

City of Santa Fe, New Mexico

LEGISLATIVE SUMMARY

BILL NO. 2014-11

Workplace Bullying (GB)

SPONSOR(S): Councilors Wurzburger and Dominguez

SUMMARY: The bill relates to the code of ethics, Section 1-7 SFCC 1987; amending the code of ethics. The purpose is to establish that workplace bullying by governing body members would be a prohibited act and subject to a violation of the code of ethics.

PREPARED BY: Rebecca Seligman, Legislative Liaison Assistant

DATE: March 19, 2014

ATTACHMENTS: Memo from Sandra Perez, Interim Human Resources Director
Bill
FIR
Action Sheet and Minutes – Public Works Committee – 2/10/14
Action Sheet and Minutes – Finance Committee – 2/17/14
Action Sheet and Minutes – Public Works Committee – 2/24/14

City of Santa Fe, New Mexico

memo

Date: February 26, 2014

To: Governing Body

From: Sandra K. Perez, Interim Human Resource Director

Item and Issue:

Bill No. 2014-11: An Ordinance Relating to the Code of Ethics, Section 1-7 SFCC 1987; amending the Code of Ethics to Establish that Workplace Bullying by Governing Body Members would be a Prohibited Act and Subject to a Violation of the Code of Ethics.

Points of Discussion Held Previously:

The proposed language establishes a means by which the Governing Body holds itself to the same or higher standard than the employees of the City of Santa Fe.

The City of Santa Fe has two (2) employment policies that touch on Workplace Bullying, the Harassment Prevention Policy and the Workplace Violence Policy. Neither of these policies is applicable to members of the Governing Body as you are not considered employees as found in Chapter 19-3.2 and the personnel rules. A copy of the ordinance and the applicable rule(s) is attached for your review.

Neither of these policies currently lay out a definition of Workplace Bullying. The establishment of a definition by the Governing Body would lay the groundwork for establishing a complimentary policy definition for the employees.

The question related to "Exempt" status employees and whether or not they are covered by these two policies has also been asked. Exempt status employees do not have a property right to their job and, as such, the rules related to due process are not applicable, however, all other policies related to performance and/or conduct is applicable.

The answer as to why "Exempt" status employees must complete the financial disclosure form is found in 1-7.6(B) of the Code of Ethics, "Upon election, appointment, or employment, public officials and department heads shall disclose in writing to the city clerk the information listed..." Department Heads are the only exempt status employees that must complete these forms. A copy of this ordinance is attached for your review.

Lastly, the question related to whether the Governing Body is governed by the personnel rules and/or workplace policies related to use of a vehicle, I have inquired with Risk Management and have discovered that yes a Governing Body member who uses a city vehicle for official business is subject to the procedures found in the Risk Management Vehicle Policy. A copy of said policy is attached for your review.

I am available to address any other questions you may have.

D. Retaining employees on the basis of the adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected;

E. Assuring fair treatment of candidates and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, sexual orientation, religious creed, medical condition or handicap and with proper regard for their privacy, and constitutional rights as citizens; and

F. Assuring that employees are protected against coercion for political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the results of an election or a nomination for office.

(Ord. #1983-44, §4; SFCC 1981, §2-2-3; Ord. #1992-10, §1)

19-3.2 Positions Not Covered by Chapter.

This chapter covers all positions except:

A. Officials elected by popular vote or appointed to fill vacancies in elective offices;

B. Members of city boards and commissions;

C. City manager, directors of departments and employees designated as exempt by the city manager and approved by the governing body;

D. Those in the judicial branch of government;

E. Those on a professional services contract and those whose employment is temporary, or emergency.

(Ord. #1983-44, §5; SFCC 1981, §2-2-4; Ord. #1989-20, §2)

19-3.3 Reserved.*

***Editor's Note:** Subsection 19-3.3, Factors of Employment, previously contained herein, has been repealed in entirety by Ordinance No. 1989-20, §3.

19-3.4 Prerogatives of Employer.

It is the exclusive responsibility and prerogative of the city to determine the purpose of each of its agencies and departments, to set standards of services to be offered to the public, and to exercise control and discretion over its organization and operations. Nothing in this chapter or rules and regulations shall be interpreted to prohibit the right of the city to make a decision or choice based on other factors not specifically set forth therein. It is the responsibility and exclusive prerogative of the city to direct its employees to take disciplinary action for proper cause, to relieve its employees from duty because of lack of work, lack of funds or for other legitimate reasons, and to determine the

RULE 1 DEFINITIONS

"Allocation" means the action taken to assign a position to an appropriate classification.

"Bona Fide Occupational Qualification" as used herein "bona fide occupational qualification" means a qualification reasonably related to the satisfactory performance of the duties of a job, and for which there is a factual basis for believing that a person of the excluded group would be unable to perform satisfactorily the duties of the job with safety or efficiency.

"Candidate" means any person who has qualified under these Rules for appointment to positions in a specific classification.

"Certification" means the act of submitting to an employer the names of candidates on a list of eligibles for the purpose of making an appointment to a position.

"Certified Status" is acquired by an employee who has successfully completed his/her probationary period and is, therefore, certified to serve in the position which he/she holds.

"City" means the City Personnel Service created by the Personnel Ordinance and includes all organizational units and positions therefore covered by the Personnel Ordinance.

"Classification" means one or more positions so similar in the essential character of their duties and responsibilities that the same pay range, title and qualification requirements can be applied.

"Classification Process" means research and analysis based on comparative duties, responsibilities and qualifications by which appropriate classifications are determined.

"Classification Reduction" means a change from a classification with a higher salary range to a classification with a lower salary range.

"Classified Position" means a job which requires a regularly assigned combination of duties to be performed by one employee in the City and a position which is not temporary, term or exempt.

"Demotion" an employee may, for disciplinary reasons, be changed from a position in one classification to a position in a classification with a lower salary range and pay rate for which the employee qualifies.

"Department" means the administrative grouping of Divisions, Sections, Units and Sub-Units under a consolidated designation or body as specified by the current City organizational structure.

"Department Director" means the head of an administrative department as specified by the current City organizational structure.

"Director" means the Personnel Management and Development Department Director or the Director's designee.

"Dismissal" means the involuntary separation of an employee for disciplinary reasons.

"Employee" means any authorized and appointed incumbent of a position in the municipal service.

"Employee Relations" means all matters that are subject to consultation, negotiation and communication among employees, between employees and supervisors or between the Governing Body and Administrative, supervisory or other employees.

RULE 2 GENERAL PROVISIONS

2.10 Rules.

2.11 Prior Rules.

The Personnel Rules and Regulations in effect prior to July 8, 1989, and all amendments thereto are hereby superseded.

2.12 Compliance.

All persons operating under the provisions of these Rules shall conform to, comply with, and aid in all proper ways in carrying out the provisions of these Rules.

2.20 Purpose.

These Rules are prescribed for the purpose of implementing the Santa Fe City Code 1987 provisions to assure the continuance of the merit system and to provide a modern personnel system, thereby promoting efficiency in the conduct of public business and assuring fair and impartial treatment for all applicants for employment and all employed by the City.

2.30 Coverage.

The Personnel Ordinance and Rules and Regulations cover all employees except:

1. officials elected by popular vote or appointed to fill vacancies in elective offices;
2. members of City boards and committees appointed by the Mayor;
3. the City Manager, director of departments, and employees designated as exempt by the City Manager and approved by the governing body;
4. those in the judicial branch of government;
5. those on Professional Services contract; and those whose employment is of temporary or emergency status.

2.40 Duties of the City Manager.

In accordance with the provisions of Section 2-3-1, 1904, SFCC 1987, the City Manager shall be responsible for the administration of the City personnel system.

2.50 Duties of the Director.

The Director shall administer all personnel activities regarding the Rules and Regulations.

2.60 Merit Principles.

The City of Santa Fe shall govern in all personnel practices and adopts the following merit standards:

during the two (2) years preceding the official act of more than one thousand dollars (\$1,000.) in the aggregate for councilor position and of more than two thousand five hundred dollars (\$2,500.) in the aggregate for mayor position.

Employer, in the case of a person who is employed by a governmental entity other than the city, means the governmental department for which the person works.

Family of an individual means members of the individual's household, his or her children, step-children, brothers, sisters, parents, step-parents, domestic partner and all persons claimed as dependents on the individual's latest federal income tax return.

Financial benefit means any money, service, license, permit, contract, loan, travel, entertainment, gratuity or any other thing of monetary value or any promise of any of these.

Governing body means the mayor and the city council.

Governmental body means the governing body and any board, commission or committee appointed by the governing body or by the mayor with the advice and consent of the governing body.

Household of an individual means all persons whose primary residence is in the individual's home, including non-relatives, who are not rent-payers or employees.

Official act means an official decision, vote including, but not limited to items on a consent calendar, recommendation, approval, disapproval or other action which involves the use of discretionary authority.

Owner of a business means each of the business's proprietors, partners or holders of more than two percent (2%) of its outstanding stock.

Public employee means any exempt, classified, probationary, temporary, term or part-time employee of the city of Santa Fe except the municipal judge, the city manager, the city clerk, the city attorney and the members of the governing body.

Public official means the city manager, the city attorney, the city clerk and any member of a governmental body, including the governing body.

