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**SPONSORED BY: Peña, Harris, Sanchez, Borrego**

## 26

Section 2. DEFINITIONS.

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

(g) “Gift” or “Valuable Gift” means that which is accepted by an official or by another on the official's behalf, or that which is paid or given to another for or on behalf of an official, directly, indirectly, or in trust for the official's benefit or by any other means, for which consideration equal or greater than fair market value is not given by the official within 90 days of the official's receipt of such gift, including, but not limited to (1) real property, (2) the use of real property, (3) tangible or intangible personal property, (4) the use of tangible personal property, (5) a preferential rate or terms on a debt, loan, goods, or services, which rate is below the customary rate and is neither a government rate nor a rate available to similarly situated members of the public by virtue of occupation, affiliation, age, religion, sex, or national origin, (6) forgiveness of an indebtedness, (7) transportation, other than that provided to an official by a governmental agency in relation to approved government business, lodging or parking, (8) food or beverage, (9) membership dues, other than dues paid by a city agency, (10) entrance fees, admission fees, or tickets to events, performances, or facilities, (11) plants, flowers, or floral arrangements, (12) services provided by persons pursuant to a professional license or certificate, (13) other personal services for which a fee is normally charged by the person providing the services~~],~~ (14) all non-pecuniary things or services donated in any twelve (12) month period from a single donor that have a cumulative fair

1 market value of more than two hundred fifty dollars (\$250.00),] and ~~[(14)] [(15)]~~  
2 any other similar service or thing having an attributable value not already  
3 provided for in this section. [For purposes of calculating the dollar limits to  
4 the term “gift” any expenditure provided by a lobbyist who is an individual  
5 shall be deemed to have also been provided by the business organization  
6 which he owns or by which he is employed, and any expenditure provided by  
7 a business organization shall be deemed to have also been provided by all  
8 owners and employees of the business organization who are lobbyists.]

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

relationship or close personal relationship rather than the recipient's position as an official, employee or candidate, (11) compensation for services rendered or capital invested that is normal and reasonable in amount, commensurate with the value of the service rendered or the magnitude of the risk taken on the investment, in no way increased or enhanced by reason of the recipient's position as an official, employee or candidate, and not otherwise prohibited by law, (12) payment for a sale or lease of tangible or intangible property that is commensurate with the value of the services rendered and is in no way increased or enhanced by reason of the recipient's position as an official, employee or candidate, (13) a commercially reasonable loan made in the ordinary course of the lender's business on terms that are available to all similarly qualified borrowers, (14) reimbursement for out-of-pocket expenses actually incurred in the course of performing a service for the person making the reimbursement, (15) anything for which fair market value is paid or reimbursed by the official, employee or candidate , (16) reasonable expenses for a bona fide educational program that is directly related to the official's or employee's official duties,] and ~~[(10)] [(17)]~~ all non-pecuniary things or services donated in any twelve (12) month period from a single donor that have a cumulative fair market value of ~~[one hundred (\$100.00)]~~ [two hundred fifty dollars (\$250.00)] or less. [For purposes of calculating the dollar limits under the exceptions to the term "gift" any expenditure provided by a lobbyist who is an individual shall be deemed to have also been provided by the business organization which he owns or by which he is employed, and any expenditure provided by a business organization shall be deemed to have also been provided by all owners and employees of the business organization who are lobbyists.]

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

Section 3. BOARD OF ETHICS AND CAMPAIGN PRACTICES.

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. [No member of the Board shall  
10 (1) have held public office as a City Official or have been a Candidate, as  
11 defined in Article XIII, Section 2, for a three-year period prior to appointment;  
12 (2) seek or hold an office in a qualified political party while serving on the  
13 Board; (3) seek or hold an elective public office or an appointed public  
14 position while serving on the Board; (4) participate in any political campaign  
15 for a candidate who is a City Official or Candidate, as defined in Article XIII,  
16 Section 2, while serving on the Board; (5) be a Lobbyist or Lobbying  
17 Organization as defined in ROA § 2-3-3 for a three-year period prior to  
18 appointment or while serving on the Board; (6) have any equity interest or  
19 ownership interest in, or be employed by, a business entity that derives any of  
20 its revenue or income by engaging in lobbying, as defined in ROA § 2-3-3, or  
21 paid political campaign work, for a three-year period prior to appointment or  
22 while serving on the Board; (7) have a Contract with the City as defined in  
23 Article XII, Section 2; (8) publicly endorse or publicly oppose a ballot initiative,  
24 a candidate who is a City Official or a Candidate, as defined in Article XIII,  
25 Section 2, while serving on the Board; (9) solicit funds for, or make a  
26 contribution to, a Measure Finance Committee, Candidate Finance Committee,  
27 or Candidate as defined in Article XIII, Section 2 while serving on the Board.]  
28 There shall be a public comment period for any individual proposed for  
29 membership on the Board of Ethics and Campaign Practices by the Mayor, the  
30 Council and for the seventh member selected by the Board. The name and  
31 resume of any individual proposed for membership shall be posted on the  
32 city's website at least two weeks, via an agenda published by City Council or  
33 otherwise, prior to the date when final action is taken to appoint that

