



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

1 WHEREAS, in 2001 the City of Albuquerque adopted the Lobbyist and  
2 Lobbyist Organization Registration and Disclosure Ordinance; and

3 WHEREAS, the Lobbyist and Lobbyist Organization Registration and  
4 Disclosure Ordinance was last amended in 2019; and

5 WHEREAS, the City seeks to encourage transparency and accountability in  
6 government; and

7 WHEREAS, the City intends to unify and simplify its processes whenever  
8 practicable.

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

11

12 SECTION 1. Article XII, Section 3 is amended as follows:

13 CITY CHARTER, ART. XII, CODE OF ETHICS

14 Section 3. BOARD OF ETHICS AND CAMPAIGN PRACTICES.

15 (f) The Board shall:

16 (1) meet as necessary~~[, at least once in each calendar quarter to~~  
17 ~~carry out its duties];~~

18 (2) receive and investigate complaints regarding possible violations  
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;

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

23 (4) contract for professional services~~[ through the City Clerk]~~ as  
24 necessary to carry out duties;

25 (5) provide the Mayor and City Council with a~~[n annual]~~ report  
26 [following each municipal election year] stating the number of complaints that  
27 were submitted to the City Clerk alleging a violation of the Code of Ethics, the  
28 Election Code, the Open and Ethical Elections Code, and/or rules promulgated  
29 by the Board and/or the City Clerk, the number of complaints submitted to the  
30 Board by the City Clerk, and a summary of the status of each complaint to  
31 include the date of the complaint, the date for the case to be heard, and date  
32 for possible final action. The ~~[annual]~~ report [called for in this section] shall be  
33 submitted to Council ~~[in~~ by no later than the] July ~~[of after]~~ each [municipal]

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

1 election] year, and shall also include any recommendations regarding  
2 amendments to city ethics or public accountability laws, and  
3 recommendations regarding the scope of the Board and/or City Clerk's powers  
4 and duties. The annual status reports must be approved by the Board and  
5 made available to the public on the City Clerk's website. Status reports may be  
6 provided to Mayor and City Councilors and their staff on an informal basis as  
7 appropriate.

8 . . .

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

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

1       ~~[A request for an]~~**[An] advisory opinion**~~[ and the opinion approved by the~~  
2 **Board]** shall become public record[s] at the time the Board votes on such  
3 opinion. Advisory opinions shall only concern prospective matters.  
4 Specifically, no advisory opinion shall be issued with respect to an event that  
5 has already occurred. Advisory opinions shall only be issued with respect to  
6 conduct in which the requestor of the opinion intends to engage. No advisory  
7 opinion shall be given unless approved by four members of the Board.  
8 Approved opinions shall be kept as permanent records by the City Clerk. The  
9 Board may promulgate rules and regulations establishing procedures for  
10 issuing advisory opinions and limitations on the use of advisory opinions as a  
11 defense to violations of the Code of Ethics or the Election Code. The Board  
12 may issue consent orders and may promulgate rules and regulations  
13 establishing procedures of issuance of consent orders.

14       (i)       **Limitations on Complaints.**

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

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

27  
28       **SECTION 2. Article XIII, Sections 4, 5, 9, and 10 are amended as follows:**

29       **CITY CHARTER, ART. XIII, ELECTION CODE**

30       **Section 4. CAMPAIGN FINANCING.**

31       (i)       **Campaign Finance Records.**

32               ~~[3. During the period between noon on the Friday immediately~~  
33 ~~preceding the election and the day of the election, each candidate or the~~

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

1 ~~candidate's treasurer, and the chairperson or treasurer of each Measure~~  
2 ~~Finance Committee, shall appear before the Board at a time and place~~  
3 ~~designated by the Board. The appearance of the candidate's treasurer or the~~  
4 ~~Committee's treasurer before the Board on the candidate's or Committee's~~  
5 ~~behalf does not relieve the candidate or the Committee's chairperson of the~~  
6 ~~ultimate and complete responsibility for the accuracy of all reports filed and~~  
7 ~~the control of the candidate's or Committee's campaign. At the designated~~  
8 ~~time and place, the campaign financial records of each candidate and each~~  
9 ~~Measure Finance Committee required pursuant to Section 4 of this Election~~  
10 ~~Code shall be submitted to the Board for inspection and audit, or both. Each~~  
11 ~~candidate and the chairperson of each Measure Finance Committee shall be~~  
12 ~~given at least three days written notice of the designated time and place.]~~  
13

14 **Section 5. CAMPAIGN MATERIALS.**

15 Each candidate and each chairperson of each Measure Finance Committee  
16 shall ensure that all campaign materials specify the name of the  
17 ~~[sponsor]~~[campaign or committee] who authorized the printing or distribution  
18 of such material and the name and address of the establishment that printed  
19 or otherwise created the campaign materials; provided, that the name and  
20 address of the printing establishment is not required to be specified in a  
21 newspaper advertisement. Each candidate and each chairperson of each  
22 Measure Finance Committee shall also ensure that a copy of each campaign  
23 material used in the campaign is ~~[promptly]~~ filed with the ~~[Board]~~[City Clerk's  
24 Office] ~~[upon such material being printed or distributed]~~[on or prior to the day  
25 the financial report disclosing the expenditure for said campaign material is  
26 due].

