

CITY of ALBUQUERQUE

TWENTY THIRD COUNCIL

COUNCIL BILL NO. C/S O-19-56 ENACTMENT NO. 0-2019-030
SPONSORED BY: Peña, Harris, Sanchez, Borrego

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ORDINANCE

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

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

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

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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

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

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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

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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.

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

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

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“Section 2. DEFINITIONS.

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[Bracketed/Underscored Material] - New
[Bracketed/Strikethrough Material] - Deletion

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

1 individually as well as to the business organization which he or she owns or
2 by which he or she is employed.

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

31 (r) "Participate in a political campaign" means (1) to hold a paid position in
32 a campaign, (2) to hold an unpaid position in a campaign that includes a title
33 or functions in a manner that would typically include a title, (3) to host

1 fundraisers, house parties or any other events for a Candidate or campaign,
2 (4) to volunteer for a Candidate or campaign, (5) contribute to a Candidate or
3 campaign, (6) electronically posting or sharing Candidate or campaign
4 materials or communications, or otherwise publishing statements that
5 reference a Candidate or campaign, via social media or otherwise.
6 “Participate in a political campaign” does not include (1) signing a nominating
7 petition, (2) making a \$5 qualifying contribution to a Candidate seeking public
8 financing, (3) “liking” a social media post that references a Candidate or
9 campaign.

10 (s) “Publically endorse” means (1) to publish in any way a statement of
11 support or approval regarding an Candidate or campaign, (2) to knowingly
12 allow one’s name to be published by others as endorsing a Candidate or
13 campaign, (3) to appear in advertisements of any sort for a Candidate or
14 campaign. “Publically endorse” does not include (1) a statement of personal
15 opinion in a non-public setting to another individual, or (2) a publication
16 regarding a Board of Ethics ruling.

17 (t) “Publically oppose” means (1) to publish in any way a statement of
18 opposition or criticism regarding a Candidate or campaign, (2) to knowingly
19 allow one’s name to be published by others as opposing a Candidate or
20 campaign, (3) to appear in advertisements of any sort that oppose or criticize a
21 Candidate or campaign. “Publically oppose” does not include a statement of
22 personal opinion in a non-public setting to another individual, or (2) a
23 publication regarding a Board of Ethics ruling.”

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

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

27 (a) The Board shall be made up of seven members, who shall be chosen
28 as follows: The Council shall appoint three members and the Mayor shall
29 appoint three members. The six members so appointed shall select a seventh
30 person to serve as Chairperson of the Board. A simple majority of members
31 shall constitute a quorum. The appointment of a Board member by one
32 appointing authority shall not be approved or disapproved by the other two
33 appointing authorities. Each member shall be a qualified elector of the city,

1 and no member shall be an Official or employee of the city or the spouse,
2 parent or child of an Official or city employee.

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

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

24 3. There shall be a public comment period for any individual proposed
25 for membership on the Board of Ethics and Campaign Practices by the Mayor,
26 the Council and for the seventh member selected by the Board. The name and
27 resume of any individual proposed for membership shall be posted on the
28 city's website at least two weeks, via an agenda published by City Council or
29 otherwise, prior to the date when final action is taken to appoint that
30 individual. Any Person shall be allowed to submit comments about the
31 proposed member by written submission, electronically or otherwise, to the
32 City Clerk.

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

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

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

27 (d) No violation of the Code of Ethics, the Election Code, the Open and
28 Ethical Elections Code, and/or rules promulgated by the Board and/or the City
29 Clerk shall be found by the Board of Ethics and Campaign Practices except
30 upon the concurrence of a majority of the Board.

31 (e) Any rules promulgated by the City Clerk for the purposes of
32 administering the Code of Ethics shall be submitted for receipt to the City
33 Council.

1 (f) The Board shall:

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

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

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

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

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

24 (g) The Board shall have the authority to administer oaths, and power to
25 issue administrative subpoenas to compel witnesses to testify and produce
26 records and documents before the Board. The Board may promulgate rules
27 and regulations establishing procedures for issuance of subpoenas. The
28 Board may request the City Attorney to enforce such subpoenas in a court of
29 proper jurisdiction.

