

1 **CITY OF SANTA FE, NEW MEXICO**

2 **ORDINANCE NO. 2009-10**

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4  
5 **AN ORDINANCE**

6 **AMENDING SECTION 6-16.4 SFCC 1987 REGARDING HEARINGS BEFORE THE**  
7 **ETHICS AND CAMPAIGN REVIEW BOARD; AND AMENDING VARIOUS SECTIONS**  
8 **OF ARTICLE 9-2 SFCC 1987 CAMPAIGN CODE.**

9  
10 **BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:**

11 **Section 1. Section 6-16.4 SFCC 1987 (being Ord. #2005-14, §20 as amended) is**  
12 **amended to read:**

13 **6-16.4 Determination of Legal Sufficiency; Setting a Hearing.**

14 A. Upon receipt of the complaint, the board shall determine the following:

15 (1) If the face of the complaint sets forth legally sufficient facts which, if  
16 true, show probable cause to believe that there was a violation;

17 (2) If the complaint was filed within one (1) year after the complainant first  
18 discovered or reasonably should have discovered the facts on which the complaint is  
19 based;

20 (3) If the complaint is frivolous or intended solely to harass or intimidate;  
21 and

22 (4) If the board lacks jurisdiction to adjudicate the complaint.

23 B. The city attorney, or a qualified attorney designated by the city attorney, may file  
24 a complaint with the board on the basis of information referred by the board or obtained  
25 otherwise, upon a determination by the city attorney or his or her designee that probable cause

1 exists of a violation of the Code of Ethics or the Campaign Code.

2 C. To promote public participation, and to preserve the board's transparency,  
3 credibility, and stature, all final board determinations, including board decisions on complaints,  
4 advisory opinions, and settlements, shall be made during public meetings in compliance with the  
5 Open Meetings Act. No complaint shall be dismissed without a prior evidentiary hearing or prior  
6 board discussion in a public meeting of the reasons for the determination.

7 D. If the board determines that the complaint is legally sufficient, was filed timely  
8 and is not frivolous, and that the board has jurisdiction to adjudicate the complaint, the board  
9 shall at the same meeting set a schedule for hearing the complaint. The board shall conduct a  
10 public hearing regarding the complaint in accordance with due process of law. The chair of the  
11 board has authority to order appropriate discovery and issue subpoenas for the attendance of  
12 witnesses or the production of documents. Any decision of the chair with respect to discovery or  
13 with respect to the issuance of subpoenas shall be reviewable by the board upon request of any  
14 affected person. The board may seek enforcement of administrative subpoenas or discovery  
15 requests in district court.

16 E. The city clerk may require electronic posting of all documents generated  
17 pursuant to the Code of Ethics or the Campaign Code in an accessible and searchable format,  
18 including the proceedings of the ethics and campaign review board.

19 **Section 2. Section 9-2.3 SFCC 1987 (being Ord. #1998-41, §3 as amended) is**  
20 **amended to read:**

21 **9-2.3 Definitions.**

22 As used in the Campaign Code:

23 A. *Ballot proposition* means any measure, amendment or other question submitted  
24 to, or proposed for submission to, a popular vote at a Santa Fe municipal election.

25 B. *Campaign depository* means a bank, mutual savings bank, savings and loan

1 association or credit union doing business in this state under which a campaign account or  
2 accounts are maintained.

3 C. *Campaign finance statement* means a report of all contributions received and  
4 expenditures made according to a form prescribed by the city clerk which, when completed and  
5 filed, provides the information required in the sections to follow.

6 D. *Campaign materials* means any published communication, electronic or  
7 otherwise, disseminated to more than one hundred (100) persons that either supports the election  
8 or defeat of any identifiable candidate or candidates or supports the approval or defeat of a ballot  
9 proposal, other than communications to, or editorials, reports, or commentary by news media.

10 E. *Campaign treasurer and deputy campaign treasurer* means the individual who is  
11 responsible for keeping the financial records of the political committee or candidate (the  
12 candidate may be their own campaign treasurer or deputy campaign treasurer).