Subordinate of a public official or public employee means a public employee over whose work for the city the public official or public employee has direction, supervision or control. All public officials and public employees except other members of the governing body are deemed to be subordinates of each member of the governing body.

(Ord. #2005-14, §5; Ord. #2011-8, §2)

1-7.6 Public Officials and Public Employees; Disclosure.

A. Each public official and public employee shall be given a copy of the Code of Ethics upon election, appointment or employment and shall sign a statement to the effect that the public official or public employee has received the Code of Ethics and understands that the public official or public

employee shall abide by its terms and conditions. The city attorney's office shall conduct an annual review of the Code of Ethics for all public employees.

B. Upon election, appointment, or employment, public officials and department heads shall disclose in writing to the city clerk the information listed below. This information shall be updated every July and shall be available to the public at all times.

- (1) Name;
- (2) Address and telephone number;
- (3) Employer, if other than the city;
- (4) Professional, occupational or business licenses;
- (5) Membership on board of directors of corporations, public or private associations or organizations; and
- (6) Businesses of which he or she is an owner.

C. The information on the disclosures shall be made available by the city clerk for inspection, upon request. In addition, the city clerk shall forward a copy of the disclosure statement for those public employees required to make disclosures to the personnel office for inclusion in the public employee's personnel file. The ethics and campaign review board shall be given copies of the disclosures for its review.

(Ord. #2005-14, §6; Ord. No. 2011-8, §3)

1-7.7 Improper Gifts; Improper Transactions; Representation of Private Interests; Conflicts of Interest; and Other Prohibitions.

A. *Improper Gifts to Public Officials and Employees.* A public official or public employee shall not request or receive, directly or indirectly, a gift or other financial benefit, including, but not limited to, travel and accommodations, from any person or entity which, to the knowledge of the public official or public employee, has any prospect of direct or indirect pecuniary gain or loss from any official act to be performed by the public official or public employee, other than a gain or loss shared with a substantial segment of the general public. If a public official or public employee has received a gift or other financial benefit from a person or entity within the last calendar year and then discovers that this person or entity has any prospect of direct or indirect pecuniary gain or loss from any official act to be performed by the public official or public employee, that public official or public employee shall return the gift or shall be deemed to have a conflict of interest and shall deal with that conflict under the provisions of subsection 1-7.7 L. SFCC 1987. However, nothing in this paragraph A. shall be deemed to prohibit any of the following:

- (1) An occasional meal or nonpecuniary gift with a fair market value not to exceed fifty dollars (\$50.00) valued in a manner consistent with Internal Revenue Service (IRS) rules.
 - (a) If relevant to the performance of his or her official duties, members of the



CITY OF SANTA FE ADMINISTRATIVE MANUAL

Originating Business Unit:

Risk Management/Safety Division

Authorization & Operation of City-Owned and Leased Motor Vehicles Policy	Policy Number 62103-7-3	# Pages 14
	Effective Date 06-21-1995	Revision Date 08-3-2011

1.0 PURPOSE:

- 1.1 To have a comprehensive set of rules and guidelines for city employees in the daily performance of job duties which require the use of a vehicle. The use of vehicles may be further addressed by department policies and standard operating procedures. Enforcement of the City of Santa Fe vehicle policy shall be the responsibility of each department.

2.0 APPLICABLE TO:

- 2.1 All operators of city-owned, leased or rented motorized fleet vehicles and/or equipment or employees who use their own vehicles in the performance of their duties.

3.0 REFERENCES:

- 3.1 IRS Regulations for Take-Home Vehicles (Available in Payroll Office)
3.2 City of Santa Fe Per Diem and Mileage Policy
3.3 City of Santa Fe CDL Drug & Alcohol Policy
3.4 Internal Department or Division Vehicle Policies

4.0 DEFINITIONS:

- 4.1 **Driving on City Business:** The use of a motor vehicle to carry out an employee's duties. Driving on City business includes driving a vehicle owned, leased, rented or otherwise controlled by the City, as well as the use of a personal vehicle on City business.
- 4.2 **On-Call:** An assigned time period, outside of an employee's normal work day, where the employee is not required to remain on City premises but must be available to respond and/or report to work when called. Employees that are in on-call status must leave City management a method as to where they may be reached at all times.
- 4.3 **On-Call Vehicle:** A City vehicle, taken home by employees working on on-call status, to respond to public or health & safety emergencies outside the employee's normal work day.

- 4.4 **Proper Class Driver's License:** New Mexico driver's license of the class required for the vehicle being driven. New employees with a valid out-of-state driver's license shall obtain the proper class New Mexico driver's license within 30 days of their date of hire. Persons being hired into a CDL (commercial driver's license) position are required to have the proper New Mexico CDL license in accordance with the job requirement, as a post-offer condition of employment with the City of Santa Fe. The license must be current and valid and have all endorsements required by the type of equipment, the class of vehicle being driven and the load being carried. The license may not have any restrictions that would preclude driving on City business. The appropriate Commercial Driver's License (CDL) is required when driving any CDL vehicle on City business.
- 4.5 **Take Home Vehicle:** An authorized City vehicle taken home daily by an employee to commute from the employee's home to work.
- 4.6 **Commuting:** Use of a City vehicle for travel between an employee's home and main or regular place of work. It does not matter how far the commute is, if work is done during the commute, or if the employee carries work tools or equipment in the vehicle. Commuting between an employee's residence and regular place of business is considered personal use of a City vehicle. Similarly, if an employee regularly works at different locations, commuting between home and the various worksites is still considered a taxable fringe benefit.
- 4.7 **Driving Position:** A job that requires driving a vehicle on City business regularly or occasionally as part of the range of duties. This includes elected officials as well as classified, term, exempt, or volunteer positions requiring driving vehicles on City business. Non-employees, including former employees who are on contract with the City, are not allowed to drive City vehicles.
- 4.8 **Qualified Non Personal-Use Vehicles:** The IRS allows for certain vehicles to be exempted from fringe benefit compensation consideration. That is, their use is deemed to be exclusively for City business purposes. The following types of "Qualified Non Personal-Use" vehicles represent vehicles from a portion of the IRS list that may currently be in use by the City:
- 4.8.1 **Clearly marked police and fire vehicles –** A police or fire vehicle is a vehicle, owned or leased by the City, that is required to be used for commuting by a police officer or fire fighter who, when not on a regular shift, is on call at all times.
 - 4.8.2 **Unmarked vehicles used by law enforcement officers –** Use must be officially authorized, the vehicle must be owned or leased by the City, and the law enforcement officers must be full time employees of the City.
 - 4.8.3 **Large cargo capacity vehicle –** any vehicle designed to carry cargo with a loaded gross vehicle weight over 14,000 pounds.
 - 4.8.4 **Qualified special utility repair trucks –** defined as any truck (not including a van or pickup truck) specifically designed and used to carry heavy tools, testing equipment or parts if:

- a. The shelves, racks or other permanent interior construction that has been installed to carry and store such heavy items is such that it is unlikely that the truck will be used for anything other than City business, and
 - b. The City requires the employee to drive the truck home in order to be able to respond in emergency situations for purposes of restoring or maintaining City services.
- 4.8.5 Pickup truck – Loaded gross vehicle weight not over 14,000 pounds is a qualified non-personal use vehicle if the vehicle is clearly marked and is equipped with at least one of the following: a hydraulic lift gate, permanently installed tanks or drums, permanently installed side boards or panels materially raising the level of the sides of the bed of the pickup truck, or other heavy equipment, such as an electric generator, welder, boom, or crane used to tow automobiles and other vehicles.
- 4.8.6 Van – With a loaded gross vehicle weight not over 14,000 pounds is a qualified non-personal use vehicle if it is clearly marked with permanently affixed decals or with special painting or other marking associated with the City of Santa Fe. Additionally, it has a seat only for the driver or the driver and one other person, and either permanent shelving has been installed that fills most of the cargo area or the cargo area is open and the van constantly (during both working and nonworking hours) carries merchandise, material, or equipment used in the employer's trade, business, or function.
- 4.9 Personal Use: Any use of a City vehicle for non-business related purposes. Commuting is a good example of what IRS terms "personal use" of an employer provided vehicle.
- 4.10 Temporary Place of Business: According to the IRS, any location where an employee "performs services on an irregular or short-term (i.e. generally a matter of days or week) basis."
- 4.11 Work Place: The place that is noted in the City's Human Resources and payroll records as the place where an employee regularly performs his or her normal office functions or reports for duty at the beginning of a shift.

5.0 POLICY:

- 5.1 All City vehicles are leased or owned and provided to employees to enable the provision of essential services to the citizens of Santa Fe.
- 5.2 Assignment of a specific City vehicle is neither a privilege nor a right of any City employee and shall be based on service delivery requirements.
- 5.3 Employees may not use City vehicles for personal use, other than commuting and qualified non personal-use.
- 5.4 All assigned City vehicles, other than authorized take-home vehicles, shall be picked up and dropped off at designated City parking areas.

- 5.5 Take-home City vehicle assignments must be reviewed and approved based on established and documented performance measures clearly indicating the public benefits derived from any authorized take-home assignment as illustrated in Section 8.

