

# CITY of ALBUQUERQUE

## TWENTY THIRD COUNCIL

COUNCIL BILL NO.     C/S O-19-56     ENACTMENT NO. \_\_\_\_\_

SPONSORED BY: Peña, Harris, Sanchez, Borrego

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### ORDINANCE

AMENDING ARTICLE XII, SECTIONS 2, 3, 5, AND 8 OF THE CITY CHARTER,  
AND AMENDING ARTICLE XIII, SECTION 4, OF THE CITY CHARTER.

WHEREAS, in 1975 the City of Albuquerque adopted the Code of Ethics,  
which has been amended on various occasions since that time; and

WHEREAS, the City wishes to provide transparency for its residents and  
accountability for its Officials; and

WHEREAS, the proper operation of democratic government requires that  
Candidates, elected Officials, employees and volunteers of local governments  
be independent, impartial and accountable to the people and that the public  
have confidence in the integrity of its government; and

WHEREAS, a clear and comprehensive Code of Ethics will establish  
guidelines for ethical standards of conduct for all Candidates, elected  
Officials, employees, and volunteers;

WHEREAS, recent amendments to the Election Code changed reporting  
requirements for elected Officials, and additional sections of the Election  
require changes to correspond with those amendments; and

WHEREAS, Article XII, Section 12, and Article XIII, Section 12 allow the  
Council to amend the Code of Ethics and the Election Code by ordinance  
adopted by a majority plus two of the entire membership of the Council voting  
in favor of such amendments.

BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY  
OF ALBUQUERQUE:

SECTION 1. Article XII, Section 2 of the Charter of the City of Albuquerque is  
hereby amended as follows:

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1           “Section 2. DEFINITIONS.

2           (f) “Direct Interest”, “Private Interest” or “Private Financial Interest”  
3 means an interest concerning; (1) a partnership, limited liability partnership,  
4 limited liability company [, corporation, or any other for-profit entity] in which  
5 an Official ~~[has invested capital or otherwise]~~ owns an interest [of 10% interest  
6 or more; or,] (2) ~~[a corporation in which an official owns (i) ten percent (10%)~~  
7 ~~or more of the outstanding capital stock or (ii) capital stock with a cumulative~~  
8 ~~value of \$25,000 or more; or (3)]~~ a corporation, partnership, limited liability  
9 partnership, or limited liability company in which the Official is an officer,  
10 director, or agent. Direct Interest, Private Interest or Private Financial Interest  
11 does not mean an interest in stock owned indirectly through a mutual fund,  
12 retirement plan, or other similar commingled investment vehicle the individual  
13 investments of which the Official does not control or manage.

14           (g) “Gift” or “Valuable Gift” means that which is accepted by an Official  
15 or by another on the Official's behalf, or that which is paid or given to another  
16 for or on behalf of an Official, directly, indirectly, or in trust for the Official's  
17 benefit or by any other means, for which Consideration equal or greater than  
18 fair market value is not given by the Official within 90 days of the Official's  
19 receipt of such Gift, including, but not limited to (1) real property, (2) the use of  
20 real property, (3) tangible or intangible personal property, (4) the use of  
21 tangible personal property, (5) a preferential rate or terms on a debt, loan,  
22 goods, or services, which rate is below the customary rate and is neither a  
23 government rate nor a rate available to similarly situated members of the  
24 public by virtue of occupation, affiliation, age, religion, sex, or national origin,  
25 (6) forgiveness of an indebtedness, (7) transportation, other than that provided  
26 to an Official by a governmental agency in relation to approved government  
27 business, lodging or parking, (8) food or beverage, (9) membership dues,  
28 other than dues paid by a city agency, (10) entrance fees, admission fees, or  
29 tickets to events, performances, or facilities [other than those hosted,  
30 sponsored, or co-sponsored by the City or occurring at a city facility], (11)  
31 plants, flowers, or floral arrangements, (12) services provided by Persons  
32 pursuant to a professional license or certificate, (13) other personal services  
33 for which a fee is normally charged by the Person providing the services and

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1 (14) any other similar service or thing having an attributable value not already  
2 provided for in this section. [For purposes of calculating the dollar limits to  
3 the term "Gift," any gift provided by a lobbyist shall be attributed to the  
4 lobbyist individually as well as to the business organization which he or she  
5 owns or by which he or she is employed.]

