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1 another person or campaign committee to receive or solicit  
2 contributions or make expenditures of one thousand dollars (\$1,000)  
3 or more for the purpose of seeking election to the office.]”

4 SECTION 2. Article XIII, Section 2 of the Election Code is hereby amended as  
5 follows:

6 “SECTION 2. DEFINITIONS.

7 SECTION 2(d). “Candidate” means any individual who has (1)  
8 obtained a nominating petition from the City Clerk pursuant to  
9 Section 4(c)1.D. of the Election Code for the office of Mayor or  
10 [~~Councilor~~] [Councilor], (2) filed an affidavit on a form approved by  
11 the City Clerk, stating that he or she is a candidate for either the  
12 office of Mayor or City [~~Councilor~~] [Councilor], [~~or~~](3) filed as a  
13 candidate for elected office as required by law, whichever first  
14 occurs~~[-]~~, or (4) has received or solicited contributions or made  
15 expenditures of one thousand dollars (\$1,000) or more or authorized  
16 another person or campaign committee to receive or solicit  
17 contributions or make expenditures of one thousand dollars (\$1,000)  
18 or more for the purpose of seeking election to the office.]

19 SECTION 2(g)(3). Notwithstanding the foregoing, none of the  
20 following shall be considered a contribution: a candidate's own  
21 services and property, other than cash; the use of a dwelling unit  
22 and residential premises incidental thereto for any campaign  
23 purpose and the provision of refreshments and entertainment in  
24 connection with such use; the services of the person who is  
25 performing the duties of the candidate's treasurer; and the use of  
26 vehicles for any campaign purpose other than in connection with the  
27 performance of a commercial or professional service~~[-]~~ ]; and the  
28 payment of legal fees to advise a candidate on compliance with  
29 campaign laws or regulations or to represent a candidate or  
30 candidate committee in any action reasonably related to the  
31 campaign or election in which the candidate or committee has been  
32 named as a defendant.]

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1           SECTION 2(j). Expenditure means the payment or furnishing of  
2           money or anything of value or the incurring or repayment of  
3           indebtedness or obligation, by or on behalf of any person, candidate  
4           or political committee in consideration for any services, supplies,  
5           equipment or other thing of value performed or furnished for any  
6           reason, including support of or opposition to a candidate or political  
7           committee or for reducing the debt of a candidate or political  
8           committee. [Notwithstanding any other provision of the Charter, for  
9           the purposes of Election Code and the Open and Ethical Elections  
10          Code, “Expenditure” does not include the payment of legal fees to  
11          advise a candidate on compliance with campaign laws or regulations  
12          or to represent a candidate or candidate committee in any action  
13          reasonably related to the campaign or election in which the  
14          candidate or committee has been named as a defendant.]”

15       SECTION 3. Article XIII, Section 2 of the Election Code is hereby amended to  
16       add subsections n, o, p, q, r, s, t, and u as follows:

17       “SECTION 2. DEFINITIONS.

18           [SECTION 2(n). [Notwithstanding any other provision of the Charter, for  
19           the purposes of Election Code and the Open and Ethical Elections  
20           Code, “Independent Expenditure” means any funds spent on Express  
21           Advocacy or Electioneering Communications that are made without the  
22           cooperation, consultation or coordination with, or at the request or  
23           suggestion of, a candidate, a candidate’s authorized committee or an  
24           agent thereof. An Independent Expenditure may include materials  
25           already distributed to the public or broadcast by a candidate, the  
26           candidates authorized committee or an agent thereof.]

27           [SECTION 2(o). [Notwithstanding any other provision of the Charter, for  
28           the purposes of Election Code and the Open and Ethical Elections  
29           Code, “Coordinated Expenditure” means any expenditure made with the  
30           cooperation, consultation or coordination with, or at the request or  
31           suggestion of, a candidate, a candidate's authorized committee or an  
32           agent thereof. Any expenditure that is coordinated within the meaning  
33           of this paragraph is an In-Kind Contribution to the candidate or

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1 candidate's committee with whom or with which it was coordinated and  
2 the candidate must report the Coordinated Expenditure as an In-Kind  
3 Contribution.]