6.0 CONDITIONS FOR GENERAL USE:

- 6.1 **Appropriate License and Training** – All operators of City vehicles shall have a valid driver's license appropriate to the type of vehicle being driven. In the event employees have their State of New Mexico driver's license revoked or suspended, they shall not operate a City-owned vehicle. If an employee with a valid driver's license is required to use an ignition interlock device, that employee will not be allowed to operate a City-owned vehicle. Employees under eighteen (18) years of age are not allowed to operate a City-owned vehicle. Employees shall immediately report every revocation or suspension of their driver's license, or a requirement to use an interlock device, to their supervisor. Any employee driving a City-owned vehicle who does not have a valid New Mexico driver's license will be subject to disciplinary action up to and including termination of the employee.
- 6.2 **Authorized Passengers – Carrying of Passengers Prohibited** – No driver of City equipment shall carry passengers in or on any such vehicles, with these exceptions:
- 6.2.1 Other persons engaged in or advising on matters relating to City services or improvements or City sanctioned events.
- 6.2.2 Other City employees to and from work when those other employees reside in the same general area and work in the same general location as the driver of a City vehicle who has been authorized to have a take-home vehicle. It is important to note that both the driver and the passenger, in this case, must have an authorized take home vehicle form on file and submit commuting documentation as required. Both will be taxed accordingly.
- 6.2.3 Other persons who are being transported as part of an approved City program, *i.e.* citizen volunteers, program participants, City business clients/partners, persons arrested, etc.
- 6.3 **Business/Non-business Uses/Personal Emergency Use** –
- 6.3.1 City-owned vehicles are to be used only for City business or City sanctioned events.
- a. Assigned City vehicles are not permitted to be used for private purposes. Running personal errands, stops at the credit union or banks or any other personal business is prohibited at any time other than authorized break, lunch periods or a quick stop on the way to and from work. Any employee violating these regulations will be subject to disciplinary action.
- 6.3.2 **Use of City-owned vehicles on out of state trips** – City vehicles shall not be driven out-of-state without specific authorization of the City Manager, except as noted below. The City Manager, or Public Safety designee, may authorize trips by Police or Fire personnel when such trips would be to the economic or

operation benefit of the City. Signature approval to use a City vehicle for an out-of-state trip must be obtained on the Authorization for Travel form.

6.3.3 Driving City-owned vehicles home during regular work hours prohibited. City employees are prohibited from driving City-owned pool or assigned motor vehicles to their homes during regular work hours with these exceptions:

- a. On approval of supervisor, and if they reside within the City limits, an employee may drive an assigned vehicle home for authorized break or lunch periods.
- b. An employee may drive an assigned vehicle home during his or her regular work hours in an emergency situation, providing the employee has properly informed his or her immediate supervisor of the emergency and received permission to drive a City vehicle home.

6.4 Unauthorized Uses:

- 6.4.1 Any use for personal purposes, other than commuting, qualified nonpersonal-use, or as specified in this policy.
- 6.4.2 Travel or tasks that are beyond the vehicle's rated capability.
- 6.4.3 Transport of hitchhikers.
- 6.4.4 Transport of cargo that has no relation to the performance of official City business.
- 6.4.5 Transport of acids, explosives, weapons, or ammunition (with the exception of Police).
- 6.4.6 Operation of a vehicle under the influence of drugs or alcohol or prescription medication that may impair one's driving ability.
- 6.4.7 Transport of highly flammable material.
- 6.4.8 Transport of any item or equipment projecting from the side, front or rear of the vehicle in a way that constitutes an obstruction to safe driving or a hazard to pedestrians or to other vehicles.
- 6.4.9 When employees are on official City business themselves, transport of other employees to restaurants, cafes, drugstores or to other places that are not in the service of City business.
- 6.4.10 Attending sporting events that are not in the service of City business.
- 6.4.11 Extending the length, possession, and time beyond that which is required to complete the official purpose of the trip.

- 6.4.12 When the assigned employee is on vacation or in training for at least four consecutive days, the vehicle will be parked on City premises in designated parking.
- 6.4.13 Transport of alcoholic beverages or controlled substances of any kind.
- 6.5 State and Local Traffic Laws – All drivers and passengers of a City vehicle must comply with all applicable state and local traffic laws, including but not limited to:
 - 6.5.1 The driver and all authorized passengers shall wear seat belts as required by New Mexico Uniform Traffic Code.
 - 6.5.2 The driver shall possess a valid New Mexico driver's license.
 - 6.5.3 The driver and all passengers shall comply with all state and local traffic laws; the driver shall be personally liable for any criminal or civil penalty incurred.
 - 6.5.4 The driver shall comply with all applicable state and local parking laws. In the event of a violation of such laws, the driver shall be personally liable for any criminal or civil citation penalty issued (including parking violations). All drivers shall notify his or her supervisor of any citations as soon after receipt as possible. All drivers shall provide his or her supervisor proof that such citations have been paid or adjudicated within ten working days of receipt or is in process through the appropriate court system.
 - 6.5.5 Cell phone usage must be limited to a hands free device while the vehicle is in operation, unless specific division policies prohibit cell phone use.
- 6.6 Safe Operations and Use of Equipment
 - 6.6.1 Safety Equipment – All City owned vehicles shall be equipped with proper safety equipment (i.e. first aid kit, fire extinguisher). Larger vehicles shall be equipped with safety triangles to be used in the event of a breakdown. It is the responsibility of the employee to ensure that the necessary safety equipment is in working order, and that they have received the necessary training for their proper use. Procurement of safety equipment is the responsibility of the division. Defensive Driving and First Aid training is provided through the Risk Management/Safety Division.
 - 6.6.2 Safe Operation – The driver shall check the City vehicle before operating to ensure that the vehicle lights, turn signals, brake lights and other safety equipment is functional on the vehicle. If the driver finds any of this equipment is not functioning properly the driver shall report malfunctions to his or her supervisor or to Fleet Management section immediately in order to arrange for repairs.
 - 6.6.3 Maximum Speed – No City-owned vehicle, except Police or Fire responding to emergency or authorized duty calls, shall be driven at a speed in excess of the speed limits established in State Statutes or City Ordinances.
 - 6.6.4 Smoking is prohibited within a City vehicle.

6.6.5 Unattended vehicles are not to be left idling.

6.7 Storage and Parking – Parking of Vehicles – City-owned vehicles shall be parked, when not actually in use, in the City parking lot designated by the division for that vehicle.

6.7.1 Employees are specifically prohibited from parking a City vehicle in other than its approved location.

6.7.2 No vehicle shall be kept at the home of the employee overnight unless the employee has received the appropriate authorization.

7.0 GLOBAL POSITIONING SATELLITE SYSTEM (GPS)

7.1 City units may be equipped with a GPS monitoring device to assist crews in operating efficiently; allow the City to respond more rapidly to customer requests and emergency situations; and provide data to resolve complaints and allegations. Specifically, the systems may be utilized for the following:

7.1.1 Routing optimization: GPS may be used to optimize fixed routes or to provide the most efficient route for dispatching crews to multiple sites during the day. The GPS may be linked to the Geographical Information System (GIS) to facilitate route optimization.

7.1.2 Task duration recording: In order to understand the effort level required to complete tasks, the GPS may record the duration and location of work performed. The GPS may alert supervisors when vehicles or equipment are outside of the specified work area or a task is taking longer than expected.

7.1.3 Fuel, mileage and periodic maintenance tracking: GPS may be used to track fuel usage, mileage and periodic maintenance records. These records may be used to ensure equipment is operating properly; routine maintenance is completed on schedule; and for budget purposes.

7.1.4 Locating equipment and closest unit dispatch : Location information can be used to rapidly and efficiently re-assign resources to new priority work that arises after work orders are distributed.

7.1.5 Emergency operations: in the event of an emergency, management and supervisors may immediately re-route and reassign resources efficiently to emergency sites.

7.1.6 Distress notification: The GPS has a “panic button” which may be used to immediately alert supervisors and emergency personnel of an employee and vehicle location during an emergency.

7.1.7 Complaint and allegation verification: the GPS can be used to address claims made against the City about damage, speeding, accidents, or other incidents. The GPS can record direction, time, speed and other information that may assist in obtaining factual information pertaining to claims or accidents.

7.1.8 Navigational aid: the GPS may be used by operators to locate destination addresses and receive routing options including alternative routing to avoid traffic or road closures. Fixed routes or work order addresses may be downloaded into the GPS to provide navigational direction to field workers.

7.2 As with all City equipment, employees are responsible for safeguarding the GPS attached to City units entrusted to them. Tampering, misusing, or disabling GPS equipment will be subject to disciplinary action up to and including termination.

8.0 ACCIDENT REPORTING:

8.1 General Rules In the Event of an Accident:

8.1.1 Do not move the injured unless there is clear and imminent danger of further injury.

8.1.2 Do not disturb the accident scene or move any vehicles unless there is clear and imminent danger or instructed to do so by a legitimate authority, i.e. Police or Fire Department.

8.1.3 All accidents, no matter how minor, shall be reported to the supervisor immediately. If the immediate supervisor is not available, contact the next level supervisor available. If after hours and no such supervisor can be contacted, immediately contact the appropriate supervisor the next day.

8.1.4 The Supervisor's Accident Report shall be filled out and forwarded to the Risk Management/Safety Division as soon as all signatures have been obtained.