6 Gift does not include (1) salary, benefits, services, fees, commissions,  
7 returns on an investment, a loan, interest incurred on a bond, or expenses  
8 associated primarily with the Official's employment, business or service as an  
9 officer or director of a private corporation or organization, (2) [any activity,  
10 including but not limited to the acceptance of a donation, transfer or  
11 contribution, or the making of an expenditure or reimbursement, that is  
12 authorized by the] ~~[contributions reported as campaign contributions~~  
13 ~~pursuant to the]~~ Election Code[,] and the Code of Ethics, [and items excluded  
14 from the definition of "contributions" pursuant to Section 2(g)(3) of the  
15 Election Code,] (3) an honorarium or an expense related to an honorarium  
16 event paid to an Official or the Official's spouse, (4) an award, plaque,  
17 certificate, or similar personalized item given in recognition of the Official's  
18 public, civic, charitable, or professional service, (5) an honorary membership  
19 in a service or fraternal organization presented merely as a courtesy by such  
20 organization, (6) the use of a public facility or public property made available  
21 by a governmental agency for a public purpose, (7) transportation provided to  
22 an Official by a governmental agency in relation to Official approved  
23 governmental business, (8) gifts provided directly or indirectly by a state,  
24 regional or national organization whose primary purpose is the promotion of  
25 the exchange of ideas between governmental Officials or employees or to  
26 provide for the professional development or training of such governmental  
27 Officials or employees, provided that such organization has a membership  
28 that is primarily composed of elected or appointed public Officials or  
29 employees, (9) the use of a city facility by an Official, [(10) a gift that is  
30 motivated by a family relationship or close personal relationship rather than  
31 the recipient's position as an Official, and (10) all non-pecuniary things or  
32 services donated in any twelve (12) month period from a single donor that

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1 have a cumulative fair market value of [~~one hundred (\$100.00)~~] [two hundred  
2 fifty dollars (\$250.00)] or less.

3 (r) “Participate in a political campaign” means (1) to hold a paid position in  
4 a campaign, (2) to hold an unpaid position in a campaign that includes a title  
5 or functions in a manner that would typically include a title, (3) to host  
6 fundraisers, house parties or any other events for a Candidate or campaign,  
7 (4) to volunteer for a Candidate or campaign, (5) contribute to a Candidate or  
8 campaign, (6) electronically posting or sharing Candidate or campaign  
9 materials or communications, or otherwise publishing statements that  
10 reference a Candidate or campaign, via social media or otherwise.

11 “Participate in a political campaign” does not include (1) signing a  
12 nominating petition, (2) making a \$5 qualifying contribution to a Candidate  
13 seeking public financing, (3) “liking” a social media post that references a  
14 Candidate or campaign.

15 (s) “Publically endorse” means (1) to publish in any way a statement of  
16 support or approval regarding an Candidate or campaign, (2) to knowingly  
17 allow one’s name to be published by others as endorsing a Candidate or  
18 campaign, (3) to appear in advertisements of any sort for a Candidate or  
19 campaign.

20 “Publically endorse” does not include (1) a statement of personal  
21 opinion in a non-public setting to another individual, or (2) a publication  
22 regarding a Board of Ethics ruling.

23 (t) “Publically oppose” means (1) to publish in any way a statement of  
24 opposition or criticism regarding an Candidate or campaign, (2) to knowingly  
25 allow one’s name to be published by others as opposing a Candidate or  
26 campaign, (3) to appear in advertisements of any sort that oppose or criticize a  
27 Candidate or campaign.

28 “Publically oppose” does not include a statement of personal opinion in  
29 a non-public setting to another individual, or (2) a publication regarding a  
30 Board of Ethics ruling.]”

31 SECTION 2. Article XII, Section 3 of the Charter of the City of Albuquerque  
32 is hereby amended as follows:

33 “Section 3. BOARD OF ETHICS AND CAMPAIGN PRACTICES.

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1 (a) The Board shall be made up of seven members, who shall be chosen  
2 as follows: The Council shall appoint three members and the Mayor shall  
3 appoint three members. The six members so appointed shall select a seventh  
4 person to serve as Chairperson of the Board. [A simple majority of members  
5 shall constitute a quorum.] The appointment of a Board member by one  
6 appointing authority shall not be approved or disapproved by the other two  
7 appointing authorities. Each member shall be a qualified elector of the city,  
8 and no member shall be an Official or employee of the city or the spouse,  
9 parent or child of an Official or city employee.