30 (h) The Board may issue to Candidates, Officials, and lobbyists advisory
31 opinions concerning the Code of Ethics, the Election Code, the Open and
32 Ethical Elections Code, and rules promulgated by the Board and/or the City
33 Clerk. Candidates and Officials shall make all requests for advisory opinions

1 in writing to the City Clerk. The City Clerk shall maintain a contract with
2 outside, independent legal counsel to draft the advisory opinion, which shall
3 be submitted to the Board of Ethics for consideration of approval within
4 fourteen (14) days of a written request for advisory opinion being received by
5 the City Clerk. Within thirty (30) days of receiving the proposed advisory
6 opinion, the Board shall vote to adopt or decline to adopt the proposed
7 advisory opinion as written. If the Board of Ethics declines the proposed
8 advisory opinion, the Board of Ethics will either direct the City Clerk to amend
9 the proposed opinion as appropriate or to draft a new advisory opinion for
10 consideration for adoption at its next meeting, which shall be held within
11 fourteen (14) days. Official advisory opinions will be issued only upon the
12 Board's approval. All timeframes noted in this subsection are mandatory
13 unless the City Clerk or the Board notifies the requester in writing of a delay in
14 issuance and with specificity as to that request, the reason for the delay, and
15 continues to notify the requester in writing every thirty (30) days until the
16 advisory opinion is issued, which in all cases shall be within one hundred
17 eighty (180) days of the request.

18 A request for an advisory opinion and the opinion approved by the Board
19 shall become public records at the time the Board votes on such opinion.
20 Advisory opinions shall only concern prospective matters. Specifically, no
21 advisory opinion shall be issued with respect to an event that has already
22 occurred. Advisory opinions shall only be issued with respect to conduct in
23 which the requestor of the opinion intends to engage. No advisory opinion
24 shall be given unless approved by four members of the Board. Approved
25 opinions shall be kept as permanent records by the City Clerk. The Board may
26 promulgate rules and regulations establishing procedures for issuing advisory
27 opinions and limitations on the use of advisory opinions as a defense to
28 violations of the Code of Ethics or the Election Code. The Board may issue
29 consent orders and may promulgate rules and regulations establishing
30 procedures of issuance of consent orders.

31 (i) Limitations on Complaints.

32 (1) The Board will not set for hearing any complaint charging a
33 violation alleged to have occurred more than one hundred twenty (120) days

1 prior to the date the complaint is filed unless the facts and documentation
2 supporting the charges alleged in the complaint were not public knowledge or
3 available for public inspection within that time frame.

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

9 (3) All complaints referred to the Board by the City Clerk at any time
10 prior to sixty (60) days before election day shall be resolved, determined, or
11 dismissed by the Board within sixty (60) days from the referral of the
12 complaint. If the complaint is not resolved within sixty (60) days, the complaint
13 shall be dismissed, unless delayed by order of the Board upon a showing of
14 good cause.

15 (4) All complaints referred to the Board by the City Clerk during the
16 sixty (60) day period preceding election day shall be resolved, determined, or
17 dismissed by the Board within thirty (30) days from the referral of the
18 complaint. If the complaint is not resolved within thirty (30) days, the
19 complaint shall be dismissed, unless delayed by order of the Board upon a
20 showing of good cause.

21 (5) Notwithstanding the foregoing, the Board shall not adjudicate a
22 complaint filed against a Candidate less than seven (7) days before election
23 day. The time limitations referenced in this section 'h' applicable to a
24 complaint shall not include the seven (7) day blackout period prior to election
25 day.

26 (j) A Board member who has participated in any hearing on a case
27 concerning a complaint alleging a violation of the Code of Ethics or the
28 Election Code shall continue to serve as a Board member on such case until
29 the completion of the case, regardless of the expiration of that Board
30 member's term, but only when the Board has voted on a matter concerning the
31 case. A replacement Board member shall not serve on such cases.

32 (k) Board Member Conflicts of Interest and Recusals.

1 (1) A Board member shall not hear complaints involving Candidates
2 or Measure Finance Committees to which they have contributed within three
3 (3) years prior to the complaint or have participated in the Candidate's or
4 Measure Finance Committee's campaign activities within three (3) years prior
5 to the complaint. Nor shall Board members hear cases involving complaints
6 concerning Candidates and Measure Finance Committees who are in
7 opposition to the Candidates or Measure Finance Committees to which the
8 Board member contributed or participated in their campaign activities within
9 three (3) years prior to the complaint.

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

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

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

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

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

26 (5) For purposes of (4) above, there is a rebuttal presumption that an
27 incompatible financial or personal interest includes, but is not limited to,
28 outside employment; a debtor/creditor relationship; a relationship involving
29 legal representation; a fiduciary relationship; a source of income; any matter
30 pertaining to or involving a relative or cohabitant of the member; a
31 relationship with a Person providing funds, goods or services without
32 compensation; any matter pertaining to or involving a business associate or
33 business investment; and a leadership role in a professional or trade

1 organization, which interest might reasonably be expected to impair a Board
2 member's objectivity and independence of judgment in the exercise of his or
3 her official duties or might reasonably be expected to create an impression or
4 suspicion among the public having knowledge of his or her acts that the
5 member may be engaged in conduct violative of his or her trust as a Board
6 member.

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

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

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

21 (I) If the Board finds, upon a majority vote of the board, that a
22 Candidate, elected Official, Measure Finance Committee, or lobbyist has
23 violated the Code of Ethics, the Election Code, the Open and Ethical Elections
24 Code, and/or rules promulgated by the Board and/or the City Clerk, the Board
25 may impose any of the following penalties, subject to the individual's existing
26 rights under a collective bargaining agreement and/or the Merit System
27 Ordinance, after the entry of written findings of fact and conclusions of law:

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

29 (2) A written finding of censure;

30 (3) When an Official or Candidate has committed an act that the Board
31 believes may constitute a violation of the State Election Code, NMSA 1978 §
32 1-1-1, et seq., the Board may refer the matter to the Secretary of State and/or
33 the State Ethics Commission.

1 (m) Nothing in this Section shall be read to preclude the Board from
2 referring any matter to appropriate enforcement authorities.

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

6 (o) Any member who misses three consecutive meetings, unexcused by
7 the chair, shall be deemed to have resigned from the Board and may be
8 replaced by the original appointing authority. Members may attend non-quasi-
9 judicial hearings by phone.

10 (p) A recused or disqualified Board member shall not participate in any
11 proceeding related to the matter from which the member is recused or
12 disqualified, and the member shall be excused from that portion of a meeting
13 at which the matter is discussed.

14 (q) If a majority of Board members have recused themselves or are
15 disqualified from participating in a proceeding, the remaining members shall
16 request the appointment of temporary members from the original appointing
17 authorities that appointed the recused or disqualified members. Appointing
18 authorities shall appoint temporary members within ten (10) days of the
19 request for appointment.

20 (r) Ex parte communications. Members of the Board of Ethics shall not
21 communicate ex parte with any Person or party or their representative in any
22 quasi-judicial Board matter, except upon notice and opportunity for all parties
23 to participate. The members of the Board may severally communicate with
24 each other, in conformity with the Open Meetings Act, and may have the aid
25 and advice of the City Attorney, City Clerk, or other appropriate city staff or
26 outside experts when such assistance is requested by the Board."

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

29 Section 5. DISCLOSURE.

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

1 (b) Any Councilor who has a direct or indirect interest in any matter
2 pending before the Council shall disclose such interest on the records of the
3 Council. The existence of a direct or indirect Private Financial Interest on any
4 matter coming before the Council, including approval of a contract, shall
5 disqualify a Councilor from debating and voting on the matter. A majority of
6 the remaining members of the Council shall determine whether a Councilor
7 has a direct or indirect interest and whether the Councilor shall be allowed to
8 participate in the decision making process related to the matter and vote on
9 the matter. A Councilor who has a conflict of interest may voluntarily decline
10 to participate in the decision making process related to the matter and vote on
11 such matter.

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

30 (d) All elected Officials shall file with the City Clerk an annual statement
31 listing all of the changes or additions to the disclosure information provided
32 by the elected official at the time of filing his or her declaration of candidacy,
33 pursuant to Section 3 of the Election Code. If no changes have occurred, the

1 elected Official shall so state in the annual statement. The annual statement
2 shall be due on the first city work day of July and shall be submitted on a form
3 approved by the City Clerk. The annual statement shall be a public record.

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

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

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

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

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

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

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

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

25 Section 8. ENFORCEMENT; VIOLATION; PENALTY; AUTOMATIC FINES;
26 REMOVAL FROM OFFICE; APPEAL.

27 (a) Any charge of violations of this Code of Ethics shall be brought before
28 the City Clerk. Any private citizen may initiate such a charge in accordance
29 with regulations established by the City Clerk.

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

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

21 (d) In addition to imposing such sanctions, or as an alternative thereto,
22 the Board may recommend to the Council that an appointed or employed
23 Official be suspended or removed from office or that an elected Official be
24 removed from office.