8.2 Personal Injury:

8.2.1 If there is any bodily injury, the employee and the supervisor shall jointly complete the following forms:

- a. Employer's First Report of Injury or Illness, commonly referred to as the "E-I"
- b. Supervisor's Accident Investigation Report
- c. Notice of Accident
- d. Authority to Release Medical Reports and Information

8.3 Motor Vehicle Accident/Collision:

8.3.1 Notify the police and immediate supervisor. If supervisor is not available, contact the division Safety representative.

8.3.2 Relate complete and true account of the accident to the investigating officers.

8.3.3 Do not discuss liability.

- 8.3.4 Do not move the vehicle unless there is a clear and imminent danger or instructed to do so by a legitimate authority (i.e. police).
- 8.3.5 Do not accept assistance from non-City employees in moving a City unit (i.e. towing) unless authorized by a supervisor.
- 8.3.6 Complete the appropriate forms (as noted above) with your immediate supervisor.

9.0 CITY-OWNED VEHICLES – ASSIGNED TAKE-HOME

The purpose of this section is to ensure the proper use of public funds with regards to any authorization granted allowing employees to commute to and from work in City-owned vehicles.

- 9.1 Authorization – Supervisors are responsible to request assignment of take-home vehicles for designated employees and/or programs by submitting a completed Vehicle Authorization Form to the Office of Risk Management/Safety for recommendation to the City Manager. Take-home vehicle authorizations are not transferable and must be renewed annually and/or when the employee has a change in position status. The Authorization Form should include the following:
 - 9.1.2 The category of assignment, i.e. long-term, on-call, etc.
 - 9.1.3 Explanation of vehicle usage and nature of any personal use authorized, i.e. commuting, qualified nonpersonal-use, etc.
 - 9.1.4 Narrative describing how the specific work assignment meets the policies and criteria for a take-home vehicle program.
 - 9.1.5 Additional data demonstrating the actual number and nature of emergency responses, if emergency responses are being used as justification. Also include an explanation as to why alternative forms of transportation cannot be used to respond to the emergencies or why City-owned assigned vehicles cannot be picked up at designated parking area.
 - 9.1.6 Calculation of savings to the City, if economic justification is used.
 - 9.1.7 Explanation of special vehicle characteristics required to fulfill the work assignment's business purpose, i.e. van, pickup, large capacity, special equipment, etc.
 - 9.1.8 Approval by the requesting Department Director.
 - 9.1.9 Concurrence by the Risk Management/Safety Manager.
 - 9.1.10 Completed Authorization Forms will be routed to the City Manager for final approval, with a copy to the Payroll Supervisor.
- 9.2 Categories of Assignment:

- 9.2.1 Long Term Assignment – The authorization of assigned take-home vehicles may be granted for a period of not more than twelve months, unless re-assignment is approved. Emergency response assignments should be supported by data demonstrating the actual number and nature of emergency responses in the prior year and estimates of future emergency responses. In addition, there must be an explanation as to why an employee cannot use alternative forms of transportation to respond to the emergencies or pick up City-owned assigned vehicles at the designated parking area.
- 9.2.2 Requirement to Respond – “On-Call” – Employees must be on call when taking a City-owned vehicle home and must have primary responsibility to respond to calls. Employees shall leave word as to where they may be reached at any given time and be available to willingly respond to and/or report to work when called.
- 9.2.3 Condition of Employment – Take-home vehicle assignment is permitted whenever an employee’s employment agreement provides for a take-home vehicle, subject to approval by the City Manager.
- 9.2.4 Special Public Safety Programs – Employees who are assigned to public safety programs may be allowed an assigned take-home vehicle, provided it is a fully marked vehicle used for the special public safety programs.
- 9.2.5 Rotating Assignment – Vehicles may be assigned as take-home to a specific division, without being assigned to a specific employee when several division employees share the on-call responsibility. It is the responsibility of the division to track the take-home vehicle assignments. On-call vehicles assigned by the division must meet the following conditions:
- a. Division employees share the requirement to respond “on-call” on a rotating basis.
 - b. The assigned take-home vehicle is appropriately marked and/or equipped to facilitate response (i.e. lights, sirens, specialized equipment).
 - c. The employees participating in the rotating assignment must reside within reasonable distance of anticipated response location. Reasonable distance is defined as: the employee’s home address is within 10 miles of the City of Santa Fe boundaries. Special exceptions may be made with consent by the City Manager.
- 9.2.6 Occasional Overnight Usage – Occasional take-home use of City-owned vehicles is permitted. Such occasional usage of City vehicles may occur when an employee attends a meeting away from the employee’s normal place of work and outside an employee’s normally scheduled workday.
- 9.3 Storage/Parking/Safekeeping of Vehicle and Equipment – Each employee authorized to drive a City-owned vehicle to his or her home overnight is required to provide off-street parking for the vehicle wherever possible while it is parked at his or her home. Failure to do so may result in loss of take home privileges.

9.4 Fringe Benefit/Non-Cash Compensation Value and Taxation – Per IRS regulations, a City-provided take-home vehicle is considered a fringe benefit under federal employment tax laws, and the imputed value of personal use must be included in the employee's gross pay. The value of the personal use is taxable for income and Social Security purposes unless specifically exempted by IRS code. The value of the personal use will be determined by the Finance Department. An employee's use of a City vehicle for commuting to and from work is considered personal use and must be treated as taxable fringe benefit for federal tax purposes. Each employee shall submit documentation as specified in the record-keeping and reporting section of this regulation. After receiving the proper documentation, the City will estimate the value of the personal use and report it as employee compensation. This value will be added to the employee's taxable income on the year end W-2 Wage and Tax Statement and will be subject to applicable Social Security contributions and Federal and State withholding taxes. These regulations do not apply to vehicles that are considered to be qualified nonpersonal-use vehicles.

10.0 RECORD KEEPING AND REPORTING REQUIREMENTS:

10.1 Employee/Department Management – Department Directors must submit Take-Home Authorization forms for all requested assignments for approval. Take-home vehicle authorizations are not transferable and must be re-justified annually. Any work assignment changes that increase or decrease the number of vehicles approved for each program effectively invalidates previously authorized take-home vehicle authority – supervisors must notify Payroll when the total net count of take-home vehicles in their unit changes and must re-justify the take-home authorization using a new form.

11.0 REVIEW PROCEDURES/RESPONSIBILITIES:

11.1 **City Manager:** The City Manager shall:

11.1.1 Annually review and approve a list of take-home vehicle assignments by department/work unit as recommended by Office of Risk Management/Safety.

11.2 **Office of Risk Management/Safety:** The Risk Management/Safety Division shall:

11.2.1 Review the driving record for each employee in a driving position at least once per year. The employee's driving record must be checked before an employee is promoted, transferred, placed, etc. into a driving position.

11.2.2 Receive, re-evaluate and forward all take home vehicle assignments and in the first week of January each year transmit a list of all take-home vehicle assignments by department and division to the City Manager's Office and Finance Department – Payroll Division.

11.2.3 Evaluate all initial take-home vehicle assignment requests from departments on an as needed basis.

11.2.4 Forward suspension and serious traffic violation documentation to the employee's supervisor.

11.3 **Department Directors:** Department Director or his/her designee shall:

- 11.3.1 Identify all employees who drive on City business and maintain a list of driving positions whether using a City vehicle or their own personal vehicle.
- 11.3.2 Ensure that requests for take-home assignments are consistent with the policies and criteria governing take-home vehicles.
- 11.3.3 Recommend requests for take-home vehicles, after obtaining concurrence from the Office of Risk Management/Safety, and ensure that assignments meet the policies and criteria governing take-home vehicles. Submit completed requests to City Manager.
- 11.3.4 Ensure that all staff newly approved for a take-home vehicle, receive a copy of this policy and a copy of the policies, procedures, and criteria governing take-home vehicle assignments within 30 days of assignment. Employees must be notified regarding the possible tax consequences of being assigned a take home vehicle within 30 days of assignment.
- 11.3.5 Monitor the assignments of all take-home vehicles in their respective departments.
- 11.3.6 Identify designated parking areas for employees to park their assigned cars, with input from the Parking Division for downtown work sites.
- 11.3.7 Ensure wherever possible that assigned vehicles are picked up and dropped off at designated City parking areas.
- 11.3.8 Approve requests for occasional overnight take-home vehicles when usage is no more than once a week on average.

11.4 Supervisors: Supervisors shall:

- 11.4.1 Allow only those employees who maintain the appropriate driver's license as well as the City driving permit to drive a motor vehicle on City business. Employees must submit a photocopy of their current driver's license.
- 11.4.2 Immediately remove from a driving position any employee or contracted worker whose license is cancelled, expired, refused, revoked, suspended or restricted in a manner, which affects the employee's ability to drive on City business.
- 11.4.3 Periodically check with each employee in a driver's position to verify that an appropriate license is in the employee's possession.
- 11.4.4 Prohibit any employee without an appropriate driver's license in his/her possession from driving on City business.
- 11.4.5 Notify the Office of Risk Management/Safety when work assignments change the approved take-home vehicle count in their department and re-justify the take-home authorization using a new form.
- 11.4.6 Advise Payroll of any change of status regarding a take-home vehicle.