10 [1. No member of the Board shall (1) have held public office as a City  
11 Official or have been a Candidate, as defined in Article XIII, Section 2, for a  
12 two-year period prior to appointment; (2) seek or hold an elective public office  
13 or an appointed public position while serving on the Board; (3) participate in  
14 any political campaign for a candidate who is a City Official or Candidate, as  
15 defined in Article XIII, Section 2, while serving on the Board; (4) be a Lobbyist,  
16 or be employed by or have an equity interest or ownership interest in a  
17 Lobbying Organization, as defined in ROA § 2-3-3, while serving on the Board;  
18 (5) be a paid political campaign employee, or be employed by, or have an  
19 equity interest or ownership interest in, a business entity that derives any of  
20 its revenue or income from political campaign work, while serving on the  
21 Board; (6) have a Contract with the City as defined in Article XII, Section 2,  
22 while serving on the board; (7) publicly endorse or publicly oppose a ballot  
23 initiative, a candidate who is a City Official or a Candidate, as defined in Article  
24 XIII, Section 2, while serving on the Board; or (8) solicit funds for a Measure  
25 Finance Committee, Candidate Finance Committee, or Candidate as defined in  
26 Article XIII, Section 2, while serving on the Board.

27 2. A Board member who is found to have violated any of the provisions  
28 of Subsection (a)(1) of this Section shall resign from the Board, or if the Board  
29 member fails to resign the member shall be removed pursuant to Board of  
30 Ethics rules.

31 3.] There shall be a public comment period for any individual proposed  
32 for membership on the Board of Ethics and Campaign Practices by the Mayor,  
33 the Council and for the seventh member selected by the Board. The name and

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1 resume of any individual proposed for membership shall be posted on the  
2 city's website at least two weeks, via an agenda published by City Council or  
3 otherwise, prior to the date when final action is taken to appoint that  
4 individual. Any Person shall be allowed to submit comments about the  
5 proposed member by written submission, electronically or otherwise, to the  
6 City Clerk.

7 [4.] The members of the Board of Ethics and Campaign Practices shall  
8 receive at least six hours of training prior to acting in the capacity of a Board  
9 member. The training shall be provided by the City Attorney and shall cover  
10 the ethical responsibility of Board members and the content of the Code of  
11 Ethics and the Election Code as those codes relate to the duties of the Board.  
12 The training requirement shall not apply to any current Board member, who  
13 shall continue to serve their unexpired term, or to any Board member  
14 reappointed at the end of a term.

15 (b) All members shall serve terms of four years, and be eligible for  
16 reappointment for additional terms, not to exceed two terms consecutively,  
17 consisting of the initial term the member was appointed to and the second,  
18 consecutive term]. Terms are staggered and shall continue with the same term  
19 cycle as currently exists. Any vacancy shall be filled for an unexpired term by  
20 the same authority that made the original selection and appointment of the  
21 member vacating his or her position. [Members may continue in office after  
22 their term has expired until a successor is appointed. If a member continues to  
23 serve for more than one hundred eighty days (180) after his or her term has  
24 expired, his or her successor shall be eligible for appointment to a full four-  
25 year term.]

26 (c) [The jurisdiction of the Board is limited to acting within the scope of  
27 matters covered by the Code of Ethics, the Election Code, the Open and  
28 Ethical Elections Code, and rules promulgated by the Board and/or the City  
29 Clerk. When a complaint contains allegations outside the scope of the Board's  
30 jurisdiction, the City reserves the right to refer all or part of the complaint to  
31 any agency or law enforcement agency with competent jurisdiction for  
32 criminal or civil investigation or prosecution.]

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1 [(d)] No violation of the Code of Ethics[, the Election Code, the Open and  
2 Ethical Elections Code, and/or rules promulgated by the Board and/or the City  
3 Clerk] shall be found by the Board of Ethics and Campaign Practices except  
4 upon the concurrence of a majority of the Board.

5 [(e) Any rules promulgated by the City Clerk for the purposes of  
6 administering the Code of Ethics shall be submitted for receipt to the City  
7 Council.