27  
28 **Section 9. RULES AND REGULATIONS, ASSISTANCE; CAMPAIGN AND**  
29 **ELECTION AUDITOR.**

30 (b) There is hereby created the position of Campaign and Election  
31 Auditor. The Auditor shall be ~~[either]~~ a Certified Public Accountant~~[or]~~[,] a  
32 Registered Public Accountant~~[, or have other qualified campaign finance~~  
33 ~~experience]~~] and shall:

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32

**Section 10. ENFORCEMENT.**

~~[(b) Upon referral of any complaint by the Board, the Campaign and Election Auditor shall investigate the charge or charges and report to the Board.]~~

**[(e)][b)]** Notwithstanding any other provision in this section, the Board and/or the City Clerk may, on their own initiative, initiate a charge or charges that a candidate or the chairperson of a Measure Finance Committee or any other group has committed a violation of this Election Code or of the Rules and Regulations promulgated by the Board or the City Clerk. In the event that inspection and/or audit of the candidates or Measure Finance Committees campaign financial records made pursuant to Section 4(j)3 results in a charge or charges against a candidate or Measure Finance Committee, written notice to the candidate or chairperson of the charge or charges shall not be required before the Board takes further action.

**[(d)][c)]** Should the Board find, after due hearing, that a violation of this Election Code or the Rules and Regulations of the Board has occurred, it may, for each violation, issue a public reprimand or impose a fine not to exceed the maximum amount authorized by state law, or do both.

**[(e)][d)]** Automatic Fines. Notwithstanding subsection (d) of this section, a failure to file or late filing shall subject the candidate or the chairperson of the Measure Finance Committee or any other obligated person, whichever may be the case, to an automatic fine and public reprimand according to the schedules established in the Rules and Regulations of the Board. In situations where there is an incomplete filing the candidate or the chairperson of the Measure Finance Committee shall be notified of the failure and shall have ten days from the date of notice to correct the failure. If the incomplete filing is not corrected within ten days there shall be an automatic fine and public reprimand. If the failure is corrected within ten days and the Board determines from the face of the filings that any failure appears to have been inadvertent and made in good faith, the Board shall find that there has been no violation.

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

1        ~~(f)~~(e) In addition to imposing such sanctions, or as an alternative thereto,  
2 and if the violator be a successful candidate in the election, the Board may  
3 recommend to the Council that the violator be removed from office.

4        ~~(g)~~(f) The Council may, upon the recommendation of the Board, and after  
5 due hearing of the charge, order the suspension or removal of an elected  
6 official; provided, however, that no official shall be removed or suspended  
7 except upon the concurrence of two-thirds of the Councilors qualified to vote  
8 thereon.

9        ~~(h)~~(g) An appeal may be taken from any findings and action of the  
10 Board pursuant to subsections (d) and (e) of this section and from any order  
11 of the Council pursuant to subsection (g) of this Section to the District Court  
12 of the Second Judicial District, by filing Notice of Appeal in the said District  
13 Court within five days of the date of the action or order appealed from, and by  
14 filing with said District Court within thirty days a true transcript and record of  
15 the proceedings upon which said action or order is based. The hearing in  
16 District Court shall be held on said transcript and record only, and new  
17 testimony shall not be taken.

18        ~~(i)~~(h) All fines not timely paid shall be assessed interest at the maximum  
19 rate allowed by state law commencing on the thirty-first day following the date  
20 that the fine was imposed.

21        ~~(j)~~(i) Any fines collected under this section shall be placed into the City's  
22 General Fund.

23        ~~(k)~~(j) Any candidate who fails or refuses to file a report of expenditures  
24 and contributions or statement of no activity or to pay a penalty imposed by  
25 the ~~[secretary of state]~~[City Clerk] as required by Section 4 of Article XIII shall  
26 not, in addition to any other penalties provided by law:

27            (1) have the candidate's name printed upon the ballot if the  
28 violation occurs before and through the final date for the withdrawal of  
29 candidates; or

30            (2) be issued a certificate of nomination or election, if the  
31 violation occurs after the final date for withdrawal of candidates or after the  
32 election, until the candidate satisfies all reporting requirements of Article XIII,  
33 Section 4, and pays all penalties owed.

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

1        ~~([k])~~ Any candidate who loses an election and who failed or refused to file  
2 a report of expenditures and contributions or a statement of no activity or to  
3 pay a penalty imposed by the City Clerk or Board of Ethics for a violation of  
4 the Code of Ethics, the Election Code, the Open and Ethical Elections Code, or  
5 Rules and Regulations promulgated by the City Clerk or the Board of Ethics,  
6 shall not be, in addition to any other penalties provided by law, permitted to  
7 file a declaration of candidacy or nominating petition for any future election  
8 until the candidate satisfies all reporting requirements and pays all penalties  
9 owed.