11.4.7 Submit proof of final resolution of employee traffic violations to the Office of Risk Management/Safety after appropriate court proceeding.

11.5 Employees: Employee shall:

11.5.1 Ensure that the privilege to drive is maintained.

11.5.2 Maintain in his/her possession the appropriate driver's license and City driving permit at all times while driving on City business.

11.5.3 Maintain vehicle liability insurance in accordance with New Mexico statutes.

11.5.4 While driving on City business, comply with all license restrictions issued by MVD.

11.5.5 Immediately notify his/her supervisor of:

a. A change in status of his/her driver's license

b. An arrest for a violation of any part of the New Mexico Uniform Traffic Code concerning driving under the influence of drugs or alcohol. No employee will drive on City business after consuming alcoholic beverages of any other substance that may impair driving. Any physical or mental impairment affecting the ability to operate a vehicle safely must be reported immediately to the supervisor.

c. Any traffic violation issued while in operation of a City-owned vehicle. The notification must be made immediately, and no later than before the start of the employee's next scheduled work shift.

11.5.6 Refrain from driving on City business after there has been a change in status of his/her driver's license, even if the cancellation, expiration, refusal, revocation, suspension or restriction has ended, unless the license has been reinstated. Proof of reinstatement must be provided to the supervisor before driving on City business.

11.5.7 Be aware of, understand, and comply with federal, state and local laws and the City policies applying to the operation of vehicles on City business.

11.5.8 Resolve violation, or be in the process of working with the Court, within 10 working days and provide proof to supervisor.

11.5.9 Pay all traffic fines and appear for a court date, when necessary. Failure to do so may result in a license suspension. A driver's license suspension is cause for loss of driving privileges.

11.5.10 Countersign a Request for Assignment of Take-Home Vehicle Form.

11.6 Human Resources: The Human Resources Department shall:

11.6.1 Secure the valid driving records from the New Mexico Motor Vehicle Division (MVD) for individuals recommended for employment for exempt, classified, or term driving positions as a post-offer condition of employment.

11.7 Finance/Payroll: Payroll shall:

11.7.1 In order for Payroll to process the information necessary to compute the vehicle fringe benefit for employees by the established IRS deadline, the reporting time period for each calendar year is January 1st through December 31st.

11.7.2 For employees that do not drive a qualified nonpersonal-use vehicle, add the value of the commuting use of applicable City take-home vehicles to the employee taxable wage. Calculate the value of the use by using the *IRS Fringe Benefit Valuation Rules*.

11.7.3 Update procedures, forms and processes each year according to IRS tax law changes.

12.0 RENTED VEHICLES

12.1 Risk Management Review – The acquisition of all City leased or borrowed vehicles is the responsibility of the leasing division. Prior to the agreement of any vehicles/equipment rental, a request for the necessary insurance must be submitted to the Office of Risk Management/Safety with the vehicle information and the period of leasing.

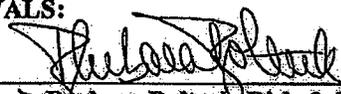
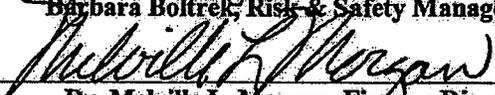
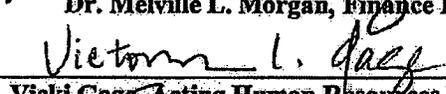
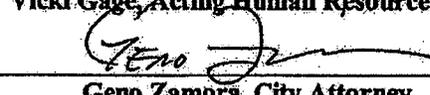
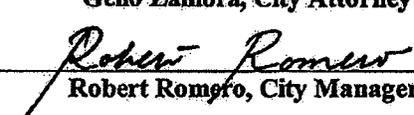
13.0 DEPARTMENT AND DIVISION VEHICLE POLICIES

13.1 Departments and divisions may have separate vehicle policies in place, which are in addition to, and shall not supersede this policy. Some policies may also be addressed in collective bargaining agreements, or in federal grant and state regulations.

14.0 APPENDIX:

14.1 Take home vehicle authorization form

15.0 REVIEW AND APPROVALS:

15.1	PREPARED BY:		9.21.11
		Barbara Boltrek, Risk & Safety Manager	DATE
15.2	REVIEWED BY:		9.22.11
		Dr. Melville L. Morgan, Finance Director	DATE
15.3	REVIEWED BY:		9.22.11
		Vicki Gage, Acting Human Resources Director	DATE
15.4	REVIEWED BY:		9/27/11
		Geno Zamora, City Attorney	DATE
15.5	APPROVED BY:		9-28-11
		Robert Romero, City Manager	DATE

1 CITY OF SANTA FE, NEW MEXICO

2 BILL NO. 2014-11

3 INTRODUCED BY:

4 Councilor Rebecca Wurzbarger

5 Councilor Carmichael Dominguez

6
7
8
9
10 AN ORDINANCE

11 RELATING TO THE CODE OF ETHICS, SECTION 1-7 SFCC 1987; AMENDING THE
12 CODE OF ETHICS TO ESTABLISH THAT WORKPLACE BULLYING BY
13 GOVERNING BODY MEMBERS WOULD BE A PROHIBITED ACT AND SUBJECT
14 TO A VIOLATION OF THE CODE OF ETHICS.

15
16 BE IT ORDAINED BY THE GOVRNING BODY OF THE CITY OF SANTA FE:

17 Section 1. Subsection 1-7.7 SFCC 1987 (being Ord. #2005-14, §7, as amended)

18 is amended to read:

19 1-7.7 Improper Gifts; Improper Transactions; Representation of Private
20 Interests; Conflicts of Interest; and Other Prohibitions.

21 A. *Improper Gifts to Public Officials and Employees.* A public official or public
22 employee shall not request or receive, directly or indirectly, a gift or other financial benefit, including,
23 but not limited to, travel and accommodations, from any person or entity which, to the knowledge of
24 the public official or public employee, has any prospect of direct or indirect pecuniary gain or loss
25 from any official act to be performed by the public official or public employee, other than a gain or

1 loss shared with a substantial segment of the general public. If a public official or public employee
2 has received a gift or other financial benefit from a person or entity within the last calendar year and
3 then discovers that this person or entity has any prospect of direct or indirect pecuniary gain or loss
4 from any official act to be performed by the public official or public employee, that public official or
5 public employee shall return the gift or shall be deemed to have a conflict of interest and shall deal
6 with that conflict under the provisions of subsection 1-7.7 L. SFCC 1987. However, nothing in this
7 paragraph A. shall be deemed to prohibit any of the following:

8 (1) An occasional meal or nonpecuniary gift with a fair market value not to
9 exceed fifty dollars (\$50.00) valued in a manner consistent with Internal Revenue Service
10 (IRS) rules.

11 (a) If relevant to the performance of his or her official duties, members
12 of the governing body, the city manager, the city attorney, or the city clerk may
13 receive an occasional non-pecuniary gift not to exceed two hundred fifty dollars
14 (\$250.); however, such person shall report the gift, its value and the provider to the
15 city clerk's office within ten (10) days of receipt of the gift, and such gift report shall
16 be immediately posted by the city clerk, on the city's website.

17 (b) If relevant to the performance of his or her official duties, a public
18 employee may receive an occasional non-pecuniary gift not to exceed two hundred
19 fifty dollars (\$250.); however, such person shall report the gift, its value and the
20 provider to the city manager and the public employee shall obtain the manager's
21 approval prior to receiving the gift, and if approved, such gift report shall be
22 immediately posted by the city clerk, on the city's website;

23 (2) An award, publicly presented in recognition of public service, having a fair
24 market value not to exceed fifty dollars (\$50.00) valued in a manner consistent with IRS rules
25 except for employee of the month recognition or non-profit or civic recognition of a public

1 employee that does not otherwise violate the Code of Ethics;

2 (3) A campaign contribution that is properly received and reported in the manner
3 required by Section 9-2 SFCC 1987;

4 (4) A commercially reasonable loan made in the ordinary course of business by
5 an institution authorized by the laws of the state to engage in the business of making loans; or

6 (5) Compensation for services rendered or capital invested or payment for a sale
7 of property which is normal and reasonable in amount, commensurate with the value of the
8 property sold or services rendered or the magnitude of the risk undertaken on the investment,
9 and in no way increased or enhanced by reason of the recipient's position as a public official
10 or public employee.

11 B. *Improper Transactions with the City.* A public official or public employee shall not
12 enter into a contract or transaction with the city of Santa Fe during his or her term of office or
13 employment or for a period of one (1) year following the leaving of public office or public
14 employment when the contract or transaction is a result of an official act by that public official or
15 public employee; provided, however, that nothing in this paragraph B. shall be deemed to prohibit a
16 present or former public official or public employee from seeking or obtaining, on his or her own
17 behalf, a city permit, license or service that is provided by the city on the same terms and conditions
18 to a substantial segment of the general public.

19 C. *Representation of Private Interests.*

20 (1) A governing body member, the city manager, the city attorney and the city
21 clerk shall not, during his or her term of office or within one (1) year after the termination
22 thereof, accept monetary compensation from a third party for consulting with, representing or
23 advising that party regarding any transaction with the city or matter before the city.