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

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

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

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

32 [(e)] The Board shall:

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

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

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

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

10           (5) provide the Mayor and City Council with a quarterly report stating  
11           the number of complaints that were submitted to the City Clerk alleging a  
12           violation of the Code of Ethics, the Election Code, the Open and Ethical  
13           Elections Code, and/or rules promulgated by the Board and/or the City  
14           Clerk, the number of complaints submitted to the Board by the City Clerk,  
15           and a summary of the status of each complaint to include the date of the  
16           complaint, the date for the case to be heard, and date for possible final  
17           action. The quarterly status reports must be approved by the Board and  
18           made available to the public on the City Clerk's website. The quarterly  
19           status reports may be provided to Mayor and City Councilors and their staff  
20           on an informal basis however, the Board and the City Clerk shall present a  
21           semi-annual report of the Board's activities at a regularly scheduled  
22           meeting of the City Council. The semi-annual report shall also include any  
23           recommendations regarding amendments to City ethics or public  
24           accountability laws, and recommendations regarding the scope of the  
25           Board and/or City Clerk's powers and duties. The semi-annual report shall  
26           be published on the City Clerk's website.

27           ~~[(d)]~~ [(f)]       The Board shall have the authority to administer oaths, and  
28           power to issue administrative subpoenas to compel witnesses to testify and  
29           produce records and documents before the Board. The Board may  
30           promulgate rules and regulations establishing procedures for issuance of  
31           subpoenas. The Board may request the City Attorney to enforce such  
32           subpoenas in a court of proper jurisdiction.

1        ~~[(e)]~~ [(g)]        The Board may issue to candidates and officials advisory  
2        opinions concerning ~~[the Code of Ethics and the Election Code]~~ [the Code of  
3        Ethics, the Election Code, the Open and Ethical Elections Code, and rules  
4        promulgated by the Board and/or the City Clerk. Candidates and officials shall  
5        make all requests for advisory opinions in writing to the City Clerk. The City  
6        Clerk will draft the advisory opinion, which will be submitted to the Board of  
7        Ethics for approval within fourteen (14) days of a written request for advisory  
8        opinion being served upon the City Clerk. Within thirty (30) days of receiving  
9        the City Clerk's proposed advisory opinion, the Board shall either accept the  
10       City Clerk's proposed advisory opinion or reject the City Clerk's proposed  
11       advisory opinion. If the Board of Ethics rejects the City Clerk's advisory  
12       opinion, the Board of Ethics will draft a separate advisory opinion within  
13       fourteen (14) days of the rejection. If the Board approves the City Clerk's  
14       advisory opinion, the opinion will be issued. All timeframes noted in this  
15       subsection are mandatory unless the City Clerk or the Board notifies the  
16       requester in writing of a delay in issuance and with specificity as to that  
17       request, the reason for the delay, and continues to notify the requester  
18       in writing every thirty days until the advisory opinion is  
19       issued, which in all cases shall be within one hundred eighty  
20       days of the request.] A request for an advisory opinion and the opinion  
21       approved by the Board shall become public records at the time the Board  
22       votes on such opinion. Advisory opinions shall only concern prospective  
23       matters. Specifically, no advisory opinion shall be issued with respect to an  
24       event that has already occurred. Advisory opinions shall only be issued with  
25       respect to conduct in which the requestor of the opinion intends to engage.  
26       No advisory opinion shall be given unless approved by four members of the  
27       Board. Approved opinions shall be kept as permanent records by the City  
28       Clerk. The Board may promulgate rules and regulations establishing  
29       procedures for issuing advisory opinions and limitations on the use of  
30       advisory opinions as a defense to violations of the Code of Ethics or the  
31       Election Code. The Board may issue consent orders and may promulgate  
32       rules and regulations establishing procedures of issuance of consent orders.  
33       [(h)]       Limitations on Complaints.