4 [SECTION 2(p). "In-Kind Contribution" means a good or service, other  
5 than money, having monetary value not to exceed the limits set in  
6 Section 4 of Article XIII, but not including an individual who volunteers  
7 his own personal service. Professional services, including legal  
8 services, accounting services, consulting services and similar services  
9 provided directly from the professional to the Candidate are permitted,  
10 provided no single In-Kind Contributor exceeds the limits set in Section  
11 4 of Article XIII. Notwithstanding the foregoing, a Candidate may accept  
12 unlimited In-Kind Contributions in the following areas: 1) legal services  
13 provided directly from attorneys for the purpose of providing legal  
14 advice to comply with election laws and public financing laws, 2)  
15 professional services provided directly from the professional, including  
16 attorneys, experts and consultants, for the sole purpose of participating  
17 in a proceeding under Section 8 of the Code of Ethics, Section 10 of the  
18 Election Code, and Sections 20 and 21 of the Open and Ethical Elections  
19 Code, and 3) office space. Such In-Kind Contributions shall be reported  
20 promptly.

21 [SECTION 2(q). "Reporting individual" means every public official,  
22 candidate or treasurer of a campaign committee and every treasurer of a  
23 measure finance committee.]"

24 SECTION 4. Article XIII, Section 4 of the Election Code is hereby amended as  
25 follows:

26 "SECTION 4. CAMPAIGN FINANCING.

27 SECTION 4(c)(2)-(3). The statements required by this subsection  
28 shall be filed as follows: ~~[the first statement on the Friday of the~~  
29 ~~twelfth week preceding the election; the second statement on the~~  
30 ~~Friday of the eighth week preceding the election; the third statement~~  
31 ~~on the Friday of the fourth week preceding the election; the fourth~~  
32 ~~statement on the Friday of the second week preceding the election;~~  
33 ~~the fifth statement on the Friday immediately preceding the election;~~

1 the sixth statement on the Monday immediately preceding the  
2 election, the seventh statement on the seventh day following the  
3 election; and the eighth and final statement not earlier than the  
4 seventh day nor later than the forty-fifth day after the election. In  
5 addition, any expenditure incurred or contribution made after 5:00  
6 P.M. on the Tuesday preceding a regular election, special election or  
7 runoff election that is for \$250 or more for City Council candidates,  
8 or for \$500 or more for mayoral candidates shall be reported no later  
9 than 5:00 P.M. the following day. Each statement shall be filed with  
10 the Board no later than noon on the specified day. No person shall  
11 intentionally delay making or reporting a contribution or expenditure  
12 with the purpose of avoiding a timely report of the contribution or  
13 expenditure.

14 ~~3. Exception to First Filing by Measure Finance Committee.~~  
15 Inasmuch as this subsection requires that the first statement be filed  
16 not later than on the Friday of the twelfth week preceding the  
17 election, and a Measure Finance Committee might in fact come into  
18 existence after such date, in these instances the Measure Finance  
19 Committee will be excused from filing its first statement on the date  
20 specified by this Election Code but will act as follows: A Measure  
21 Finance Committee formed between the twelfth week preceding the  
22 election and the Friday four weeks preceding the election shall file  
23 its first statement as soon as possible after the Committee has been  
24 formed, but not later than five days after it has complied with the  
25 requirements of Section 6 of this Election Code. Measure Finance  
26 Committees shall otherwise comply in all respects with the  
27 requirements of this Election Code. A Measure Finance Committee  
28 formed after the Friday four weeks preceding the election shall file  
29 its first statement at the time it registers with the City Clerk,  
30 notwithstanding any other time allowed for filing in this Election  
31 Code, and shall file all subsequent statements at the times required  
32 in Section 4 (c) of this Election Code.]

1                    [A. Except as otherwise provided in this section, a reporting  
2                    individual shall file with the City Clerk by 5:00 p.m. on the second  
3                    Monday in April and October a report of all expenditures made and  
4                    contributions received on or before the first Monday in those months  
5                    and not previously reported. The report shall be filed biannually until  
6                    the reporting individual's bank account has been closed and the  
7                    other provisions specified in Subsection F of this section have been  
8                    satisfied.