13 F. *Candidate* means any individual who seeks election to a Santa Fe municipal  
14 office. An individual shall be a candidate when they:

- 15 (1) Announce publicly;
- 16 (2) File for office;
- 17 (3) When contributions are accepted or expenditures made; or
- 18 (4) Any activity is held to promote an election campaign of an individual if  
19 that activity is endorsed or supported by that person or if the benefits of such activity are  
20 later accepted by such person.

21 G. *Contribution* means a loan, loan guarantee, gift, advance, pledge, contract,  
22 agreement or promise of money or anything of value or other obligation, whether or not legally  
23 enforceable, made directly or indirectly, to a candidate or political committee for the purpose of  
24 influencing the outcome of a municipal election.

- 25 (1) The term "contribution" includes:

- 1 (a) The transfer of funds or anything of value between political  
2 committees;
- 3 (b) The transfer of anything of value, including personal and  
4 professional services, for less than full consideration;
- 5 (c) Interest, dividends or other income derived from the investment  
6 of campaign funds;
- 7 (d) The payment for the services of an individual serving on behalf  
8 of a candidate or political committee, which payments are made by a third party;  
9 and
- 10 (e) The purchase of over twenty-five dollars (\$25.00) of tickets for  
11 fundraising events such as dinners, rallies, raffles, etc. and the proceeds of  
12 collections at fundraising events which are not otherwise reported.

13 (2) The term "contribution" does not include:

14 (a) A volunteer's personal services provided without compensation  
15 or the travel or personal expenses of such a campaign worker; and

16 (b) The cost of an event held in honor of or on behalf of a candidate  
17 when the total cost of the event amounts to no more than two hundred dollars  
18 (\$200.).

19 H. *Contributor* means:

20 (1) Individual contributor means an individual who makes a contribution  
21 from their personal assets which are not those of a business, corporation, partnership,  
22 political committee.

23 (2) Business contributor means an individual who uses the assets of their  
24 business, corporation, partnership, political committee or PAC as a contribution or any  
25 business, corporation, partnership, political committee or PAC which makes a

1 contribution.

2 I. *Election* means any regular or special Santa Fe municipal election.

3 J. *Election period* means the fifty-six (56) days before a municipal election is held.

4 K. *Expenditure* means a payment or transfer of anything of value in exchange for  
5 goods, services, property, facilities or anything of value for the purpose of assisting, benefiting or  
6 honoring any public official or candidate, or assisting in furthering or opposing any election  
7 campaign for a candidate or ballot proposition. This includes contributions, subscriptions,  
8 distributions, loans, advances, deposits, or gifts of money or anything of value, and includes a  
9 contract, a promise or agreement, whether or not legally enforceable, to make an expenditure. The  
10 term "expenditure" also means the transfer of funds or anything of value between political  
11 committees. In determining the dollar value of an expenditure, only that portion of a payment or  
12 transfer of anything of value that is directly related to the campaign shall be considered an  
13 expenditure.

14 L. *Political committee* means any entity formed for the principal purpose of:

15 (1) Raising or collecting, and expending or contributing money or anything  
16 of value for supporting the election or defeat of any identifiable candidate or candidates  
17 or for supporting the approval or defeat of ballot propositions; or

18 (2) Coordinating or cooperating in efforts to support the election or defeat of  
19 any identifiable candidates or of supporting the approval or defeat of any ballot  
20 proposition.

21 **Section 3. Section 9-2.5 SFCC 1987 (being Ord. #1998-41, §4 as amended) is**  
22 **amended to read:**

23 **9-2.5 Identification of Campaign Material.**

24 Campaign materials disseminated or communicated by a candidate or by a political  
25 committee shall conspicuously identify the name of the candidate and/or campaign treasurer or

1 deputy campaign treasurer, or the name of an officer or other responsible person of the political  
2 committee sponsoring such materials. Written, printed or posted materials shall also show a  
3 telephone contact number.

4 **Section 4. Section 9-2.7 SFCC 1987 (being Ord. #1998-41, §5 as amended) is**  
5 **amended to read:**

6 **9-2.7 Statement of Political Committee Organization.**

7 A. Every political committee shall file a statement of organization with the city clerk  
8 within ten (10) days of the earlier of the following, but in no event later than the date on which a  
9 political committee contracts for or initiates the dissemination of any campaign materials:

10 (1) Its organization; or

11 (2) The date on which it receives or has information which causes it to  
12 anticipate that it will receive contributions or will make expenditures in any election  
13 campaign.