24 (2) A public employee shall not, during his or her term of employment or within
25 one (1) year after the termination thereof, accept monetary compensation from a third party

1 for consulting with, representing or advising that party regarding any transaction with the city
2 department that the public employee is or was employed by or any matter before such city
3 department in which the public employee has had or reasonably should expect to have any
4 influence or personal involvement in his or her capacity as a city employee.

5 (3) A governmental body member, excluding members of the governing body,
6 shall not, during his or her term of office or within one (1) year after the termination thereof,
7 accept monetary compensation from a third party for consulting with, representing or
8 advising that party regarding any transaction with such governmental body or matter before
9 such governmental body in which he or she has had or reasonably should expect to have any
10 influence or personal involvement in his or her capacity as a governmental body member.

11 D. *Misuse of Confidential Information.* A public official or public employee shall not
12 use or disclose confidential information when he or she knows or reasonably should know that the use
13 or disclosure will or may result in a financial gain or the avoidance of a financial loss on the part of
14 any person or entity other than the city.

15 E. *Misuse of City Resources.* A public official or public employee shall not use city
16 services, personnel or equipment for personal benefit, convenience or profit, except when such use is
17 generally available to the public.

18 F. *Nepotism.* A public official or public employee shall not perform any act to obtain the
19 employment or to influence the employment by the city of a member of his or her family. No public
20 official or public employee shall serve as the immediate supervisor of a member of his or her family.

21 G. *Financial Dealings with Subordinates.* A public official or public employee shall not
22 knowingly require, expressly or impliedly, or authorize another person to require that any subordinate
23 of the public official or public employee engage in a non-official financial transaction, including a
24 personal loan or charitable contribution.

25 H. *Improper Political Campaigning.* A public official or public employee shall not

1 knowingly request or authorize another person to request that any subordinate of the public official or
2 public employee make a campaign contribution or provide services to a political campaign, and shall
3 not engage in political campaigning while on duty for the city, or use city funds, supplies, vehicles or
4 facilities to benefit or assist a political campaign.

5 I. *City Employment as a Political Reward.* A public official or public employee shall
6 not promise an appointment or the use of his or her influence to obtain an appointment to any position
7 with the city as a reward for any political activity or contribution.

8 J. *Honoraria.* A public official or public employee shall not request or receive an
9 honorarium for a speech or service rendered in the performance of his or her duties as a public official
10 or public employee. For the purposes of this paragraph J., "honorarium" means payment of money, or
11 any other thing of monetary value, but does not include reasonable reimbursement for meals, lodging
12 or actual travel expenses incurred in making the speech or rendering the service. However, the public
13 official or public employee shall report all such reimbursement to the city clerk within ten (10) days
14 of receipt.

15 K. *Workplace Bullying by Governing Body Members.* A governing body member shall
16 not intentionally bully any public employee, including the city manager, city attorney or city clerk.
17 For purposes of this paragraph, workplace bullying means intentional behavior intended to create an
18 abusive work environment for a public employee or public employees. Bullying behavior is behavior
19 in the workplace that a reasonable person would find hostile, offensive, and not obviously related to
20 the city of Santa Fe's legitimate business interests. Workplace bullying includes, but is not limited to
21 the following:

- 22 (1) Use of disrespectful and devaluing language;
23 (2) Persistent or constant criticism in front of other persons (including co-
24 workers, vendors, contractors or members of the public) for the purpose of humiliating an
25 employee;

1 (3) Behavior or language that frightens, humiliates, belittles or degrades,
2 including criticism that is delivered with yelling and screaming;

3 (4) Threats and intimidation, including threats to discipline or terminate a public
4 employee.

5 [K]L. *Retaliation and Whistleblower Protection.* A public official or public
6 employee shall not be dismissed, threatened with dismissal, or otherwise singled out for retaliation for
7 the reason that the person has filed a complaint of violation of this Code of Ethics or any other
8 violation of a legal prohibition or requirement or has given evidence or participated in an
9 investigation of any such violation. Any act in violation of this paragraph K. shall be deemed a
10 violation of the Code of Ethics. The outcome of the original ethics complaint shall not be deemed
11 relevant to the complaint of retaliation itself.

12 [L]M. *Conflicts of Interest.* The following shall govern conflicts of interest:

13 (1) A public official or public employee who has a conflict of interest as defined
14 in subsection 1-7.5 SFCC 1987 shall immediately disclose the conflict in the following
15 manner:

16 (a) In the case of a member of a governmental body, to the
17 governmental body at a public meeting;

18 (b) In the case of the city manager, the city attorney or the city clerk, to
19 the governing body at a public meeting, and

20 (c) In the case of a public employee, to the city manager.

21 (2) A public official or public employee shall not perform an official act or
22 attempt to influence another person to perform an official act in any matter in which he or she
23 has a conflict of interest.

24 (3) If compliance with paragraph L.(2) above by a public official or public
25 employee would deprive a governmental body of a quorum for taking necessary action or

1 would render the city unable to take necessary action on any matter, and it is deemed an
2 emergency, the public official or public employee shall be excused from such compliance
3 when he or she has made the disclosure required by paragraph L.(1) above.

4 APPROVED AS TO FORM:

5 
6 _____

7 KELLEY A. BRENNAN, INTERIM CITY ATTORNEY

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M/Melissa/Bills 2014/Workplace Bullying (GB)

City of Santa Fe Fiscal Impact Report (FIR)

This Fiscal Impact Report (FIR) shall be completed for each proposed bill or resolution as to its direct impact upon the City's operating budget and is intended for use by any of the standing committees of and the Governing Body of the City of Santa Fe. Bills or resolutions with no fiscal impact still require a completed FIR. Bills or resolutions with a fiscal impact must be reviewed by the Finance Committee. Bills or resolutions without a fiscal impact generally do not require review by the Finance Committee unless the subject of the bill or resolution is financial in nature.

Section A. General Information

(Check) Bill: X Resolution: _____

(A single FIR may be used for related bills and/or resolutions)

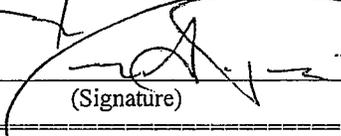
Short Title(s): A BILL RELATING TO THE CODE OF ETHICS, SECTION 1-7 SFCC 1987; AMENDING THE CODE OF ETHICS TO ESTABLISH THAT WORKPLACE BULLYING BY GOVERNING BODY MEMBERS WOULD BE A PROHIBITED ACT AND SUBJECT TO A VIOLATION OF THE CODE OF ETHICS.

Sponsor(s): Councilor Wurzburger

Reviewing Department(s): City Attorney's Office

Persons Completing FIR: Rebecca Seligman Date: 02/03/13 Phone: 955-6501

Reviewed by City Attorney:  Date: 2/3/14
(Signature)

Reviewed by Finance Director:  Date: 2/3/14
(Signature)

Section B. Summary

Briefly explain the purpose and major provisions of the bill/resolution:

The purpose of the bill is to amend the current ordinance to include workplace bullying by Governing Body members of all public employees. Governing Body members will not be allowed to use disrespectful language, use persistent criticism in front of other persons, have behavior or language that frightens, humiliates, belittles or degrades an employee, including yelling and screaming or threaten to discipline or terminate a public employee.

Section C. Fiscal Impact

Note: Financial information on this FIR does not directly translate into a City of Santa Fe budget increase. For a budget increase, the following are required:

- a. The item must be on the agenda at the Finance Committee and City Council as a "Request for Approval of a City of Santa Fe Budget Increase" with a definitive funding source (could be same item and same time as bill/resolution)
- b. Detailed budget information must be attached as to fund, business units, and line item, amounts, and explanations (similar to annual requests for budget)
- c. Detailed personnel forms must be attached as to range, salary, and benefit allocation and signed by Human Resource Department for each new position(s) requested (prorated for period to be employed by fiscal year)*

1. Projected Expenditures:

- a. Indicate Fiscal Year(s) affected – usually current fiscal year and following fiscal year (i.e., FY 03/04 and FY 04/05)
- b. Indicate: "A" if current budget and level of staffing will absorb the costs
"N" if new, additional, or increased budget or staffing will be required
- c. Indicate: "R" – if recurring annual costs
"NR" if one-time, non-recurring costs, such as start-up, contract or equipment costs
- d. Attach additional projection schedules if two years does not adequately project revenue and cost patterns
- e. Costs may be netted or shown as an offset if some cost savings are projected (explain in Section 3 Narrative)

Finance Director: _____

X Check here if no fiscal impact

Column #:	1	2	3	4	5	6	7	8
	Expenditure Classification	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs Recurring or "NR" Non-recurring	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs - Recurring or "NR" Non-recurring	Fund Affected

Personnel*	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Fringe**	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Capital Outlay	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Land/ Building	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Professional Services	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
All Other Operating Costs	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Total:	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____

* Any indication that additional staffing would be required must be reviewed and approved in advance by the City Manager by attached memo before release of FIR to committees. **For fringe benefits contact the Finance Dept.

2. Revenue Sources:

- a. To indicate new revenues and/or
- b. Required for costs for which new expenditure budget is proposed above in item 1.