8 [(f) The Board shall:

9 (1) meet as necessary, at least once in each calendar quarter to carry  
10 out its duties;

11 (2) receive and investigate complaints regarding possible violations of  
12 the Code of Ethics, the Election Code, the Open and Ethical Elections Code,  
13 and/or rules promulgated by the Board and/or the City Clerk;

14 (3) hold hearings when necessary to determine whether there has been  
15 a breach as alleged in a complaint;

16 (4) contract for professional services as necessary to carry out duties;

17 (5) provide the Mayor and City Council with an annual report stating the  
18 number of complaints that were submitted to the City Clerk alleging a violation  
19 of the Code of Ethics, the Election Code, the Open and Ethical Elections Code,  
20 and/or rules promulgated by the Board and/or the City Clerk, the number of  
21 complaints submitted to the Board by the City Clerk, and a summary of the  
22 status of each complaint to include the date of the complaint, the date for the  
23 case to be heard, and date for possible final action. The annual report shall be  
24 submitted to Council in July of each year, and shall also include any  
25 recommendations regarding amendments to City ethics or public  
26 accountability laws, and recommendations regarding the scope of the Board  
27 and/or City Clerk's powers and duties. The annual status reports must be  
28 approved by the Board and made available to the public on the City Clerk's  
29 website. Status reports may be provided to Mayor and City Councilors and  
30 their staff on an informal basis as appropriate.

31 [(d)] [(f)] The Board shall have the authority to administer oaths, and  
32 power to issue administrative subpoenas to compel witnesses to testify and

1 produce records and documents before the Board. The Board may  
2 promulgate rules and regulations establishing procedures for issuance of  
3 subpoenas. The Board may request the City Attorney to enforce such  
4 subpoenas in a court of proper jurisdiction.

5 ~~[(e)]~~ [(g)] The Board may issue to Candidates, Officials, and lobbyists  
6 advisory opinions concerning ~~[the Code of Ethics and the Election Code]~~ [the  
7 Code of Ethics, the Election Code, the Open and Ethical Elections Code, and  
8 rules promulgated by the Board and/or the City Clerk. Candidates and Officials  
9 shall make all requests for advisory opinions in writing to the City Clerk. The  
10 City Clerk shall maintain a contract with outside, independent legal counsel to  
11 draft the advisory opinion, which shall be submitted to the Board of Ethics for  
12 consideration of approval within fourteen (14) days of a written request for  
13 advisory opinion being received by the City Clerk. Within thirty (30) days of  
14 receiving the proposed advisory opinion, the Board shall vote to adopt or  
15 decline to adopt the proposed advisory opinion as written. If the Board of  
16 Ethics declines the proposed advisory opinion, the Board of Ethics will either  
17 direct the City Clerk to amend the proposed opinion as appropriate or to draft  
18 a new advisory opinion for consideration for adoption at its next meeting,  
19 which shall be held within fourteen (14) days. Official advisory opinions will  
20 be issued only upon the Board's approval. All timeframes noted in this  
21 subsection are mandatory unless the City Clerk or the Board notifies the  
22 requester in writing of a delay in issuance and with specificity as to that  
23 request, the reason for the delay, and continues to notify the requester in  
24 writing every thirty (30) days until the advisory opinion is issued, which in all  
25 cases shall be within one hundred eighty (180) days of the request.]

26 A request for an advisory opinion and the opinion approved by the Board  
27 shall become public records at the time the Board votes on such opinion.  
28 Advisory opinions shall only concern prospective matters. Specifically, no  
29 advisory opinion shall be issued with respect to an event that has already  
30 occurred. Advisory opinions shall only be issued with respect to conduct in  
31 which the requestor of the opinion intends to engage. No advisory opinion  
32 shall be given unless approved by four members of the Board. Approved  
33 opinions shall be kept as permanent records by the City Clerk. The Board may

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1 promulgate rules and regulations establishing procedures for issuing advisory  
2 opinions and limitations on the use of advisory opinions as a defense to  
3 violations of the Code of Ethics or the Election Code. The Board may issue  
4 consent orders and may promulgate rules and regulations establishing  
5 procedures of issuance of consent orders.

6 [(h) Limitations on Complaints.

7 (1) The Board will not set for hearing any complaint charging a  
8 violation alleged to have occurred more than one hundred twenty (120) days  
9 prior to the date the complaint is filed unless the facts and documentation  
10 supporting the charges alleged in the complaint were not public knowledge or  
11 available for public inspection within that time frame.