14 B. The statement of organization shall include but not be limited to:

15 (1) The name, street address, city, county, state, zip code and telephone  
16 number of the political committee;

17 (2) The full name, street address, city, county, state and telephone number of  
18 each firm, association, partnership, business trust, corporation, company, committee, and  
19 other organization or group of individuals with which the political committee is affiliated  
20 or connected or with which it coordinated or cooperated in its efforts to support the  
21 election or defeat of any identifiable candidate;

22 (3) The names, addresses and titles of its officers; or if it has no officers, the  
23 names, addresses and titles of its responsible leaders;

24 (4) The full names, addresses and telephone number (home and business) of  
25 its campaign treasurer and campaign depository;

1           (5)     The full name of each candidate whom the political committee is  
2 supporting or opposing;

3           (6)     The ballot proposition concerned, if any, and whether the political  
4 committee is in favor of or opposed to such proposition; and

5           (7)     What distribution of surplus funds will be made upon dissolution.

6           C.     Any material change in information previously submitted to the city clerk shall  
7 be reported to the city clerk within ten (10) days of such change.

8           **Section 5.     Section 9-2.9 SFCC 1987 (being Ord. #1998-41, §7 as amended) is**  
9 **amended to read:**

10           **9-2.9    Campaign Treasurer; Deputy Campaign Treasurer; Duties.**

11           A.     The campaign treasurer or deputy campaign treasurer shall keep a true and full  
12 record of contributions and expenditures. The record of contributions and expenditures required  
13 to be kept under the terms of the Campaign Code shall include but not be limited to:

14           (1)     The full name and complete mailing address of every individual  
15 contributor of an amount of twenty-five dollars (\$25.) or more or an aggregate of  
16 contributions of a single contributor totaling twenty-five dollars (\$25.) or more for the  
17 period of time beginning with the acceptance of the first contribution;

18           (2)     The full name and complete mailing address of every business and  
19 political committee which contributes twenty-five dollars (\$25.) or more or an aggregate  
20 of contributions from a business and political committee totaling twenty-five dollars  
21 (\$25.) or more for the period of time beginning with the acceptance of the first  
22 contribution;

23           (3)     The amount and form of every contribution;

24           (4)     The aggregate donated by each such contributor. Contributions of less  
25 than twenty-five dollars (\$25.) from any individual or from any business or political

1 committee in any campaign shall be reported as a lump sum without identifying the  
2 contributor by name;

3 (5) An itemized record of all disbursements, including the name and address  
4 of every recipient thereof, receipts reflecting the purpose of each expenditure and the day  
5 and method of payment; and

6 (6) All campaign bank records, including deposit slips and canceled checks.

7 B. The campaign treasurer or deputy campaign treasurer shall not accept anonymous  
8 donations over twenty-five dollars (\$25.) or more.

9 C. Records required to be kept by the campaign treasurer or deputy campaign  
10 treasurer under the terms of paragraph A items (1), (2), (3) and (4) of this subsection, shall be  
11 filed with the city clerk as part of the public record, shall be provided to the ethics and campaign  
12 review board set forth in Section 6-16, SFCC 1987 upon request and may be inspected by the  
13 public during usual business hours, Monday through Friday, excluding legal holidays.

14 D. Records kept by the campaign treasurer or deputy campaign treasurer shall be  
15 made current not more than seven (7) days after the date of a contribution or of an expenditure.  
16 During the eight (8) days immediately preceding the date of any election for which the political  
17 committee has received any contributions or made any expenditures, the books of the account  
18 shall be kept current within one (1) business day.

19 E. The campaign treasurer or deputy campaign treasurer shall preserve books of  
20 accounts, bills, receipts and all other financial records of the campaign or political committee for  
21 two (2) calendar years following the year in which the transaction occurred.

22 F. The campaign treasurer or deputy campaign treasurer shall deposit within five (5)  
23 business days after receipt all monetary contributions received by a candidate, political  
24 committee, campaign treasurer or deputy campaign treasurer in the campaign depository  
25 designated for that purpose.