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

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

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

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

23      (5) Notwithstanding the foregoing, the Board shall not adjudicate a  
24      complaint filed against a candidate less than seven (7) days before election  
25      day. During that period, the City Clerk may process complaints pursuant to  
26      the Complaint Diversion Process Rule in the 2019 Regulations of the  
27      Albuquerque City Clerk for the Election Code, and the Board may refer  
28      complaints that are outside the jurisdiction of the Board. The time  
29      limitations applicable to a complaint shall not include the seven (7) day  
30      blackout period prior to election day.]

31      [(f)] [(i)]       A Board member who has participated in any hearing on a  
32      case concerning a complaint alleging a violation of the Code of Ethics or the  
33      Election Code shall continue to serve as a Board member on such case until

1 the completion of the case, regardless of the expiration of that Board  
2 member's term, but only when the Board has voted on a matter concerning the  
3 case. A replacement Board member shall not serve on such cases.

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

5 (1) A] Board member[s] shall not hear complaints involving  
6 candidates or Measure Finance Committees to which they have  
7 contributed [within five years prior to the complaint] or have  
8 participated in [the candidate's or Measure Finance Committee's] [their]  
9 campaign activities [within five years prior to the complaint.] ~~[n]~~~~[N]~~or  
10 shall ~~[they]~~ [Board members] hear cases involving complaints  
11 concerning candidates and Measure Finance Committees who are in  
12 opposition to the candidates or Measure Finance Committees to which  
13 the Board member contributed or participated in their campaign  
14 activities [within five years prior to the complaint].

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

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

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

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

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

32 (5) For purposes of (4) above, there is a rebuttal presumption that an  
33 incompatible financial or personal interest includes, but is not limited to,

1 outside employment; a debtor/creditor relationship; a relationship  
2 involving legal representation; a fiduciary relationship; a source of income;  
3 any matter pertaining to or involving a relative or cohabitant of the  
4 member; a relationship with a person providing funds, goods or services  
5 without compensation; any matter pertaining to or involving a business  
6 associate or business investment; and a leadership role in a professional  
7 or trade organization, which interest might reasonably be expected to  
8 impair a Board member's objectivity and independence of judgment in the  
9 exercise of his or her official duties or might reasonably be expected to  
10 create an impression or suspicion among the public having knowledge of  
11 his or her acts that the member may be engaged in conduct violative of his  
12 or her trust as a Board member.

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

17 (7) A Board member must seek the advice of the City Clerk as to the  
18 propriety of participation in a matter if any person requests that a Board  
19 member recuse himself or herself from that matter. Oral advice, followed  
20 up by a writing, may be provided by the City Clerk to avoid delay.

21 (8) If the propriety of a Board member's participation in a particular  
22 matter is questioned on the grounds that the member has a conflict of  
23 interest and if the member refuses to recuse from participation in the  
24 matter, the City Clerk may disqualify that member from participation in the  
25 relevant board proceeding. The Board may override the City Clerk's  
26 disqualification with concurrence of a supermajority of members.

27 (k) If the Board finds, upon a majority vote of the board, that a candidate  
28 or elected official has violated the Code of Ethics, the Election Code, the  
29 Open and Ethical Elections Code, and/or rules promulgated by the Board  
30 and/or the City Clerk, the Board may impose any of the following penalties,  
31 subject to the individual's existing rights under a collective bargaining  
32 agreement and/or the Merit System Ordinance, after the entry of written  
33 findings of fact and conclusions of law:

- 1 (1) A civil fine not to exceed the maximum set by state law;
- 2 (2) A written finding of censure; (3) When an official or candidate has
- 3 committed an act that the Board believes could be a violation of the
- 4 State Election Code, NMSA 1978 § 1-1-1, et seq., the Board may refer
- 5 their decision to the Secretary of State and/or the State Ethics
- 6 Commission; and
- 7 (4) When an official has committed an act that the Board believes
- 8 could be grounds for removal from office, the Board may refer their
- 9 decision to the appropriate enforcement agency.]

