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1 (d) "Business entity" means a corporation, business trust, estate, trust,
2 partnership, limited liability company, association, joint venture or any other
3 legal or commercial entity.

4 (e) "Candidate" means any individual who has: (1) obtained a
5 nominating petition from the City Clerk pursuant to Section 4(c)1.D. of the
6 Election Code for the office of Mayor or Councilor; (2) filed an affidavit on a
7 form approved by the City Clerk stating that they are a candidate for either the
8 office of Mayor or City Councilor; (3) filed as a candidate for elected office as
9 required by law, whichever first occurs; or (4) has received or solicited
10 contributions or made expenditures of one thousand dollars (\$1,000) or more
11 or authorized another person or campaign committee to receive or solicit
12 contributions or make expenditures of one thousand dollars (\$1,000) or more
13 for the purpose of seeking election to the office.

14 (f) "Consideration" means something of value or a written promise to
15 pay or otherwise provide something of value which is enforceable through the
16 courts.

17 (g) "Contract with the City" means a written contract to: (1) purchase
18 real property from the city; (2) sell real property to the city; (3) rent real or
19 personal property to or from the city; or (4) provide services and/or goods to
20 the city. A Contract with the City shall also include all subdivision
21 improvement agreements for the private development of public infrastructure
22 and associated easements and revocable permits. Contracts excluded from
23 this definition are those for services provided by the city such as water,
24 wastewater or solid waste collection; intergovernmental agreements such as a
25 joint powers agreement or a memorandum of understanding. Permits and
26 licenses issued by the city shall not be deemed contracts with the city for
27 purposes of the Ethics Code.

28 (h) "Controlled" means the ability of a person, through share ownership
29 or other means, to make changes in the management of a business entity or to
30 appoint persons who will control the management of that business entity.

31 (i) "Disclosure statement" means a statement on a form prepared by the
32 City Clerk for purposes of compliance with this ordinance.

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1 (j) "Direct Interest", "Private Interest" or "Private Financial Interest"
2 means an interest concerning: (1) a partnership, limited liability partnership,
3 limited liability company, corporation, or any other for-profit entity in which an
4 official owns an interest of 10% interest or more; or (2) a corporation,
5 partnership, limited liability partnership, or limited liability company in which
6 the official is an officer, director, or agent. Direct Interest, Private Interest or
7 Private Financial Interest does not mean an interest in stock owned indirectly
8 through a mutual fund, retirement plan, or other similar commingled
9 investment vehicle the individual investments of which the official does not
10 control or manage.

11 (k) "Gift" or "Valuable Gift" means that which is directly or
12 indirectly paid or given to another for an individual's benefit or by any other
13 means, for which consideration equal or greater than fair market value was not
14 given by the official within 90 days of the official's receipt of such gift,
15 including, but not limited to: (1) real property; (2) the use of real property; (3)
16 tangible or intangible personal property; (4) the use of tangible personal
17 property; (5) a preferential rate or terms on a debt, loan, goods, or services,
18 which rate is below the customary rate and is neither a government rate nor a
19 rate available to similarly situated members of the public by virtue of
20 occupation, affiliation, age, religion, sex, or national origin; (6) debt
21 forgiveness; (7) transportation, other than that provided to an official by a
22 governmental agency in relation to approved government business, lodging or
23 parking; (8) food or beverage; (9) membership dues, other than dues paid by a
24 city agency; (10) entrance fees, admission fees, or tickets to events,
25 performances, or facilities other than those hosted, sponsored, or co-
26 sponsored by the city or occurring at a city facility; (11) plants, flowers, or
27 floral arrangements; (12) services provided by persons pursuant to a
28 professional license or certificate; (13) other personal services for which a fee
29 is normally charged by the person providing the services; and (14) any other
30 similar service or thing having an attributable value not already provided for in
31 this section. For purposes of calculating the dollar limits to the term "gift," any
32 gift provided by a lobbyist shall be attributed to the lobbyist individually as