12 (2) In no event shall the Board hear a complaint alleging violations in  
13 which the violation occurred more than one (1) year prior to the date the  
14 complaint is filed unless the complainant also alleges fraud or purposeful  
15 misrepresentation on the part of the respondent to conceal the conduct that is  
16 the subject of the complaint.

17 (3) All complaints referred to the Board by the City Clerk at any time  
18 prior to sixty (60) days before election day shall be resolved, determined, or  
19 dismissed by the Board within sixty (60) days from the referral of the  
20 complaint. If the complaint is not resolved within sixty (60) days, the complaint  
21 shall be dismissed, unless delayed by order of the Board upon a showing of  
22 good cause.]

23 (4) All complaints referred to the Board by the City Clerk during the  
24 sixty (60) day period preceding election day shall be resolved, determined, or  
25 dismissed by the Board within thirty (30) days from the referral of the  
26 complaint. If the complaint is not resolved within thirty (30) days, the  
27 complaint shall be dismissed, unless delayed by order of the Board upon a  
28 showing of good cause.

29 (5) Notwithstanding the foregoing, the Board shall not adjudicate a  
30 complaint filed against a Candidate less than seven (7) days before election  
31 day. The time limitations referenced in this section 'h' applicable to a  
32 complaint shall not include the seven (7) day blackout period prior to election  
33 day.]

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1        ~~[(f)]~~ [(i)]        A Board member who has participated in any hearing on a  
2 case concerning a complaint alleging a violation of the Code of Ethics or the  
3 Election Code shall continue to serve as a Board member on such case until  
4 the completion of the case, regardless of the expiration of that Board  
5 member's term, but only when the Board has voted on a matter concerning the  
6 case. A replacement Board member shall not serve on such cases.

7        ~~[(g)]~~ [(i)]        Board Member Conflicts of Interest and Recusals.

8                (1) A] Board member[s] shall not hear complaints involving  
9 Candidates or Measure Finance Committees to which they have contributed  
10 [within three (3) years prior to the complaint] or have participated in [the  
11 Candidate's or Measure Finance Committee's] [their] campaign activities  
12 [within three (3) years prior to the complaint.] [N]or shall [they] [Board  
13 members] hear cases involving complaints concerning Candidates and  
14 Measure Finance Committees who are in opposition to the Candidates or  
15 Measure Finance Committees to which the Board member contributed or  
16 participated in their campaign activities [within three (3) years prior to the  
17 complaint.

18                (2) A Board member is required to recuse himself or herself from an  
19 official matter that involves any individual, association, corporation or other  
20 entity that employed or did business with the Board member during the one  
21 year prior to the Board member's appointment to the Board. The recusal shall  
22 remain in effect until the Board no longer has any interest in the matter.

23                (3) A Board member is required to recuse himself or herself on an  
24 official matter if the member had any involvement in that matter, other than on  
25 behalf of the City, prior to the Board member's appointment to the Board. The  
26 recusal shall remain in effect until the Board no longer has any interest in the  
27 matter.

28                (4) A Board member must recuse himself or herself from a matter if  
29 the member has:

30                        A. Any financial interest, direct or indirect, that is incompatible  
31 with the discharge of the Board member's duties; or

32                        B. Any personal interest, direct or indirect, that is incompatible  
33 with the discharge of the Board member's duties.

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1           (5) For purposes of (4) above, there is a rebuttal presumption that an  
2 incompatible financial or personal interest includes, but is not limited to,  
3 outside employment; a debtor/creditor relationship; a relationship involving  
4 legal representation; a fiduciary relationship; a source of income; any matter  
5 pertaining to or involving a relative or cohabitant of the member; a  
6 relationship with a Person providing funds, goods or services without  
7 compensation; any matter pertaining to or involving a business associate or  
8 business investment; and a leadership role in a professional or trade  
9 organization, which interest might reasonably be expected to impair a Board  
10 member's objectivity and independence of judgment in the exercise of his or  
11 her official duties or might reasonably be expected to create an impression or  
12 suspicion among the public having knowledge of his or her acts that the  
13 member may be engaged in conduct violative of his or her trust as a Board  
14 member.

15           (6) An incompatible financial or personal interest may exist in other  
16 situations which are not clearly within the provisions of (4) and (5) above,  
17 depending on the totality of the circumstances. A Board member may contact  
18 the City Clerk for guidance in such cases.