Column #:	1	2	3	4	5	6
	Type of Revenue	FY _____	"R" Costs Recurring or "NR" Non-recurring	FY _____	"R" Costs - Recurring or "NR" Non-recurring	Fund Affected

_____	\$ _____	_____	\$ _____	_____	_____	_____
_____	\$ _____	_____	\$ _____	_____	_____	_____
_____	\$ _____	_____	\$ _____	_____	_____	_____
Total:	\$ _____	_____	\$ _____	_____	_____	_____

3. Expenditure/Revenue Narrative:

Explain revenue source(s). Include revenue calculations, grant(s) available, anticipated date of receipt of revenues/grants, etc. Explain expenditures, grant match(s), justify personnel increase(s), detail capital and operating uses, etc. (Attach supplemental page, if necessary.)

None that staff is aware of

Section D. General Narrative

1. Conflicts: Does this proposed bill/resolution duplicate/conflict with/companion to/relate to any City code, approved ordinance or resolution, other adopted policies or proposed legislation? Include details of city adopted laws/ordinance/resolutions and dates. Summarize the relationships, conflicts or overlaps.

None that staff is aware of.

2. Consequences of Not Enacting This Bill/Resolution:

Are there consequences of not enacting this bill/resolution? If so, describe.

A Governing Body member could assert negative behavior directed at City employees.

3. Technical Issues:

Are there incorrect citations of law, drafting errors or other problems? Are there any amendments that should be considered? Are there any other alternatives which should be considered? If so, describe.

None that staff is aware of

4. Community Impact:

Briefly describe the major positive or negative effects the Bill/Resolution might have on the community including, but not limited to, businesses, neighborhoods, families, children and youth, social service providers and other institutions such as schools, churches, etc.

Amending the code of ethics to include workplace bullying would protect employees from being bullied by a Governing Body member. This would assist in reassuring employees that bullying practices will not be tolerated, therefore, potentially renewing confidence in City employees to give their best work product and thus benefiting the community.

Form adopted: 01/12/05; revised 8/24/05; revised 4/17/08

**ACTION SHEET
ITEM FROM THE
PUBLIC WORKS/CIP AND LAND USE COMMITTEE MEETING
OF
MONDAY, FEBRUARY 10, 2014**

ITEM 22

REQUEST FOR APPROVAL OF AN ORDINANCE RELATING TO THE CODE OF ETHICS, SECTION 1-7, SFCC 1987; AMENDING THE CODE OF ETHICS TO ESTABLISH THAT WORKPLACE BULLYING BY GOVERNING BODY MEMBERS WOULD BE A PROHIBITED ACT AND SUBJECT TO A VIOLATION OF THE CODE OF ETHICS (COUNCILOR WURZBURGER) (SANDRA PEREZ)

PUBLIC WORKS COMMITTEE ACTION: Forward to FC with No Recommendation; return to PWC on 2/24/14

SPECIAL CONDITIONS OR AMENDMENTS:

STAFF FOLLOW UP:

VOTE	FOR	AGAINST	ABSTAIN
CHAIRPERSON WURZBURGER	Excused		
COUNCILOR CALVERT, Acting Chair	X		
COUNCILOR IVES	X		
COUNCILOR RIVERA	X		
COUNCILOR TRUJILLO	Excused		

Councilor Calvert clarified what he was trying to get at was what this would tell us that has not already been reviewed and hashed over.

Councilor Ives understood that the external auditors took sample transactions to review and here they were asking for an expansion on that - more in-depth. Mr. Tapia agreed.

Councilor Calvert asked if it was in-depth or in breadth.

Mr. Tapia thought it was both and that was why he proposed \$35,000 to \$75,000 as the expense.

Councilor Calvert guessed that was key. He asked if that meant the standard was 10% of items reviewed but they wanted 100%.

Councilor Ives agreed. That was why this Committee would be formed and find areas where questions had arisen. But 100% would likely cost more than \$75,000.

Councilor Calvert asked, if that was indeterminate, if they moved forward, that something comes back to Council to determine if that was a reasonable amount. He wanted to be clear if this was a financial audit or not.

Councilor Ives said it was to determine if funds were spent for appropriate purposes. If contemplated that the audit be taken on by an external auditor it would come to Council to approve.

Mr. Tapia said when you say "audit" everyone thinks financial but it could be a review of procedures.

Councilor Ives anticipated that the work done by Public Works would be shared with the task force.

Councilor Rivera moved to approve the request as amended to add POSAC. Councilor Ives seconded the motion and it passed by unanimous voice vote.

22. REQUEST FOR APPROVAL OF AN ORDINANCE RELATING TO THE CODE OF ETHICS, SECTION 1-7, SFCC 1987; AMENDING THE CODE OF ETHICS TO ESTABLISH THAT WORKPLACE BULLYING BY GOVERNING BODY MEMBERS WOULD BE A PROHIBITED ACT AND SUBJECT TO A VIOLATION OF THE CODE OF ETHICS (COUNCILOR WURZBURGER) (SANDRA PEREZ)

Committee Review:

Finance Committee (Scheduled)
Council (Request to publish)
Council (Public hearing)

02/17/14
02/26/14
03/26/14

Councilor Rivera said it was unfortunate that the sponsor was not here. He wanted an idea of why this was being put out there. He spent a lot of time with city crews and people and it put him in a position to ask what was considered to be bullying.

Ms. Sandra Perez, interim HR director, said she had not spoken with the sponsor who went out of town. One of the things she walked away with was that this Governing Body was putting itself in a position that they are holding themselves to the same standard as employees. There was a definition of what workplace bullying was about which was not in current policy.

Ms. Perez said this would help set the tone and clarity for the policies. Asking someone to do something outside of their job description was not bullying. Insulting and demeaning was and needed to be investigated by the ethics committee.

Councilor Rivera asked if the City was not subject to those rules already.

Ms. Perez did not believe the Governing Body was subject to what the employees were bound to.

Councilor Calvert thought HR might check with Legal. He understood that this would give more specificity to what bullying is.

Councilor Rivera loved the idea of leading by example and drug testing, as well. He felt like Councilors were part of this already and guessed there was no harm in being redundant.

Ms. Perez gave notice that if it got through this Committee, it would go to Finance next Monday. She could look into the question whether Councilors were considered employees and reply back to this Committee and the Finance Committee. Or it could be postponed to another meeting,

Councilor Rivera moved to postpone this matter until Chair Wurzburger returned.

Councilor Calvert supposed they could do that at the February 24th meeting.

Ms. Mossman asked if they were letting it go to Finance then it would come back here for action.

Councilor Calvert agreed.

Councilor Ives seconded the motion and it passed by unanimous voice vote.

~~26. REQUEST FOR APPROVAL OF A RESOLUTION DIRECTING THE TRAFFIC ENGINEERING DIVISION TO RECONSTRUCT THE MEDIAN AT ZIA ROAD AND GALISTEO ROAD SO AS TO RESTRICT LEFT TURN MOVEMENTS TO AND FROM GALISTEO ROAD AND TO INCREASE THE LENGTH OF ZIA'S EASTBOUND DUAL LEFT-TURN LANE AT THE ST. FRANCIS DRIVE SIGNALIZED INTERSECTION (COUNCILOR DIMAS) (JOHN ROMERO)~~

ACTION SHEET
CITY COUNCIL COMMITTEE MEETING OF 02/26/14
ITEM FROM FINANCE COMMITTEE MEETING OF 02/17/14

ISSUE:

29. Request for Approval of an Ordinance Relating to the Code of Ethics, Section 1-7 SFCC 1987; Amending the Code of Ethics to Establish that Workplace Bullying by Governing Body Members Would be a Prohibited Act and Subject to a Violation of the Code of Ethics. (Councilor Wurzburger) (Sandra Perez)

Committee Review:

Public Works Committee (tabled)	02/10/14
Public Works Committee (scheduled)	02/24/14
City Council (request to publish)	02/26/14
City Council (public hearing)	03/26/14

Fiscal Impact – No

FINANCE COMMITTEE ACTION: APPROVED AS DISCUSSION ITEM

SPECIAL CONDITIONS OR AMENDMENTS

Add Councilor Dominguez as co-sponsor.

STAFF FOLLOW-UP:

VOTE	FOR	AGAINST	ABSTAIN
COUNCILOR BUSHEE	Excused		
COUNCILOR CALVERT	X		
COUNCILOR DIMAS	X		
COUNCILOR IVES	X		
CHAIRPERSON DOMINGUEZ			

3-19-12/FCMissue

~~**DISCUSSION:** Councilor Calvert said, "I think this is the way forward, because otherwise, there will be this endless back and forth between us and staff, and whether the public trusts that or not. And I so I think going forward this will cut through all this and bring us to a completion."~~

~~Councilor Wurzburger said, "And that was my objective."~~

~~**VOTE:** The motion was approved unanimously on a voice vote.~~

- 29. REQUEST FOR APPROVAL OF AN ORDINANCE RELATING TO THE CODE OF ETHICS, SECTION 1-7 SFCC 1987; AMENDING THE CODE OF ETHICS TO ESTABLISH THAT WORKPLACE BULLYING BY GOVERNING BODY MEMBERS WOULD BE A PROHIBITED ACT AND SUBJECT TO A VIOLATION OF THE CODE OF ETHICS (COUNCILOR WURZBURGER, AND COUNCILOR DOMINGUEZ). (SANDRA PEREZ) Committee Review: Public Works Committee (tabled) 02/10/14; Public Works Committee (scheduled) 02/24/14; City Council (request to publish) 02/26/14; and City Council (public hearing) 03/26/14. Financial Impact – No.**

Councilor Wurzburger said, "In all seriousness, and I don't want to belabor this, and I'm sorry to have done this later, rather than sooner. I introduced this, because having been on the Council, over 12 years, I have seen at different times, by very few Councilors, what I consider to be inappropriate behavior. And we have a certain kind of protocol amongst us that we don't call one another, and we should. And the issue for me is, quite simply, does this Council agree that it is appropriate for a single Councilor or two Councilors, or whomever decides they disagree with whatever decision, to go in and threaten the City Manager that they have, quote, five votes to get rid of them. I think that is wrong. I think that our policies are not clear with respect to that. And I think it should be an ethical violation to commit something, that for me, is clearly an abuse of your power as a Councilor."