9                    B. In an election year, instead of the biannual reports provided  
10                   for in Subsection A of this section, reporting individuals, except for  
11                   public officials who are not candidates in an election that year, shall  
12                   file reports of all expenditures made and contributions received or, if  
13                   applicable, statements of no activity, according to the following  
14                   schedule:

15                   (1) by 5:00 p.m. on the second Monday in April, a report of all  
16                   expenditures made and contributions received on or before the first  
17                   Monday in April and not previously reported;

18                   (2) by 5:00 p.m. on the second Monday in May, a report of all  
19                   expenditures made and contributions received on or before the first  
20                   Monday in May and not previously reported;

21                   (3) by 5:00 p.m. on the second Monday in September, a report of all  
22                   expenditures made and contributions received on or before the first  
23                   Monday in September and not previously reported;

24                   (4) by 5:00 p.m. on the second Monday in October, a report of all  
25                   expenditures made and contributions received on or before the first  
26                   Monday in October and not previously reported;

27                   (5) by 5:00 p.m. on the Thursday before a regular election, a report of  
28                   all expenditures made and contributions received by 5:00 p.m. on the  
29                   Tuesday before the regular, run-off, or special election. Any  
30                   contribution or pledge to contribute that is received after 5:00 p.m.  
31                   on the Tuesday before the election and that is for five hundred  
32                   dollars (\$500) or more shall be reported to the City Clerk either in a  
33                   supplemental report on a prescribed form within twenty-four hours

1 of receipt or in the report to be filed by 5:00 p.m. on the Thursday  
2 before a regular, run-off, or special election, except that any such  
3 contribution or pledge to contribute that is received after 5:00 p.m.  
4 on the Friday before the election may be reported by 12:00 noon on  
5 the Monday before the election; and  
6 (6) by 5:00 p.m. on the thirtieth day after a regular, run-off, or special  
7 election, a report of all expenditures made and contributions  
8 received on or before the twenty-fifth day after the election and not  
9 previously reported.

10 C. If a candidate or public official has not received any  
11 contributions and has not made any expenditures since the  
12 candidate's or official's last report was filed with the proper filing  
13 officer, the candidate or official shall only be required to file a  
14 statement of no activity, which shall not be required to be notarized,  
15 in lieu of a full report when that report would otherwise be due and  
16 shall not be required to file a full report until the next required filing  
17 date occurring after an expenditure is made or a contribution is  
18 received.

19 D. In an election year, a public official who is not a candidate  
20 shall file biannual reports of expenditures made and contributions  
21 received or statements of no activity in accordance with the  
22 schedule provided for in Subsection A of this section.

23 E. A report of expenditures and contributions filed after a  
24 deadline set forth in this section shall not be deemed to have been  
25 timely filed.

26 F. Except for candidates and public officials who file a  
27 statement of no activity, each reporting individual shall file a report  
28 of expenditures and contributions pursuant to the filing schedules  
29 set forth in this section, regardless of whether any expenditures  
30 were made or contributions were received during the reporting  
31 period. Reports shall be required until the reporting individual  
32 delivers a report to the City Clerk stating that:

33 (1) there are no outstanding campaign debts;

1 (2) all money has been expended in accordance with the provisions  
2 Section 4 of Article XIII, the Election Code and; (3) the bank account  
3 has been closed.

4 G. Each treasurer of a measure finance committee shall file a  
5 report of expenditures and contributions pursuant to the filing  
6 schedules set forth in this section until the treasurer files a report  
7 that affirms that the committee has dissolved or no longer exists and  
8 that its bank account has been closed.

9 H. A reporting individual who is a candidate within the  
10 meaning of the Election Code because of the amount of  
11 contributions the candidate receives or expenditures the candidate  
12 makes and who does not ultimately file a declaration of candidacy or  
13 a nominating petition with the City Clerk and does not file a  
14 statement of no activity shall file biannual reports in accordance with  
15 Subsection A of this section.