10 All penalties contained herein are non-exclusive, and do not foreclose other  
11 remedies available by law. The City reserves the right to refer any conduct,  
12 regardless of whether it is covered by the Code of Ethics, the Election Code,  
13 the Open and Ethical Elections Code, and/or rules promulgated by the Board  
14 and/or the City Clerk, to any agency or law enforcement agency with  
15 competent jurisdiction for criminal or civil prosecution.

16 (l) No former member of the Board may represent any business or person,  
17 other than himself or herself, before the Board for a period of one year  
18 following the end of such member's service on the Board.

19 (m) The Board may, at any stage of the proceedings, impose monetary  
20 sanctions on parties for any action made in bad faith, including the filing of  
21 motions that are without support of law or fact or are filed with the intent to  
22 cause unnecessary delay. Any person who files a complaint alleging a  
23 violation of the Code of Ethics, the Election Code, the Open and Ethical  
24 Elections Code, and/or rules promulgated by the Board and/or the City Clerk  
25 knowing that material information provided therein is not true or that  
26 information provided therein was made in reckless disregard for the truth may  
27 be subject to a fine of up to \$500, as well as the reasonable costs incurred by  
28 the Board in investigating the complaint and the reasonable costs incurred by  
29 the Respondent in responding to the complaint.

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

1 (o) A recused or disqualified board member shall not participate in any  
2 proceeding related to the matter from which the member is recused or  
3 disqualified, and the member shall be excused from that portion of a meeting  
4 at which the matter is discussed.

5 (p) If a majority of board members have recused themselves or are  
6 disqualified from participating in a proceeding, the remaining members shall  
7 request the appointment of temporary members from the original appointing  
8 authorities that appointed the recused or disqualified members. Appointing  
9 authorities shall appoint temporary members within ten (10) days of the  
10 request for appointment.

11 (q) Ex parte communications. Members of the Board of Ethics shall not  
12 communicate ex parte with any person or party or their representative in any  
13 Board matter, except upon notice and opportunity for all parties to participate.  
14 The members of the Board may severally communicate with each other, in  
15 conformity with the Open Meetings Act, and may have the aid and advice of  
16 the City Attorney and/or City Clerk when such assistance is requested by the  
17 Board.]

18  
19 SECTION 3. Article XII, Section 5 of the Charter of the City of Albuquerque  
20 is hereby amended as follows:

21  
22 Section 5. DISCLOSURE.

23 (a) An official of the city who shall have any private financial interest in  
24 any contract or other matter pending before or within the governmental  
25 body of which the official is employed or of which the official is a member,  
26 shall disclose such private financial interest to the governmental body [in  
27 writing. The disclosure shall be a public record].

28 (b) Any ~~[Councillor]~~ [Councilor] who has a direct or indirect interest in any  
29 matter pending before the Council shall disclose such interest on the  
30 records of the Council. The existence of a direct or indirect private financial  
31 interest on any matter coming before the Council, including approval of a  
32 contract, shall disqualify a ~~[Councillor]~~ [Councilor] from debating and  
33 voting on the matter. A majority of the remaining members of the Council

1 shall determine whether a ~~[Councillor]~~ [Councilor] has a direct or indirect  
2 interest and whether the ~~[Councillor]~~ [Councilor] shall be allowed to  
3 participate in the decision making process related to the matter and vote  
4 on the matter. A ~~[Councillor]~~ [Councilor] who has a conflict of interest may  
5 voluntarily decline to participate in the decision making process related to  
6 the matter and vote on such matter.

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

26 ~~[(1) Notwithstanding any declaration of candidacy deadlines~~  
27 ~~established by law, for purposes of this section each candidate for~~  
28 ~~the office of Mayor or Councillor shall comply with the requirements~~  
29 ~~of this subsection (c) during the year of election for the office.]~~

30 sought, even if a formal declaration of candidacy is not yet required.

31 (d) All elected officials shall file with the City Clerk an annual statement  
32 listing all of the changes or additions to the disclosure information  
33 provided by the elected official at the time of filing his or her declaration of

1 candidacy, pursuant to Section 3 of the Election Code. If no changes have  
2 occurred, the elected official shall so state in the annual statement. The  
3 annual statement shall be due on the first city work day of July and shall be  
4 submitted on a form approved by the City Clerk. The annual statement  
5 shall be a public record.