Councilor Wurzburger continued, "And what I have seen over the years, is that when this is happening, we act like the elephant's in the room, and there is ripple throughout City Hall, waiting to find out what's going to happen for months. It's out there, it's not out there in a way that we're dealing with it. It's not brought to a forum through a formal process of, this is how we're going to take you. We don't like what you're doing. You're going to approve these following five areas. It's simply a threat. And I do not believe that is the way to conduct public business. Again, in my experience, I've worked with three Councils. It's sad in life when one needs to make laws and ordinance changes that apply to the few, the very few, but in this case, I think it needs to be done, and that's why I brought this forward. And I firmly believe, and it was brought up at the meeting in December, the Neighborhood Law Center. Robert Romero and he did courageously say, without names, that indeed he was bullied, and he was threatened, and that was part of why he left. The notion, when we discussing his departure, and comments were made by certain Councilors that City Managers leave because they're just ready to go on PERA. I was so offended by that, after what I knew had happened."

Councilor Wurzbarger continued, "So I'm not trying to pick on one Councilor or two, I'm trying to say this is a systemic problem that should not be occurring in our City. It sets up a climate that is demoralizing in terms of morale, and ultimately, it affects our ability to deliver better public service, and that's why I brought this forward. And I see that it was so late that it won't be voted on while I'm here, but I'll be back if we can get it passed through for consideration. I know that Councilor Rosemary Romero wants to speak on this, because this was an issue long before this Council. When Rosemary was here, we had a similar kind of situation, so I would like to see this addressed and I thank you for your consideration."

The Committee commented and asked questions as follows:

- Councilor Ives said, "When this came before Public Works there was an interesting and what, for me was a fairly compelling argument in favor of this, which was that these measures, effectively put in place as a rule of conduct for Councilors, the rules that currently apply to City employees. And Sandy, I'm hoping you can address that point, because it certainly seems that we should be held to the same, if not a higher standard, than public employees, given the public trust that is placed in us by the electorate, so thank you for addressing it."

Sandy Perez, Interim Personnel Director, at Public Works, spoke to the issue, but was inaudible because the microphone obviously wasn't turned on. She said something to the effect that as she read this and did an analysis, this is putting a policy in place that the Councilors are saying out loud to themselves and everyone else, that they hold themselves to a higher standard than employees. This actually defines what workplace bullying is. In our personnel rules we are a bit vague on that.

Ms. Perez said another question was if the Council already is covered by policies for employees. [inaudible here]. She said they found by definition, you are not a city employee. She said there already is a definition in personnel rules. Officials elected by public vote or appointed to a vacancy, members of boards or commission [inaudible]. The Personnel Rules adopt that coverage. In interpreting this rule, the City Council is exempt from those policies, so this ordinance and resolution would establish this for yourselves.

Chair Dominguez asked to be added as a cosponsor.

MOTION: Councilor Calvert moved, seconded by Councilor Ives, to approve this request.

VOTE: The motion was approved unanimously on a voice vote.

26. ~~PRESENTATION AND REQUEST FOR APPROVAL OF THE CITY OF SANTA FE COMPREHENSIVE ANNUAL FINANCIAL REPORT [CAFR] FOR FISCAL YEAR ENDING JUN 30, 2013. (TERESITA GARCIA AND MARTY MATHISEN)~~

Mr. Tapia said Teresita and staff have been able to accomplish what we've been trying to do for

**ACTION SHEET
ITEM FROM THE
PUBLIC WORKS/CIP AND LAND USE COMMITTEE MEETING
OF
MONDAY, FEBRUARY 24, 2014**

ITEM 10

REQUEST FOR APPROVAL OF AN ORDINANCE RELATING TO THE CODE OF ETHICS, SECTION 1-7, SFCC 1987; AMENDING THE CODE OF ETHICS TO ESTABLISH THAT WORKPLACE BULLYING BY GOVERNING BODY MEMBERS WOULD BE A PROHIBITED ACT AND SUBJECT TO A VIOLATION OF THE CODE OF ETHICS (COUNCILOR WURZBURGER) (SANDRA PEREZ)

PUBLIC WORKS COMMITTEE ACTION: Approved

SPECIAL CONDITIONS OR AMENDMENTS:

STAFF FOLLOW UP:

VOTE	FOR	AGAINST	ABSTAIN
CHAIRPERSON WURZBURGER			
COUNCILOR CALVERT	X		
COUNCILOR IVES	X		
COUNCILOR RIVERA	X		
COUNCILOR TRUJILLO	X		

10. REQUEST FOR APPROVAL OF AN ORDINANCE RELATING TO THE CODE OF ETHICS, SECTION 1-7, SFCC 1987; AMENDING THE CODE OF ETHICS TO ESTABLISH THAT WORKPLACE BULLYING BY GOVERNING BODY MEMBERS WOULD BE A PROHIBITED ACT AND SUBJECT TO A VIOLATION OF THE CODE OF ETHICS (COUNCILOR WURZBURGER) (SANDRA PEREZ)

Committee Review:

Public Works Committee (Postpone to 2/24/14)	02/10/14
Finance Committee (Scheduled)	02/17/14
Council (Request to publish)	02/26/14
Council (Public hearing)	03/26/14

Councilor Rivera asked for the reason behind this resolution.

Chair Wurzbarger explained that the genesis of this was that she was compelled to bring it forward because she felt it was wrongdoing at the city what transpired as City Manager Romero was leaving the city and it being validated at a public meeting that Mr. Romero had been threatened by a councilor. She had been uncomfortable with that and felt it contributed to his leaving. She clarified that she did not do this against a single Councilor but felt it was a misuse of power that the Council has. She was hoping the position Council would take that this was a form of bullying and would not be permitted. It was specific to that type of behavior. That was not the first time this behavior had happened at the Council. This was at a level that for her own personal values she could not tolerate.

Councilor Rivera appreciated that and agreed this was a good thing to do. The Councilors should lead by example. He asked why it should stop at City Council and not include everyone.

Councilor Calvert noted that at the Finance Committee meeting they had Sandy Perez present and she stated that her interpretation of the employee rules was that they did not apply to Councilors.

Ms. Amer agreed that Sandra Perez did speak at the Finance Committee and stated that elected officials were not employees of the City.

Councilor Rivera asked if that was true even though the Councilors received benefits and a paycheck.

Ms. Amer agreed.

Ms. Byers said the rules specifically stated that the rules did not apply to elected officials.

Ms. Amer said the rules did apply to exempt employees but not elected officials.

Councilor Rivera asked why the exempt employees had to complete an ethics form.

Ms. Perez said for the policies in the official personnel rule book, exempt employees were covered by

those as well.

Councilor Rivera then questioned why exempt employees had to fill out the ethics form yearly.

Ms. Perez said that was an interesting question and agreed that it was a double standard. They were also employees and subject to the rules. Above and beyond that they were also covered by the ethics standards because they were at-will employees.

Councilor Rivera asked, if he had to borrow a city vehicle, if Ms. Perez was telling him that he was not subject to the same rules as other employees.

Ms. Perez said she really could not speak to that and would have to talk to the fleet department. In addition to the rules, the City had other rules that were standardized within the departments. She would hope everyone would speak to officials about using city vehicles.

Councilor Rivera didn't believe there were any for elected officials and thought it was possible for Councilors to use a vehicle.

Councilor Trujillo thought Councilors probably fell under the same thing as the state with drivers training.

Chair Wurzburger asked if the Committee was comfortable with keeping the discussion on this subject.

Councilor Rivera said it raised a lot of additional questions. Leading by example was a good thing. There were a few more questions.

Councilor Rivera moved to approve this item. Councilor Calvert seconded the motion.

Chair Wurzburger wanted to make sure Ms. Perez would be at Council and asked if she could put in writing what she said in Finance so Councilors could have a handout.

Ms. Perez agreed.

The motion passed by unanimous voice vote.

~~12. REQUEST FOR APPROVAL OF A RESOLUTION AUTHORIZING A DISCOUNT BUS PASS SALE PROGRAM FOR NON-PROFIT SOCIAL SERVICE ORGANIZATIONS WHO PURCHASE BUS PASSES IN VOLUME FOR DISTRIBUTION TO INDIGENT CLIENTS WHO UTILIZE THE CITY OF SANTA FE'S PUBLIC TRANSPORTATION SYSTEM: SANTA FE TRAILS (COUNCILOR BUSHEE) (JON BULTHUIS)~~

Committee Review: