsourced or co-sourced assets are used to complete the necessary work outlined in the Charter and Ordinance, while still maintaining the independence required of an auditor from City administration;

WHEREAS, due to an organizational restructuring within the Finance Department, the Assistant Finance Director has requested to no longer be appointed as the City Auditor;

WHEREAS, City Council expects to recruit, hire and appoint a new City Auditor, and wishes to establish the desired qualifications for the position;

WHEREAS, in addition to the work allocated to the City Auditor, Section 1319 of the City Charter requires that the City hire an independent external certified public accounting firm annually to "audit the books, records and accounts of all officers and employees of the City who receive, administer or disburse public funds, and such other officers, employees, departments and agencies as the Council may direct" and provide a final audit report to Council. Additional information and requirements regarding the content of the final financial audit report described in Charter Section 1319 are

contained in SCCC Chapter 2.30.030. This is a separate audit function from that assigned to the City Auditor, but the contract for this work shall be overseen by the City Auditor;

WHEREAS, for the purposes of clarity and transparency, City Council wishes to change the title of Chapter 2.30 (“Independent Auditor”) to “Independent External Auditor”; and

WHEREAS, the City Council deems it to be in the best interests of the City to repeal SCCC Section 2.105.015, and create a new Chapter 2.29 to reflect the independent nature of the City Auditor function, and amend Chapter 2.30, to align with the other legislative actions described above.

NOW THEREFORE BE IT FURTHER ORDAINED BY THE CITY OF SANTA CLARA, AS FOLLOWS:

SECTION 1: That Section 2.105.015 (entitled “Performance of City Auditor Function” of Chapter 2.105 (entitled “Finance Department”) of Title 2 (entitled “Administration and Personnel”) of the “Code of the City of Santa Clara” (SCCC) is hereby repealed in its entirety.

SECTION 2: That a new Chapter 2.29 (entitled “Office of the City Auditor”) is added to Title 2 (“Administration and Personnel”) to read as follows:

“CHAPTER 2.29

OFFICE OF THE CITY AUDITOR

Sections:

| | |
|----------|--|
| 2.29.010 | Performance of the City Auditor function |
| 2.29.020 | Qualifications of City Auditor |

2.29.010 Performance of the City Auditor function.

In addition to the operational day-to-day audit functions set forth in Charter Section 909, the Council-appointed City Auditor shall be responsible for:

- (a) Directing the work of Office of the City Auditor, which Office is hereby created as an Office independent from any other City Department,
- (b) Reviewing and appraising City programs to assess economy, efficiency and effectiveness,
- (c) Developing and assigning Office objectives and goals,
- (d) Conducting performance audits,
- (e) Conducting special audits and investigations,
- (f) Conducting or causing to be conducted, and overseeing, annual post audits of all the fiscal transactions and accounts kept by or for the City,
- (g) Directing and assigning audit staff and contractors to perform audit projects,
- (h) Managing the annual external financial audit contracts,
- (i) Preparing and submitting internal audit reports to the Council, including status reports on audit recommendations,
- (j) Overseeing the City's performance management system,
- (k) Performing other internal audit functions as necessary,
- (l) Meeting with City officials, media and the public regarding audit issues,
- (m) Representing City in conferences and in professional organizations,
- (n) Conducting such other and further work as directed by Council and as is necessary to satisfactorily fulfill the role of City Auditor.

2.29.020 Qualifications of City Auditor

The City Auditor shall demonstrate strong ethical, professional, and service-oriented leadership and interpersonal skills; shall set a good example for City staff; and shall correctly apply the tenets of the City's Code of Ethics and Values. The appointee to this position shall possess a high degree of knowledge of governmental auditing standards; accounting and auditing principles; organizational theory principles; Generally Applied Accounting Principles (G.A.A.P.); applicable laws, rules, and regulations; and, public administration principles. The appointee shall satisfy additional requirements of the position, as may be set by Resolution of the City Council."

SECTION 3: That Chapter 2.30 ("Independent Auditor") of Title 2 ("Administration and Personnel") of "The Code of the City of Santa Clara, California" ("SCCC") is amended to read as follows:

"Chapter 2.30

INDEPENDENT EXTERNAL AUDITOR

Sections:

2.30.010 Qualifications – Appointment and term of office.

2.30.020 Independent audit – Generally.

2.30.030 Independent audit – Information to be included.

Charter reference – Provisions providing for independent audit, see Charter § 1319.

2.30.010 Qualifications – Appointment and term of office.

The independent external auditor appointed shall be a certified public accountant in good standing and shall be appointed by and serve at the pleasure of the City Council in accordance with Charter Section 1319.

2.30.020 Independent audit – Generally.

The independent external auditor shall, in conformity with the requirements of Section 1319 of the Charter, and more often if the City Council so desires, make an independent audit report of the City's financial affairs. Such report shall be made directly to the City Council which shall include a report of any fiscal discrepancies or irregularities found and recommendations for their correction.

2.30.030 Independent audit – Information to be included.

The independent audit provided by SCCC 2.30.020 shall include the following:

- (a) A statement of the cash position of each of the City funds.
- (b) A statement of the receipts and expenditures of each City department and division thereof during the accounting period.
- (c) A statement of the budget position of each of the City departments and the divisions thereof.
- (d) A statement of the assets and liabilities of the various funds of the City.
- (e) A schedule of the bonded indebtedness, interest requirements and other deferred obligations of the City.
- (f) A schedule of the various insurance coverages of the City showing pertinent information regarding terms, expiration dates, etc.
- (g) A combined balance sheet.”

SECTION 4: Ordinances Repealed. With exception of the provisions protected by the savings clause, all ordinances (or parts of ordinances) in conflict with or inconsistent with this ordinance are hereby repealed.

SECTION 5: Savings clause. The changes provided for in this ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any right established or accruing before the effective date of this ordinance; nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered prior to the effective date of this ordinance. All fee schedules shall remain in force until superseded by the fee schedules adopted by the City Council.

SECTION 6: Effective date. This ordinance shall take effect thirty (30) days after its final adoption; however, prior to its final adoption it shall be published in accordance with the requirements of Section 808 and 812 of “The Charter of the City of Santa Clara, California.”

PASSED FOR THE PURPOSE OF PUBLICATION this _____ day of _____, 2020, by the following vote:

| | |
|------------|-------------|
| AYES: | COUNCILORS: |
| NOES: | COUNCILORS: |
| ABSENT: | COUNCILORS: |
| ABSTAINED: | COUNCILORS: |

ATTEST:

NORA PIMENTEL, MMC
ASSISTANT CITY CLERK
CITY OF SANTA CLARA