19           (7) A Board member may seek the advice of the City Attorney or outside  
20 counsel as to the propriety of participation in a matter if any Person requests  
21 that a Board member recuse himself or herself from that matter. Oral advice,  
22 followed up by a writing to be provided to the full Board, may be provided by  
23 the City Attorney or outside counsel to avoid delay.

24           (8) If the propriety of a Board member's participation in a particular  
25 matter is questioned on the grounds that the member has a conflict of interest  
26 and if the member refuses to recuse from participation in the matter, the Board  
27 may disqualify that member from participation in the relevant board  
28 proceeding with concurrence of a majority of members.

29           (k) If the Board finds, upon a majority vote of the board, that a Candidate,  
30 elected Official, Measure Finance Committee, or lobbyist has violated the  
31 Code of Ethics, the Election Code, the Open and Ethical Elections Code,  
32 and/or rules promulgated by the Board and/or the City Clerk, the Board may  
33 impose any of the following penalties, subject to the individual's existing

1 rights under a collective bargaining agreement and/or the Merit System  
2 Ordinance, after the entry of written findings of fact and conclusions of law:

3 (1) A civil fine not to exceed the maximum set by state law;

4 (2) A written finding of censure;

5 (3) When an Official or Candidate has committed an act that the Board  
6 believes may constitute a violation of the State Election Code, NMSA 1978 §  
7 1-1-1, et seq., the Board may refer the matter to the Secretary of State and/or  
8 the State Ethics Commission.

9 (l) Nothing in this Section shall be read to preclude the Board from  
10 referring any matter to appropriate enforcement authorities.

11 (m) No former member of the Board may represent any business or Person,  
12 other than himself or herself, before the Board for a period of one year  
13 following the end of such member's service on the Board.

14 (n) Any member who misses three consecutive meetings, unexcused by  
15 the chair, shall be deemed to have resigned from the Board and may be  
16 replaced by the original appointing authority. Members may attend non-quasi-  
17 judicial hearings by phone.

18 (o) A recused or disqualified Board member shall not participate in any  
19 proceeding related to the matter from which the member is recused or  
20 disqualified, and the member shall be excused from that portion of a meeting  
21 at which the matter is discussed.

22 (p) If a majority of Board members have recused themselves or are  
23 disqualified from participating in a proceeding, the remaining members shall  
24 request the appointment of temporary members from the original appointing  
25 authorities that appointed the recused or disqualified members. Appointing  
26 authorities shall appoint temporary members within ten (10) days of the  
27 request for appointment.

28 (q) Ex parte communications. Members of the Board of Ethics shall not  
29 communicate ex parte with any Person or party or their representative in any  
30 quasi-judicial Board matter, except upon notice and opportunity for all parties  
31 to participate. The members of the Board may severally communicate with  
32 each other, in conformity with the Open Meetings Act, and may have the aid

1 and advice of the City Attorney, City Clerk, or other appropriate city staff or  
2 outside experts when such assistance is requested by the Board.]”

3 SECTION 3. Article XII, Section 5 of the Charter of the City of Albuquerque  
4 is hereby amended as follows:

5 Section 5. DISCLOSURE.

6 (a) An Official of the city who shall have any Private Financial Interest in  
7 any contract or other matter pending before or within the Governmental Body  
8 of which the Official is employed or of which the Official is a member, shall  
9 disclose such Private Financial Interest to the Governmental Body

10 (b) Any ~~[Councilor]~~ [Councilor] who has a direct or indirect interest in any  
11 matter pending before the Council shall disclose such interest on the records  
12 of the Council. The existence of a direct or indirect Private Financial Interest  
13 on any matter coming before the Council, including approval of a contract,  
14 shall disqualify a ~~[Councilor]~~ [Councilor] from debating and voting on the  
15 matter. A majority of the remaining members of the Council shall determine  
16 whether a ~~[Councilor]~~ [Councilor] has a direct or indirect interest and whether  
17 the ~~[Councilor]~~ [Councilor] shall be allowed to participate in the decision  
18 making process related to the matter and vote on the matter. A ~~[Councilor]~~  
19 [Councilor] who has a conflict of interest may voluntarily decline to participate  
20 in the decision making process related to the matter and vote on such matter.