25 (e) The Council may, upon the recommendation of the Board of Ethics and
26 Campaign Practices, and after due hearing of the charge, order the
27 suspension or removal of an appointed or employed Official, or the removal of
28 an elected Official; provided, however, that no Official shall be removed or
29 suspended except upon the concurrence of two-thirds of the Councilors
30 qualified to vote thereon.

31 (f) An appeal may be taken from any findings and action of the Board
32 pursuant to Subparagraph (b) of this Section, and from any order of the
33 Council pursuant to Subparagraph (d) of this Section, to the District Court of

1 the 2nd Judicial District, by filing Notice of Appeal in the said District Court
2 within 5 days of the date of the action or order appealed from, and by filing
3 with said District Court within 30 days a true transcript and record of the
4 proceedings upon which said action or order is based. The hearing in the
5 District Court shall be held on the said transcript and record only, and new
6 testimony shall not be taken.

7 SECTION 5. Article XIII, Section 4(c)(1)(D) of the Election Code is hereby
8 amended as follows:

9 "SECTION 4. CAMPAIGN FINANCING.

10 D. A Person seeking to qualify to be on the ballot for the office of
11 Mayor or Councilor shall include any Person who has obtained a nominating
12 petition form approved by the City Clerk, or who has received or solicited
13 contributions or made expenditures of one thousand dollars (\$1,000) or more
14 or authorized another Person or campaign committee to receive or solicit
15 contributions or make expenditures of one thousand dollars (\$1,000) or more
16 for the purpose of seeking election to the office. The City Clerk shall issue an
17 approved nominating petition only to the Person seeking to be on the ballot.
18 Such approved nominating petition forms shall state the name of the Person
19 and the city office for which such Person is petitioning to qualify to be on the
20 ballot. People who have sought to be on the ballot as described above, but
21 who do not qualify for the ballot or do not file a declaration of candidacy are
22 required to file as provided in this section by 5:00 p.m. on the second Monday
23 in May, a report of all expenditures made and contributions received on or
24 before the first Monday in May and not previously reported and to file a final
25 report by 5:00 p.m. on the second Monday in November, a report of all
26 expenditures made and contributions received on or before the first Monday in
27 November and not previously reported."

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

30 "SECTION 4. CAMPAIGN FINANCING.

31 A. Except as otherwise provided in this section, a reporting
32 individual shall file with the City Clerk by 5:00 p.m. on the second Monday in
33 May and November a report of all expenditures made and contributions

1 received on or before the first Monday in those months and not previously
2 reported. The report shall be filed biannually until the reporting individual's
3 bank account has been closed and the other provisions specified in
4 Subsection F of this section have been satisfied."

5 SECTION 7. SEVERABILITY CLAUSE. If any section, paragraph, word or
6 phrase of this ordinance is for any reason held to be invalid, or unenforceable
7 by any court of competent jurisdiction, such decision shall not affect the
8 validity of the remaining provisions of this ordinance. The Council hereby
9 declares that it would have passed this ordinance and each section,
10 paragraph, sentence, clause, word or phrase thereof irrespective of any
11 provision being declared unconstitutional or otherwise invalid.

12 SECTION 8. COMPILATION. Sections 1 through 6 of this ordinance shall
13 amend, be incorporated in and made part of the Revised Ordinances of
14 Albuquerque, New Mexico, 1994.

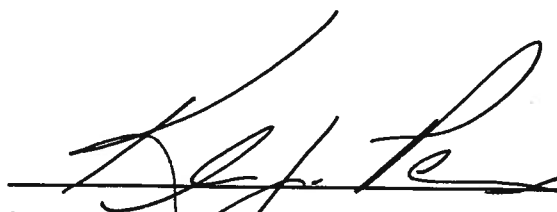
15 SECTION 9. EFFECTIVE DATE. This ordinance shall take effect five days
16 following publication by title and general summary.

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1 PASSED AND ADOPTED THIS 7th DAY OF October, 2019
2 BY A VOTE OF: 9 FOR 0 AGAINST.
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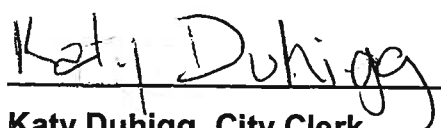
8 
9 Klarissa J. Peña, President
10 City Council

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13 APPROVED THIS 22 DAY OF October, 2019
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15

16 Bill No. C/S O-19-56
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18 
19
20 Timothy M. Keller, Mayor
21 City of Albuquerque
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25 ATTEST:
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27 
28 Katy Duhigg, City Clerk
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