1 G. All contributions received shall be under the custody of the campaign treasurer or  
2 deputy campaign treasurer and shall be segregated from, and not be commingled with, the  
3 personal funds of an individual, group or political committee. Any campaign contributions  
4 remaining unspent at the conclusion of an election shall be distributed for the following purposes:

- 5 (1) Expenditures of the campaign;
- 6 (2) Expenditures of the public official that are reasonably related to  
7 performing the duties of the office held in order to serve constituents;
- 8 (3) Donations to the city's general fund;
- 9 (4) Donations to charities and/or other non-profit entities; or
- 10 (5) Disbursements to return unused funds to the contributors.

11 All unspent campaign contributions shall be distributed within six (6) months following a  
12 municipal election, for any of the purposes listed in this subsection 9-2.9G. All candidates and  
13 political committees shall file reports listing the date, amount and recipient of each post-election  
14 expenditure, donation or disbursement made from campaign funds pursuant to this subsection 9-  
15 2.9G. Such report shall be part of the final campaign finance statement that is required by  
16 subsection 9-2.10B SFCC 1987.

17 H. A campaign treasurer, deputy campaign treasurer or political committee may  
18 invest funds deposited in the campaign account in an account of indebtedness of a financial  
19 institution up to the amount of federal deposit insurance; United States bonds or certificates of  
20 indebtedness or those of a federal agency; and/or bonds or warrants of the state or any municipal  
21 corporation of the state. All interest, dividends, and/or other income derived from the investment  
22 and the principal when repaid shall be deposited in the campaign account.

23 **Section 6. Section 9-2.10 SFCC 1987 (being Ord. #1998-41, §8 as amended) is**  
24 **amended to read:**

25 **9-2.10 Campaign Finance Statement Required.**

1           A.     In addition to any statement of organization required pursuant to subsection 9-  
2 2.7A SFCC 1987, each candidate or political committee and their respective campaign treasurer  
3 or deputy campaign treasurer shall file a campaign finance statement of all contributions received  
4 and expenditures made to date which report shall be current as of the day immediately preceding  
5 the reporting date. Contributions shall be reported as of the date of receipt of cash, checks,  
6 pledges, commitments for in-kind contributions, promissory notes or other money instruments  
7 regardless of the date of actual cashing or deposit. The report shall be submitted on a form  
8 prescribed by the city clerk, and shall be filed during the following periods:

9                   (1)     By 5:00 p.m. on the fortieth day preceding an election in which the  
10 candidate is seeking election to an office or in connection with which the political  
11 committee has received contributions or made expenditures;

12                   (2)     By 5:00 p.m. on the twenty-fifth day preceding such election;

13                   (3)     By 5:00 p.m. on the Tuesday preceding such election;

14                   (4)     By 12:00 noon on the Monday preceding such election;

15                   (5)     Within two (2) weeks following such election; and

16                   (6)     As required in subsection 9-2.10B SFCC 1987 below.

17           B.     The candidate or political committee and their respective campaign treasurer or  
18 deputy campaign treasurer shall file a final report no later than six months following a municipal  
19 election. Upon submitting a final report there shall be no obligation to make any further reports  
20 unless there are outstanding debts. If there are, a report shall be filed every six months until all  
21 outstanding debts have been liquidated.

22           C.     If a reporting day falls on a weekend, the campaign finance statement shall be  
23 filed with the city clerk on the first working day immediately following the weekend.

24           D.     Campaign finance statements shall be filed with the city clerk during regular  
25 business hours.

1 E. The city clerk is authorized to reject any incomplete campaign finance  
2 statements. The city clerk shall notify the candidate or political committee that the campaign  
3 finance statement is incomplete.

4 F. Any candidate who withdraws from an election shall be required to file a report  
5 at the time of withdrawal.

6 G. The city clerk shall assess a fine of one hundred dollars (\$100.) for unexcused  
7 late filing of campaign finance statements.