21 (c) The Mayor and each City Councilor, during their term of office, shall  
22 file [contribution and expenditure] disclosure statements on the second  
23 Monday in ~~[April]~~ [May] and ~~[October]~~ [November] of each year setting out all  
24 contributions and expenditures, as defined in the City Election Code, during  
25 the previous ~~[quarter]~~ [period], raised or spent in connection with any  
26 campaign or pre-campaign activity for any elected office. Expenditures of  
27 public funds in the regular course of the Mayor or Councilor’s official duties  
28 are not contributions and expenditures subject to such disclosure under this  
29 section. The Mayor and Councilors are not required to file a biannual  
30 statement if there have been no campaign or pre-campaign contributions or  
31 expenditures during the previous ~~[quarter]~~ [period] by or for the particular  
32 Mayor or Councilor. These reporting requirements shall be in addition to the  
33 reporting requirements of the Election Code, provided that any information

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1 filed with the City Clerk pursuant to City Charter Article XIII, Section 4(c) need  
2 not be included in the subsequent biannual reports required in this section.  
3 The contributions and expenditures identified in biannual statements that are  
4 to be applied to a campaign for election to a city office shall be included in the  
5 first campaign disclosure report that the Candidate files pursuant to the  
6 Election Code.

7 (d) All elected Officials shall file with the City Clerk an annual statement  
8 listing all of the changes or additions to the disclosure information provided  
9 by the elected official at the time of filing his or her declaration of candidacy,  
10 pursuant to Section 3 of the Election Code. If no changes have occurred, the  
11 elected Official shall so state in the annual statement. The annual statement  
12 shall be due on the first city work day of July and shall be submitted on a form  
13 approved by the City Clerk. The annual statement shall be a public record.

14 (e) In addition to the information disclosed pursuant to Section 3 of the  
15 Election Code, the disclosure of financial interests for all elected Officials  
16 shall include the following information for the preceding calendar year in  
17 regard to the Official required to file the statement:

18 (i) The names of all businesses with which the Official is associated;

19 (ii) all sources of income, including the name of each employer, with  
20 a description of the type of income received, in excess of five thousand  
21 dollars (\$5,000), without specifying amounts of income;

22 (iii) all real property and its location, whether owned by such Official  
23 or held in the name of a corporation, partnership or trust for the benefit of  
24 such Official;

25 (iv) any leases or contracts with the City or a quasi-public agency  
26 held or entered into by the Official or a business with which the Official was  
27 associated;

28 (f) The statement of financial interests filed pursuant to subsection (e) shall  
29 be a matter of public information.

30 (g) Any individual who is unable to provide information required under the  
31 provisions of subsection (e) of this section by reason of impossibility may  
32 petition the Board of Ethics for a waiver of the requirements.]

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1 SECTION 4. Article XII, Section 8 of the Charter of the City of Albuquerque  
2 is hereby amended as follows:

3 Section 8. ENFORCEMENT; VIOLATION; PENALTY; AUTOMATIC FINES;  
4 REMOVAL FROM OFFICE; APPEAL.

5 (a) Any charge of violations of this Code of Ethics shall be brought before  
6 the [City Clerk] ~~[Board of Ethics and Campaign Practices]~~. Any private citizen  
7 may initiate such a charge in accordance with regulations established by the  
8 [City Clerk] ~~[Board of Ethics and Campaign Practices]~~.

9 (b) Should the Board find, after [referral of the complaint from the City  
10 Clerk and] due hearing, that a violation has occurred, it may make a public  
11 reprimand or impose a fine of not to exceed \$500 for each violation or do both.

12 (c) Automatic Fines. Notwithstanding subsection (b) of this section, a  
13 failure of an elected Official to file a biannual report required in Section 5 of  
14 this Code of Ethics or the filing of a false report shall subject the elected  
15 Official to an automatic fine according to the schedule of fines established in  
16 the Rules and Regulations of the Board and a public reprimand. The Board  
17 may establish in its Rules and Regulations additional automatic fines for the  
18 failure of an elected Official to file a report or correct a report after the initial  
19 determination by the Board that the elected Official failed to file a report or  
20 that the report was false. In situations where there is an incomplete filing, the  
21 elected Official shall be notified by the City Clerk that the biannual report is  
22 incomplete. The elected Official shall have ten days from the date of notice to  
23 complete the biannual report. If the incomplete biannual report is not  
24 completed within ten days, the elected Official shall be subject to an automatic  
25 fine according to the schedule of fines established in the Rules and  
26 Regulations of the Board and a public reprimand. If the report is completed  
27 within ten days and the Board determines from the face of the filings that any  
28 omissions in the report were inadvertent and made in good faith, the Board  
29 shall find that there has been no violation. The City Clerk shall issue all  
30 automatic fines required in this subsection, subject to the appeal procedures  
31 established in the Rules and Regulations of the Board.