16 I. Reports required by this section shall be subscribed and  
17 sworn to by the candidate or the treasurer of the measure finance  
18 committee. A report filed electronically shall be electronically  
19 authenticated by the candidate or the treasurer of the measure  
20 finance committee using an electronic signature in conformance with  
21 the Uniform Electronic Transactions Act. For the purposes of Article  
22 XIII, Section 4, a report that is electronically authenticated in  
23 accordance with the provisions of this subsection shall be deemed  
24 to have been subscribed and sworn to by the candidate or the  
25 treasurer of the political committee who was required to file the  
26 report.

27 J. Reports required by this section shall be filed electronically  
28 by all reporting individuals.

29 K. Reporting individuals may apply to the City Clerk for  
30 exemption from electronic filing in case of hardship, which shall be  
31 defined by the City Clerk.]

32 SECTION 4(e). *Limits to Contributions.* No [privately financed]  
33 candidate shall, for any one election, allow total contributions from



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1 any one person with the exception of contributions from the  
2 candidate himself or herself of more than 5% of the annual salary for  
3 such office at the time of filing the Declaration of Candidacy.  
4 [Limitations on contributions for publically financed candidates are  
5 detailed in the Open and Ethical Elections Act.]  
6 SECTION 4(f). *Ban on Contributions from* [~~Business Entities and~~]  
7 *City Contractors.* [~~No candidate shall accept a contribution in~~  
8 ~~support of the candidate's campaign from any corporation, limited~~  
9 ~~liability company, firm, partnership, joint stock company or similar~~  
10 ~~business entity or any agent making a contribution on behalf of such~~  
11 ~~a business entity.]~~ [for Mayor or Council, or Official  
12 who is a candidate for an office other than Mayor or Council,] shall  
13 accept a contribution in support of the candidate's campaign from  
14 any person [or entity], other than a City employee, who at the time of  
15 the contribution is in a contractual relationship with the City to  
16 provide goods or services to the City. [Nor shall any candidate for  
17 Mayor or Council, or Official who is a candidate for an office other  
18 than Mayor or Council, accept a contribution that is knowingly given  
19 on behalf of any person or entity who, at the time of the contribution,  
20 is in a contractual relationship with the City to provide goods or  
21 services to the City.] The remedy for an unknowing violation of this  
22 subsection shall be the return of the contribution.  
23 SECTION 4(I)(D). A person seeking to qualify to be on the ballot for  
24 the office of Mayor or [~~Councillor~~] [Councilor] shall include any  
25 person who has obtained a nominating petition form approved by the  
26 City Clerk[, or who has received or solicited contributions or made  
27 expenditures of one thousand dollars (\$1,000) or more or authorized  
28 another person or campaign committee to receive or solicit  
29 contributions or make expenditures of one thousand dollars (\$1,000)  
30 or more for the purpose of seeking election to the office.] The City  
31 Clerk shall issue an approved nominating petition only to the person  
32 seeking to be on the ballot. Such approved nominating petition  
33 forms shall state the name of the person and the city office for which

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

13 SECTION 5. Article XIII, Section 9 of the Election Code is hereby amended as  
14 follows:

15 “SECTION 9. RULES AND REGULATIONS; ASSISTANCE; [CAMPAIGN AND  
16 ELECTION AUDITOR].

17 (a) The Board [and City Clerk] shall promulgate reasonable Rules  
18 and Regulations for ~~[its]~~ [their] conduct and in aid of interpretation  
19 and enforcement of this Election Code, and amend such Rules and  
20 Regulations as ~~[it]~~ [they] may, from time to time, deem advisable;  
21 provided, that amendments to said Rules and Regulations shall not  
22 be made by the Board [or City Clerk] during the ninety days  
23 preceding an election. The current Rules and Regulations of the  
24 Board [and City Clerk] shall be made available in published form no  
25 later than sixty days prior to any election.”

26 SECTION 6. Article XIII, Section 10 of the Election Code is hereby amended as  
27 follows:

28 “SECTION 10. ENFORCEMENT.

29 (a) Charges of Violations.

30 1. [The City Clerk shall issue Rules and Regulations  
31 regarding the requirements for complaints and the process by which  
32 facial sufficiency of the complaint is determined.]