10  
11 SECTION 3. Article XVI, Sections 6 and 16 are amended as follows, with the  
12 subsequent sections to be renumbered accordingly:

13 CITY CHARTER, ARTICLE XVI. OPEN AND ETHICAL ELECTIONS CODE  
14 Section 6. SEED MONEY-IN-KIND CONTRIBUTIONS.

15        (A) An Applicant Candidate may accept Seed Money~~[during the~~  
16 ~~Exploratory Period and Qualifying Period]~~ not to exceed \$250.00 per Person.

17  
18 ~~[Section 16. MATCHING FUNDS – OPPOSING FUNDS.~~

19 ~~—During the course of a regular municipal election or a run-off election, when~~  
20 ~~a Participating Candidate’s Opposing Funds in aggregate amount are greater~~  
21 ~~than the funds distributed plus any Seed Money spent to a Participating~~  
22 ~~Candidate in the same race, then the Participating Candidate is entitled to~~  
23 ~~receive matching funds in the amount that the Opposing Funds exceed the~~  
24 ~~distribution from the Fund plus any Seed Money spent. Total Opposing Funds~~  
25 ~~to a Participating Candidate in an election are limited to twice the amount~~  
26 ~~originally distributed to that Candidate pursuant to Section 12 of the Open and~~  
27 ~~Ethical Elections Code. If the allocation of Opposing Funds is greater than the~~  
28 ~~total amount available for distribution, then the amounts distributed to a~~  
29 ~~Participating Candidate shall be reduced by the same percentage as the~~  
30 ~~reduction by which the total amount needed has been reduced relative to the~~  
31 ~~total amount available.]~~

32  
33 SECTION 4. Chapter 2, Article 3, Section 8 is amended as follows:



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

1 ARTICLE 3: LOBBYIST REGISTRATION  
2 § 2-3-8 LOBBYING CAMPAIGN DISCLOSURE, BANK ACCOUNT AND  
3 EXPENDITURE REQUIREMENTS AND RETENTION OF RECORDS.

4 (B) Disclosure of Lobbyist Campaigning Activities.

5 (2) ~~[The statements required by this section shall be filed as~~  
6 ~~follows: the first statement shall be filed within five (5) City working days after~~  
7 ~~the registration with the City Clerk that designates the official action the~~  
8 ~~lobbyist or lobbying organization supports or opposes. The first statement~~  
9 ~~shall show all contributions received and all expenditures made at any time in~~  
10 ~~the past up to 5:00 p.m. of the day immediately prior to the date of filing. The~~  
11 ~~first statement shall include all expenditures made and contributions received~~  
12 ~~prior to registering with the City Clerk as well as such expenditures made and~~  
13 ~~contributions received after the registration required under § 2-3-4 of this~~  
14 ~~Ordinance. Additional statements shall be filed with the City Clerk every~~  
15 ~~twenty-eight (28) calendar days from the date of the original registration until~~  
16 ~~the lobbyist or lobbying organization provides a final statement. In the event~~  
17 ~~no expenditures have been made and no contributions have been received~~  
18 ~~during any of the required reporting periods, the lobbyist or lobbyist~~  
19 ~~organization shall not be required to file a statement for that time period but~~  
20 ~~shall be required to submit a letter to the City Clerk stating that no~~  
21 ~~contribution and expenditure activity occurred during the reporting period.~~  
22 ~~The final disclosure statement shall include or be accompanied by a sworn~~  
23 ~~statement that all lobbying campaigning has ceased on or before the date of~~  
24 ~~such statement as to the official action designated in the registration. The final~~  
25 ~~statement shall show all expenditures and contributions and may be filed at~~  
26 ~~any time.][The disclosure required in this statement shall be filed quarterly,~~  
27 and as a component of the quarterly activity reports required in § 2-3-4. In the  
28 event that no expenditures have been made and no contributions have been  
29 received, the lobbyist or lobbyist organization shall submit the quarterly  
30 registration and affirm a statement of no activity.]

31  
32 SECTION 5. Chapter 2, Article 4, Section 13 is amended as follows:

33 CHAPTER 2: GOVERNMENT

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

1 ARTICLE 4: MUNICIPAL ELECTIONS; PETITIONS

2 § 2-4-13 FILING OF PETITIONS.

3 (F) ~~[Applicant-]~~Candidates ~~[seeking public financing who are submitting~~  
4 ~~petitions]~~[who submitted a petition] in accordance with Section 4, Article II of  
5 the City Charter shall file their Declaration of Candidacy and ~~[verified~~  
6 ~~petitions]~~[the results of the City Clerk's petition signature verification] with the  
7 County Clerk ~~[14 days after the last day of the Qualifying Period]~~[between 9:00  
8 a.m. and 5:00 p.m. on the seventieth day before the election].

9

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

17 SECTION 7. COMPILATION. Sections 1, 2, and 3 of this ordinance shall amend,  
18 be incorporated in, and made part of the City Charter and Sections 4 and 5  
19 shall amend, be incorporated in, and made part of the Revised Ordinances of  
20 Albuquerque, New Mexico, 1994.

21 SECTION 8. EFFECTIVE DATE. This ordinance shall take effect five (5) days  
22 after publication by title and general summary.