32 (d) In addition to imposing such sanctions, or as an alternative thereto,  
33 the Board may recommend to the Council that an appointed or employed

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1 Official be suspended or removed from office or that an elected Official be  
2 removed from office.

3 (e) The Council may, upon the recommendation of the Board of Ethics and  
4 Campaign Practices, and after due hearing of the charge, order the  
5 suspension or removal of an appointed or employed Official, or the removal of  
6 an elected Official; provided, however, that no Official shall be removed or  
7 suspended except upon the concurrence of two-thirds of the [Councillors]  
8 [Councilors] qualified to vote thereon.

9 (f) An appeal may be taken from any findings and action of the Board  
10 pursuant to Subparagraph (b) of this Section, and from any order of the  
11 Council pursuant to Subparagraph (d) of this Section, to the District Court of  
12 the 2nd Judicial District, by filing Notice of Appeal in the said District Court  
13 within 5 days of the date of the action or order appealed from, and by filing  
14 with said District Court within 30 days a true transcript and record of the  
15 proceedings upon which said action or order is based. The hearing in the  
16 District Court shall be held on the said transcript and record only, and new  
17 testimony shall not be taken.

18 SECTION 6. Article XIII, Section 4(c)(1)(D) of the Election Code is hereby  
19 amended as follows:

20 "SECTION 4. CAMPAIGN FINANCING.

21 D. A Person seeking to qualify to be on the ballot for the office of  
22 Mayor or Councilor shall include any Person who has obtained a nominating  
23 petition form approved by the City Clerk, or who has received or solicited  
24 contributions or made expenditures of one thousand dollars (\$1,000) or more  
25 or authorized another Person or campaign committee to receive or solicit  
26 contributions or make expenditures of one thousand dollars (\$1,000) or more  
27 for the purpose of seeking election to the office. The City Clerk shall issue an  
28 approved nominating petition only to the Person seeking to be on the ballot.  
29 Such approved nominating petition forms shall state the name of the Person  
30 and the city office for which such Person is petitioning to qualify to be on the  
31 ballot. People who have sought to be on the ballot as described above, but  
32 who do not qualify for the ballot or do not file a declaration of candidacy are  
33 required to file as provided in this section by 5:00 p.m. on the second Monday

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1 in May, a report of all expenditures made and contributions received on or  
2 before the first Monday in [~~April~~] [May] and not previously reported and to file  
3 a final report by 5:00 p.m. on the second Monday in November, a report of all  
4 expenditures made and contributions received on or before the first Monday in  
5 November and not previously reported.”

6 SECTION 7. Article XIII, Section 4(c)(2)(A) of the Election Code is hereby  
7 amended as follows:

8 “SECTION 4. CAMPAIGN FINANCING.

9 A. Except as otherwise provided in this section, a reporting  
10 individual shall file with the City Clerk by 5:00 p.m. on the second Monday in  
11 [~~April~~] [May] and [~~October~~] [November] a report of all expenditures made and  
12 contributions received on or before the first Monday in those months and not  
13 previously reported. The report shall be filed biannually until the reporting  
14 individual’s bank account has been closed and the other provisions specified  
15 in Subsection F of this section have been satisfied.”

16 SECTION 8. SEVERABILITY CLAUSE. If any section, paragraph, word or  
17 phrase of this ordinance is for any reason held to be invalid, or unenforceable  
18 by any court of competent jurisdiction, such decision shall not affect the  
19 validity of the remaining provisions of this ordinance. The Council hereby  
20 declares that it would have passed this ordinance and each section,  
21 paragraph, sentence, clause, word or phrase thereof irrespective of any  
22 provision being declared unconstitutional or otherwise invalid.

23 SECTION 9. COMPILATION. Sections 1 through 7 of this ordinance shall  
24 amend, be incorporated in and made part of the Revised Ordinances of  
25 Albuquerque, New Mexico, 1994.

26 SECTION 10. EFFECTIVE DATE. This ordinance shall take effect five days  
27 following publication by title and general summary.

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