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1 well as to the business organization which he or she owns or by which he or
2 she is employed.
3 Gift does not include: (1) salary, benefits, services, fees, commissions, returns
4 on an investment, a loan, interest incurred on a bond, expenses, or other
5 forms of compensation associated primarily with the official's employment,
6 business or service as an officer or director of a private corporation or
7 organization; (2) any activity authorized by the Election Code, the Code of
8 Ethics, and items excluded from the definition of "contributions" pursuant to
9 Section 2(g)(3) of the Election Code, including but not limited to the
10 acceptance of a donation, transfer or contribution, or the making of an
11 expenditure or reimbursement; (3) an honorarium or an expense related to an
12 honorarium event paid to an official or the official's spouse; (4) an award,
13 plaque, certificate, or similar personalized item given in recognition of the
14 official's public, civic, charitable, or professional service; (5) an honorary
15 membership in a service or fraternal organization presented merely as a
16 courtesy by such organization; (6) the use of a public facility or public
17 property made available by a governmental agency for a public purpose; (7)
18 transportation provided to an official by a governmental agency in relation to
19 official and approved governmental business, (8) gifts provided directly or
20 indirectly by a state, regional or national organization whose primary purpose
21 is the promotion of the exchange of ideas between governmental officials or
22 employees or to provide for the professional development or training of such
23 governmental officials or employees, provided that such organization has a
24 membership primarily composed of elected or appointed public officials or
25 employees; (9) the use of a city facility by an official; (10) a gift motivated by a
26 familial or close personal relationship rather than the recipient's position as an
27 official; and (11) all non-pecuniary things or services donated in any twelve
28 (12) month period from a single donor that have a cumulative fair market value
29 of two hundred fifty dollars (\$250.00) or less.
30 (l) "Governmental Body" means the City of Albuquerque and any of its
31 boards, commissions and committees.

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- 1 (m) "Immediate Family" or "Immediate Family Member" means
2 spouse, children, step-children, parents, grandparents, grandchildren,
3 siblings, first cousins, nieces, nephews, uncles and aunts.
- 4 (n) "Income" means the money or other form of payment that a person
5 receives from labor or services, including from employment, a business entity,
6 contracts, goods or services rendered and investments.
- 7 (o) "Indirect interest" or "indirect private financial interest" means any
8 interest in which legal title is held by another as trustee or other
9 representative, but the equitable or beneficial interest is held by the official or
10 the official's immediate family. Indirect interest shall include a pecuniary or
11 competitive advantage that exists or could foreseeably accrue as a result of
12 the act or inaction of the official.
- 13 (p) "Office" means a position of duty, trust or authority.
- 14 (q) "Official" means the Mayor; all members of the Council; all members
15 of boards, commissions and committees; all directors and the equivalent
16 thereof for each department, division or section; assistant, associate or
17 deputy department, division or section directors and the equivalent thereof;
18 the Director of Council Services; the Chief Administrative Officer; Deputy or
19 Assistant Chief Administrative Officers and the equivalent thereof; and all
20 other city employees appointed directly by the Council, Mayor or Chief
21 Administrative Officer.
- 22 (r) "Ordinary consumer debt" means a personal debt owed as a result of
23 purchasing goods used for individual or household consumption, including
24 credit card debt and auto loans.
- 25 (s) "Participate in a political campaign" means: (1) to hold a paid
26 position in a campaign; (2) to hold an unpaid position in a campaign that
27 includes a title or functions in a manner that would typically include a title; (3)
28 to host a fundraiser for a candidate or host a house party or any other event
29 for a candidate or campaign; (4) to volunteer for a candidate or campaign; (5)
30 contribute to a candidate or campaign; (6) electronically posting or sharing
31 candidate or campaign materials or communications, or otherwise publishing
32 statements that reference a candidate or campaign, via social media or

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1 otherwise. "Participate in a political campaign" does not include: (1) signing a
2 nominating petition; (2) making a \$5 qualifying contribution to a candidate
3 seeking public financing; (3) "liking" a social media post that references a
4 candidate or campaign.

5 (t) _____ "person" means any individual, cooperative association, club,
6 corporation, company, firm, partnership, joint venture, syndicate, profit or
7 nonprofit organization, or other legal entity.

8 (u) _____ "public agency" means a department, commission, council, board,
9 committee, agency or institution of the executive or legislative branch of state
10 government or a political subdivision of the state or an instrumentality of the
11 state or of a political subdivision of the state.

12 (v) _____ "Publicly endorse" means: (1) to publish in any way a statement of
13 support or approval regarding a candidate or campaign; (2) to knowingly allow
14 one's name to be published by others as endorsing a candidate or campaign;
15 (3) to appear in advertisements of any sort for a candidate or campaign.

16 "Publicly endorse" does not include: (1) a statement of personal opinion in a
17 non-public setting to another individual; or (2) a publication regarding a Board
18 of Ethics ruling.

19 (w) _____ "Publicly oppose" means: (1) to publish in any way a statement of
20 opposition or criticism regarding a candidate or campaign; (2) to knowingly
21 allow one's name to be published by others as opposing a candidate or
22 campaign; (3) to appear in advertisements of any sort opposing or criticizing a
23 candidate or campaign. "Publicly oppose" does not include a statement of
24 personal opinion in a non-public setting to another individual or a publication
25 regarding a Board of Ethics ruling.]

26 Section 5. DISCLOSURE

27 [(a) An official of the city with any private financial interest in any contract or
28 other matter pending before or within the governmental body the official is
29 employed by or a member of, shall file an annual disclosure statement to the
30 governmental body.

31 (b) Any Councilor who has a direct or indirect interest in any matter pending
32 before the Council shall disclose such interest on the records of the Council.

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1 The existence of a direct or indirect private financial interest on any matter
2 coming before the Council, including approval of a contract, shall disqualify a
3 Councilor from debating and voting on the matter. A majority of the remaining
4 members of the Council shall determine whether a Councilor has a direct or
5 indirect interest and whether the Councilor shall be allowed to vote and
6 participate in the decision-making process related to the matter. A Councilor
7 who has a conflict of interest may voluntarily decline to vote and participate in
8 the decision-making process related to the matter.

9 (c) The Mayor and each City Councilor, during their term of office, shall file
10 contribution and expenditure disclosure statements on the second Monday in
11 May and November of each year setting out all contributions and
12 expenditures, as defined in the City Election Code, during the previous period,
13 raised or spent in connection with any campaign or pre-campaign activity for
14 any elected office. Expenditures of public funds in the regular course of the
15 Mayor or Councilor's official duties are not contributions and expenditures
16 subject to such disclosure under this section. The Mayor and Councilors are
17 not required to file a biannual statement if they have had no campaign or pre-
18 campaign contributions or expenditures during the previous period. These
19 reporting requirements shall be in addition to the reporting requirements of
20 the Election Code, provided that any information filed with the City Clerk
21 pursuant to City Charter Article XIII, Section 4(c) need not be included in the
22 subsequent biannual reports required by this section. The contributions and
23 expenditures identified in the biannual statements that are to be applied to a
24 campaign for election to a city office shall be included in the first campaign
25 disclosure report that the candidate files pursuant to the Election Code.

26 (d) All elected officials shall file with the City Clerk an annual disclosure
27 statement listing all of the changes or additions to the disclosure information
28 provided by the elected official at the time of filing his or her declaration of
29 candidacy pursuant to Section 3 of the Election Code. If no changes have
30 occurred, the elected official shall so state in the annual disclosure statement.
31 The annual disclosure statement shall be due on the first city work day of July

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1 and shall be submitted on a form approved by the City Clerk. The annual
2 disclosure statement shall be a public record.

3 (e) In addition to the information disclosed pursuant to Section 3 of the
4 Election Code, the annual disclosure statement for all elected officials shall
5 include the following information for the preceding calendar year:

6 (1) the full name of the reporting individual and the reporting individual's
7 spouse;

8 (2) the name and address of any employer employing the reporting
9 individual or the reporting individual's spouse, the title or position held, and a
10 brief description of the nature of the business or occupation;

11 (3) the identity, location and purpose of use of real property owned by
12 the reporting individual, the reporting individual's spouse or the reporting
13 individual's dependent children; provided that, for personal residences only
14 the zip code or, in the absence of a zip code, the county of situs is
15 required to be disclosed;

16 (4) the identity of assets of more than fifty thousand dollars (\$50,000)
17 directly or beneficially owned by the reporting individual, the reporting
18 individual's spouse or the reporting individual's dependent children; provided
19 that, in determining whether an asset has a value of more than fifty thousand
20 dollars (\$50,000), the value should not be reduced by any debt secured by the
21 asset, such as a mortgage or other secured loan, and a good faith estimate of
22 the fair market value of an asset is permitted if the exact value is neither known
23 or easily obtainable. The disclosure of assets shall include:

24 (A) commodities, including the type of commodity;

25 (B) investments in stocks, bonds, futures contracts, options,
26 derivatives, currency, real estate investment trusts, mutual funds,
27 private equity funds, exchange-traded funds, and trust funds of
28 which the reporting individual is a beneficiary; provided that if the
29 investment is or forms part of a fund, the reporting individual is only
30 required to identify the fund, the fund manager, and any underlying
31 holdings of the fund that have a value of more than fifty thousand
32 dollars (\$50,000); and

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1 (C) contractual rights that are reasonably likely to generate future
2 income, such as royalties and intellectual property, the names of the
3 contracting parties, and the purpose of the contract;

4 (5) all sources of income equal to or greater than the amount that must
5 be disclosed to the internal revenue service pursuant to 26 U.S.C. Section
6 6041(a), as amended, directly or indirectly accrued by the reporting individual,
7 the reporting individual's spouse or the reporting individual's dependent
8 children, including:

9 (A) the identity of the source of earned income; provided that:

10 (i) if a source of earned income is owed a legal or
11 professional duty of confidentiality and the identity of the
12 source of the income has not been disclosed to a public
13 agency, the reporting individual may identify the source as
14 "confidential" and describe the duty of confidentiality that
15 prevents disclosure of the source of the earned income; and

16 (ii) if an indirect source of earned income is a client of a
17 business entity of which the reporting individual or the
18 reporting individual's spouse is a member, the indirect source
19 of earned income is not required to be disclosed if the
20 reporting individual or the reporting individual's spouse has
21 no role in any matter involving the source; and

22 (B) the identity of sources of unearned income, including taxable
23 interest, capital gains, dividends, annuities, trust distributions,
24 rents from real property and insurance policies;

25 (6) Liabilities of more than five thousand dollars (\$5,000) owed by:

26 (A) the reporting individual, the reporting individual's spouse or
27 the reporting individual's dependent children; and

28 (B) a trust of which the reporting individual, the reporting
29 individual's spouse or the reporting individual's dependent
30 children are beneficiaries;

31 (7) For a liability identified pursuant to Subsection (6) of this section, the
32 reporting individual shall disclose:

- 1 (A) the identity of the person who owes the debt or liability;
2 (B) the person to whom the debt or liability is owed;
3 (C) the amount of the debt or liability; and
4 (D) any payments on the debt or liability during the previous
5 calendar year;
- 6 (8) The disclosure statement is not required to include:
7 (A) ordinary consumer debt;
8 (B) mortgage debt on the primary residence of the reporting
9 individual, the reporting individual's spouse or the reporting
10 individual's dependent children;
11 (C) student loans; and
12 (D) liabilities owed to parents, grandparents, children or siblings
13 of the reporting individual, the reporting individual's spouse or
14 the reporting individual's dependent children;
- 15 (9) The following information related to any privately held business
16 controlled by the reporting individual, the reporting individual's spouse or
17 the reporting individual's dependent children:
18 (A) the name of the business entity, a brief description of the
19 nature of its activities and its geographic location, including
20 the city and state; and
21 (B) for a privately held business entity formed for the purpose of
22 holding investments:
23 (i) assets of more than fifty thousand dollars (\$50,000) or
24 that generated income directly or beneficially owned by
25 the business entity in an amount equal to or greater than
26 the amount that must be disclosed to the internal
27 revenue service pursuant to 26 U.S.C. Section 6041(a),
28 as amended; provided that in determining whether an
29 asset has a value of more than fifty thousand dollars
30 (\$50,000), the value should not be reduced by any debt
31 secured by the asset, such as a mortgage or other
32 secured loan; and

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- 1 (ii) any liability of the business entity in an amount greater
- 2 than fifty thousand dollars (\$50,000), including:
- 3 (a) the identity of the business entity that owes the
- 4 debt or liability;
- 5 (b) the person to which the debt or liability is owned;
- 6 (c) the amount of the debt or liability; and
- 7 (d) any payments on the debt or liability during the
- 8 previous calendar year;

9 (10) The following information related to professional licenses,
10 memberships and offices held for the prior calendar year:

- 11 (A) professional licenses held by the reporting individual and the
- 12 reporting individual's spouse; and
- 13 (B) board memberships, offices or other positions held by the
- 14 reporting individual and the reporting individual's spouse in:
- 15 (i) corporations, partnerships, trusts or other for-profit
- 16 business entities; and
- 17 (ii) nonprofit organizations, educational organizations,
- 18 political organizations or other nongovernmental
- 19 organizations; and

20 (11) Any gift received in the prior calendar year by the reporting
21 individual, the reporting individual's spouse or the reporting individual's
22 dependent children having a market value greater than fifty dollars (\$50.00)
23 from a restricted donor, a registered lobbyist, a lobbyist's employer, a
24 government contractor or a person that has responded to a request for
25 proposals or an invitation to bid issued by the City.]

26 SECTION 2. SEVERABILITY CLAUSE. If any section, paragraph, word or
27 phrase of this ordinance is for any reason held to be invalid, or unenforceable
28 by any court of competent jurisdiction, such decision shall not affect the
29 validity of the remaining provisions of this ordinance. The Council hereby
30 declares that it would have passed this ordinance and each section,
31 paragraph, sentence, clause, word or phrase thereof irrespective of any
32 provision being declared unconstitutional or otherwise invalid.

1 SECTION 3. COMPILATION. Section 1 of this ordinance shall amend, be
2 incorporated in, and be made part of the City Charter.

3 SECTION 4. EFFECTIVE DATE. This ordinance shall take effect five (5) days
4 after publication by title and general summary.

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