6 [(e) In addition to the information disclosed pursuant to Section 3 of the  
7 Election Code, the disclosure of financial interests for all elected officials  
8 shall include the following information for the preceding calendar year in  
9 regard to the individual required to file the statement and the individual's  
10 spouse and any dependents residing in the individual's household:

11 (i) The names of all businesses with which the individual is  
12 associated;

13 (ii) all sources of income, including the name of each employer, with  
14 a description of the type of income received, in excess of one  
15 thousand dollars (\$1,000), without specifying amounts of income;

16 (iii) the name of securities in excess of five thousand dollars at fair  
17 market value owned by such individual, spouse or dependent  
18 children or held in the name of a corporation, partnership or trust for  
19 the benefit of such individual, spouse or dependents;

20 (iv) the existence of any known blind trust and the names of the  
21 trustees;

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

26 (vi) the names and addresses of creditors to whom the individual, the  
27 individual's spouse or dependents, individually, owed debts of more  
28 than ten thousand dollars (\$10,000);

29 (vii) any leases or contracts with the City or a quasi-public agency  
30 held or entered into by the individual or a business with which the  
31 individual was associated;

32 (viii) the name of any of the following that is a partner or owner of, or  
33 has a similar business affiliation with, the business included under

1 subparagraph (i) of this subdivision: (a) Any lobbyist, (a) any person  
2 the individual filing the statement knows or has reason to know is  
3 doing business with or seeking to do business with the state or is  
4 engaged in activities that are directly regulated by the department or  
5 agency in which the individual is employed, or (c) any business with  
6 which such lobbyist or person is associated;

7 (ix) In the case of securities in excess of five thousand dollars at fair  
8 market value held within (a) a retirement savings plan, as described  
9 in Section 401 of the Internal Revenue Code of 1986, or any  
10 subsequent corresponding internal revenue code of the United  
11 States, as amended from time to time, (b) a payroll deduction  
12 individual retirement account plan, as described in Section 408 or  
13 408A of said Internal Revenue Code, (c) a governmental deferred  
14 compensation plan, as described in Section 457 of said Internal  
15 Revenue Code, or (d) an education savings plan, as described in  
16 Section 529 of said Internal Revenue Code, the names of such  
17 securities shall not be required to be disclosed in any statement of  
18 financial interests and only the name of such retirement savings  
19 plan, individual retirement account plan, deferred compensation plan  
20 or education savings plan holding such securities shall be required.

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

23 (g) Any individual who is unable to provide information required under the  
24 provisions of subsection (e) of this section by reason of impossibility may  
25 petition the Board of Ethics for a waiver of the requirements.]  
26

27  
28 **SECTION 4. Article XII, Section 8 of the Charter of the City of Albuquerque**  
29 **is hereby amended as follows:**

30  
31 **Section 8. ENFORCEMENT; VIOLATION; PENALTY; AUTOMATIC FINES;**  
32 **REMOVAL FROM OFFICE; APPEAL.**



- 1 (a) Any charge of violations of this Code of Ethics shall be brought before  
2 the [City Clerk] ~~[Board of Ethics and Campaign Practices]~~. Any private  
3 citizen may initiate such a charge in accordance with regulations  
4 established by the [City Clerk] ~~[Board of Ethics and Campaign Practices]~~.
- 5 (b) Should the Board find, after [referral of the complaint from the City  
6 Clerk and] due hearing, that a violation has occurred, it may make a public  
7 reprimand or impose a fine of not to exceed \$500 for each violation or do  
8 both.
- 9 (c) Automatic Fines. Notwithstanding subsection (b) of this section, a  
10 failure of an elected official to file a biannual report required in Section 5 of  
11 this Code of Ethics or the filing of a false report shall subject the elected  
12 official to an automatic fine according to the schedule of fines established  
13 in the Rules and Regulations of the Board and a public reprimand. The  
14 Board may establish in its Rules and Regulations additional automatic  
15 fines for the failure of an elected official to file a report or correct a report  
16 after the initial determination by the Board that the elected official failed to  
17 file a report or that the report was false. In situations where there is an  
18 incomplete filing, the elected official shall be notified by the City Clerk that  
19 the biannual report is incomplete. The elected official shall have ten days  
20 from the date of notice to complete the biannual report. If the incomplete  
21 biannual report is not completed within ten days, the elected official shall  
22 be subject to an automatic fine according to the schedule of fines  
23 established in the Rules and Regulations of the Board and a public  
24 reprimand. If the report is completed within ten days and the Board  
25 determines from the face of the filings that any omissions in the report  
26 were inadvertent and made in good faith, the Board shall find that there has  
27 been no violation. The City Clerk shall issue all automatic fines required in  
28 this subsection, subject to the appeal procedures established in the Rules  
29 and Regulations of the Board.
- 30 (d) In addition to imposing such sanctions, or as an alternative thereto,  
31 the Board may recommend to the Council that an appointed or employed  
32 official be suspended or removed from office or that an elected official be  
33 removed from office.