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1                    [2.]        Any charge or charges that a candidate or the  
2 chairperson of a Measure Finance Committee or any other group has  
3 committed a violation of this Election Code or of the Rules and  
4 Regulations promulgated by the Board [or the City Clerk] shall be  
5 made in writing, notarized and brought before the ~~[Board]~~ [City Clerk,  
6 pursuant to Rules and Regulations issued by the City Clerk pursuant  
7 to this Section.]

8                    ~~[2][3]. Each charge of any alleged violation shall specify the~~  
9 ~~specific provision alleged to have been violated or a clear and~~  
10 ~~concise statement of why the complainant believes a violation has~~  
11 ~~occurred, and shall include documentation as to time, place, facts,~~  
12 ~~and the names of any witnesses to the alleged violation. No charge~~  
13 ~~shall be accepted unless the complaint is signed and unless the~~  
14 ~~documentation referred to above, the statement of the provision~~  
15 ~~alleged to have been violated, or the reason for the complaint, is~~  
16 ~~presented at the same time the complaint is filed. If the City Clerk~~  
17 ~~determines that the complaint meets the requirements in the Rules~~  
18 ~~and Regulations issued by the City Clerk pursuant to this Section,~~  
19 ~~the City Clerk shall refer the complaint to the Board.~~

20                    ~~[3][4]. Except as provided in subsection ~~[(d)]~~[(c)] of this~~  
21 ~~section, the Board shall give written notice of such charge or~~  
22 ~~charges to the candidate or chairperson before taking further action.~~

23 ~~[(b) — The Board, in its discretion, may establish a Complaint~~  
24 ~~Committee to review the complaint for completeness, and the Complaint~~  
25 ~~Committee shall either refer the complaint to the Board or reject the~~  
26 ~~complaint and give written notice to the Board and the complainant of~~  
27 ~~the reasons for the rejection. The complainant may appeal the~~  
28 ~~Complaint Committee's rejection to the Board.]~~

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

32 ~~[(d)]~~[(c)] Notwithstanding any other provision in this section, the Board  
33 [and/or the City Clerk] may, on ~~[its]~~ [their] own initiative, initiate a

1 charge or charges that a candidate or the chairperson of a Measure  
2 Finance Committee or any other group has committed a violation of this  
3 Election Code or of the Rules and Regulations promulgated by the  
4 Board [or the City Clerk.] In the event that inspection and/or audit of the  
5 candidates or Measure Finance Committees campaign financial records  
6 made pursuant to Section 4~~[(f)]~~[(j)]3 results in a charge or charges  
7 against a candidate or Measure Finance Committee, written notice to the  
8 candidate or chairperson of the charge or charges shall not be required  
9 before the Board takes further action.

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

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

29 ~~[(g)]~~[(f)] In addition to imposing such sanctions, or as an alternative  
30 thereto, and if the violator be a successful candidate in the election, the  
31 Board may recommend to the Council that the violator be removed from  
32 office.

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

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

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

19      ~~[(k)]~~[(j)] Any fines collected under this section shall be placed into the  
20      City's General Fund.

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

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

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

32      (l) Any candidate who loses an election and who failed or refused to file  
33      a report of expenditures and contributions or a statement of no activity

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1           or to pay a penalty imposed by the City Clerk or Board of Ethics for a  
2           violation of the Code of Ethics, the Election Code, the Open and Ethical  
3           Elections Code, or Rules and Regulations promulgated by the City Clerk  
4           or the Board of Ethics, shall not be, in addition to any other penalties  
5           provided by law, permitted to file a declaration of candidacy or  
6           nominating petition for any future election until the candidate satisfies  
7           all reporting requirements and pays all penalties owed.]”

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

15          **SECTION 8. COMPILATION.** Sections 1, 2, 3, 4, 5 and 6 of this ordinance shall  
16          amend, be incorporated in and made part of the Revised Ordinances of  
17          Albuquerque, New Mexico, 1994.

18          **SECTION 9. EFFECTIVE DATE.** This ordinance shall take effect five days  
19          following publication by title and general summary.

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