8 **Section 7. Section 9-2.11 SFCC 1987 (being Ord. #1998-41, §10 as amended) is**  
9 **amended to read:**

10 **9-2.11 Campaign Finance Statement; Contents.**

11 A. Each campaign finance statement filed in accordance with subsection 9-2.10  
12 SFCC 1987 shall disclose for the period beginning at the end of the period for the last report, or in  
13 the case of the initial report, at the time of the first contribution or expenditures, and shall contain  
14 the following information:

15 (1) The funds on hand at the beginning of the period. This shall include the  
16 cumulative total amount of all contributions and expenditures. This includes, but is not  
17 limited to, contributions and expenditures in aid of, or in opposition to, candidates or  
18 ballot propositions before they qualify for the ballot and contributions and expenditures  
19 following the election;

20 (2) The full name and complete mailing address and principal business or  
21 occupation of each individual contributor from whom a contribution or contributions of  
22 twenty-five dollars (\$25.) or more in money, goods, materials, services, facilities or  
23 anything of value has been received, the amount received from that individual, the date of  
24 each contribution and whether the contribution was received in cash, by check or  
25 otherwise;

1           (3)     The full name and complete mailing address of each business or political  
2 committee from whom a contribution of twenty-five dollars (\$25.) or more in money,  
3 goods, materials, services, facilities or anything of value has been received, the amount  
4 received from that business or political committee and the date of each contribution;

5           (4)     The full name and complete mailing address of each individual or  
6 business to whom an expenditure has been made, the purpose of each campaign  
7 expenditure and the date each expenditure was made. This report shall be itemized with  
8 the total amount paid to each individual or business for the goods, services or facilities  
9 provided;

10          (5)     The full name of the candidate or political committee and the full name  
11 and complete address of the campaign treasurer or deputy campaign treasurer;

12          (6)     For each contributor, the cumulative total of all contributions made; and

13          (7)     Where goods, materials, services, facilities or anything of value other  
14 than money is contributed or expended, the monetary value thereof shall be reported at  
15 the fair market value.

16        B.     Loans of money, property or other things made to a candidate or political  
17 committee during the period covered by the campaign finance statement shall be reported  
18 separately in the statement, with the following information:

19           (1)     The total value of all loans received during the period covered by the  
20 campaign finance statement;

21           (2)     The full name and address of each lender, the date of the loan, the  
22 interest rate and the amount of the loan remaining unpaid;

23           (3)     The cumulative total value of all loans received; and

24           (4)     The total amount of loans remaining unpaid.

25        C.     If a loan has been forgiven or paid by a third person, it shall be reported pursuant

1 to this section.

2 D. Investments made with campaign funds under subsection 9-2.9 SFCC 1987 and  
3 interest, dividends and/or other income received shall be reported separately in the statement.

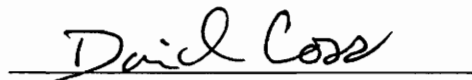
4 **Section 8. Section 9-2.14 SFCC 1987 (being Ord. #1998-41, §13 as amended) is**  
5 **amended to read:**

6 **9-2.14 Spending Limitations.**

7 A. A candidate may volunteer, to limit the candidate's expenditures to one dollar  
8 (\$1.00) per registered voter in the city for the mayoral or municipal judgeship or one dollar  
9 (\$1.00) per registered voter in the applicable district for the city council election.

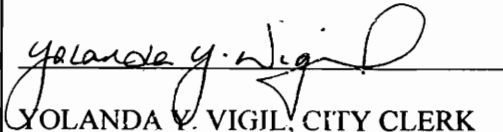
10 B. A candidate may volunteer to make no contributions to the candidate's own  
11 campaign or political committee of personal assets that in aggregate exceeds ten percent (10%) of  
12 the applicable expenditure limits for the mayoral or municipal judgeship position. A candidate  
13 may volunteer to make no contributions to the candidate's own campaign or political committee  
14 of personal assets that in aggregate exceeds twenty-five percent (25%) of the applicable  
15 expenditure limits for the city council position.

16 PASSED, APPROVED and ADOPTED this 11<sup>th</sup> day of March, 2009.

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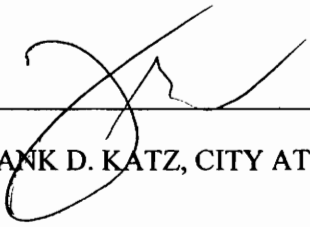
19 DAVID COSS, MAYOR

20 ATTEST:

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23 YOLANDA V. VIGIL, CITY CLERK

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APPROVED AS TO FORM:



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FRANK D. KATZ, CITY ATTORNEY