

CITY of ALBUQUERQUE

EIGHTEENTH COUNCIL

COUNCIL BILL NO. _____ ENACTMENT NO. _____

SPONSORED BY:

1 **ORDINANCE**

2 **AMENDING ARTICLE XII OF THE CITY CHARTER, THE CODE OF ETHICS, TO**
3 **PLACE TERM LIMITS ON MEMBERS OF THE BOARD OF ETHICS AND**
4 **CAMPAIGN PRACTICES; TO SPECIFY THE BOARD'S AUTHORITY TO**
5 **COMPEL TESTIMONY; TO PLACE AN ADDITIONAL LIMIT ON THE AUTHORITY**
6 **OF A MEMBER OF THE BOARD TO CONTINUE TO HEAR A CASE AFTER THE**
7 **END OF THE MEMBER'S TERM.**

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

10 **SECTION 1. Article XII, Section 3 of the City Charter, the Code of Ethics, is**
11 **amended to read as follows:**

12 **"Section 3. BOARD OF ETHICS AND CAMPAIGN PRACTICES.**

13 **(a) The Board shall be made up of seven members, who shall be chosen**
14 **as follows: The Council shall appoint three members and the Mayor shall**
15 **appoint three members. The six members so appointed shall select a seventh**
16 **person to serve as Chairperson of the Board. The appointment of a Board**
17 **member by one appointing authority shall not be approved or disapproved by**
18 **the other two appointing authorities. Each member shall be a qualified elector**
19 **of the city, and no member shall be an official or employee of the city or the**
20 **spouse, parent or child of an official or city employee. There shall be a public**
21 **comment period for any individual proposed for membership on the Board of**
22 **Ethics and Campaign Practices by the Mayor, the Council and for the seventh**
23 **member selected by the Board. The name and resume of any individual**
24 **proposed for membership shall be posted on the city's website at least two**
25 **weeks prior to the date when final action is taken to appoint that individual.**
26 **Any person shall be allowed to submit comments about the proposed member**

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

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

10 (b) All members shall serve terms of four years, and be eligible for
11 reappointment for additional terms[, not to exceed two terms consecutively].
12 Terms are staggered and shall continue with the same term cycle as currently
13 exists. Any vacancy shall be filled for an unexpired term by the same
14 authority [~~who~~][that] made the original selection and appointment of the
15 member vacating his or her position.

16 (c) No violation of the Code of Ethics shall be found by the Board of
17 Ethics and Campaign Practices except upon the concurrence of a majority of
18 the Board.

19 (d) The Board shall have the authority to [administer oaths, and power
20 to] issue administrative subpoenas to compel witnesses to testify and
21 produce [~~documentation~~][records and documents] before the Board. The
22 Board may promulgate rules and regulations establishing procedures for
23 issuance of subpoenas. The Board may request the City Attorney to enforce
24 such subpoenas in a court of proper jurisdiction.

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

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

7 (f) A Board member who has participated in any hearing on a case
8 concerning a complaint alleging a violation of the Code of Ethics or the
9 Election Code shall continue to serve as a Board member on such case until
10 the completion of the case, regardless of the expiration of that Board
11 member's term, but only when the Board has voted on a matter concerning the
12 case ~~[or accepted evidence in the case prior to the expiration of the term of~~
13 ~~such Board member]~~. A replacement Board member shall not serve on such
14 cases.

15 (g) Board members shall not hear complaints involving candidates or
16 Measure Finance Committees to which they have contributed or have
17 participated in their campaign activities nor shall they hear cases involving
18 complaints concerning candidates and Measure Finance Committees who are
19 in opposition to the candidates or Measure Finance Committees to which the
20 Board member contributed or participated in their campaign activities.”

21 SECTION 2. SEVERABILITY CLAUSE.

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

29 SECTION 3. COMPILATION. This Ordinance shall be incorporated in and
30 made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

31 SECTION 4. EFFECTIVE DATE. This Ordinance shall take effect five days
32 after publication by title and general summary.