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

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

16  
17 SECTION 5. Article XII of the Charter of the City of Albuquerque is hereby  
18 amended to add Section 13 as follows:

19  
20 [Section 13. CERTAIN ACTIVITIES RESTRICTED AFTER LEAVING PUBLIC  
21 OFFICE OR EMPLOYMENT

22 (a) No former executive branch, legislative branch, or quasi-public agency  
23 city official or city employee shall, for one year after leaving city service,  
24 represent anyone other than the city, concerning any particular matter (1)  
25 in which they participated personally and substantially while in city service,  
26 and (2) in which the city has a substantial interest.

27 (b) No former executive branch, legislative branch, or quasi-public agency  
28 city official or city employee shall, for one year after leaving city service,  
29 represent anyone, other than the city, for compensation before the  
30 department, agency, board, commission, council or office in which they  
31 served at the time of their termination of service, concerning any matter in  
32 which the city has a substantial interest.

1 (c) The provisions of this subsection shall not apply to members of the  
2 boards or commissions who serve ex officio, who are required by statute to  
3 represent the regulated industry or who are permitted by statute to have a  
4 past or present affiliation with the regulated industry. As used in this  
5 subsection, the term “employment” means professional services or other  
6 services rendered as an employee or as an independent contractor.

7 (d) No official who participates substantially in the negotiation or award of  
8 a contract valued at an amount of twenty-five thousand dollars (\$25,000) or  
9 more, or who supervised the negotiation or award of such a contract, shall  
10 seek, accept, or hold employment with a party to the contract for a period  
11 of one year after the signing of the contract.

12 (e) No former Mayor or Councilor shall accept employment or act as a  
13 consultant or independent contractor on behalf of any business that  
14 received a contract with any department or agency of the city during such  
15 individual’s term for one year after leaving city service. No business shall  
16 employ or contract with a former Mayor or Councilor in violation of this  
17 subsection.]

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

21 SECTION 4. CAMPAIGN FINANCING.

22 D. A person seeking to qualify to be on the ballot for  
23 the office of Mayor or Councilor shall include any person who  
24 has obtained a nominating petition form approved by the City  
25 Clerk, or who has received or solicited contributions or made  
26 expenditures of one thousand dollars (\$1,000) or more or  
27 authorized another person or campaign committee to receive  
28 or solicit contributions or make expenditures of one thousand  
29 dollars (\$1,000) or more for the purpose of seeking election to  
30 the office. The City Clerk shall issue an approved nominating  
31 petition only to the person seeking to be on the ballot. Such  
32 approved nominating petition forms shall state the name of the  
33 person and the city office for which such person is petitioning

1 to qualify to be on the ballot. People who have sought to be on  
2 the ballot as described above, but who do not qualify for the  
3 ballot or do not file a declaration of candidacy are required to  
4 file as provided in this section by 5:00 p.m. on the second  
5 Monday in May, a report of all expenditures made and  
6 contributions received on or before the first Monday in ~~[April]~~  
7 [May] and not previously reported and to file a final report by  
8 5:00 p.m. on the second Monday in November, a report of all  
9 expenditures made and contributions received on or before  
10 the first Monday in November and not previously reported.

11  
12 SECTION 7. Article XIII, Section 4(c)(2)(A) of the Election Code is hereby  
13 amended as follows:

14 SECTION 4. CAMPAIGN FINANCING.

15  
16 A. Except as otherwise provided in this section, a  
17 reporting individual shall file with the City Clerk by 5:00 p.m.  
18 on the second Monday in ~~[April]~~ [May] and ~~[October]~~  
19 [November] a report of all expenditures made and  
20 contributions received on or before the first Monday in those  
21 months and not previously reported. The report shall be filed  
22 biannually until the reporting individual's bank account has  
23 been closed and the other provisions specified in Subsection  
24 F of this section have been satisfied.

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

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

4

5       **SECTION 10. EFFECTIVE DATE.** This ordinance shall take effect five days  
6 following publication by title and general summary.

7

8

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