



# City of Santa Fe, New Mexico

## LEGISLATIVE SUMMARY

Bill No. 2015-26

Campaign Code

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**SPONSOR(S):** Councilor Ives

**SUMMARY:** The proposed ordinance to the Campaign Code (Chapter 9-2) does the following:

- modifies the definitions of “contribution” and “expenditure” in Section 9-2.3
- creates a definition for “coordinated expenditure” in Section 9-2.3
- modifies provisions related to independently sponsored campaign communications and reporting in Section 9-2.6
- modifies provisions related to the contents of campaign finance statements in Section 9-2.12

**PREPARED BY:** Zachary Shandler, Assistant City Attorney

**FISCAL IMPACT:** No

**DATE:** June 18, 2015

**ATTACHMENTS:** Letter from Justin Miller, Chair Ethics and Campaign Review Board  
Bill  
FIR  
Bill with proposed changes incorporated

Nancy R. Long  
Mark E. Komer

Little V. West  
Justin W. Miller

**LK** Long, Komer & Associates

Attorneys and  
Counselors at Law

May 22, 2015

*Via hand delivery*

Dear Mayor Gonzales and City Councilors:

I write to you on behalf of the Ethics and Campaign Review Board to inform you that the Board has completed its review of City of Santa Fe campaign ordinances and has developed a number of recommendations for consideration by the governing body.

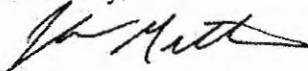
The Board has worked diligently on the recommendations since the city's most recent municipal elections. The Board has held numerous meetings, drafted and debated various proposals, heard from experts in the field, received testimony from candidates about first hand experiences with the campaign finance laws, and listened to public comment and input from a variety of dedicated citizens.

Broadly speaking, the recommendations address four major areas of concern to the Board and the public: (1) coordination between candidates and independent groups; (2) transparency of campaign financing; (3) revising the process by which a candidate qualifies for public financing; and (4) providing for a matching fund allocation to improve the ability of publicly financed candidates to be competitive with privately financed candidates. The recommendations represent the Board's best effort to suggest ways to improve the City's campaign and public campaign financing system, given the existing legal constraints and practical realities with which we are all confronted.

We hope you will find the recommendations useful. Each Board member stands willing to discuss and explain the work of the Board, in whatever manner that may be helpful to the governing body.

If a councilor would like to sponsor some, or all, of the recommendations as an ordinance change, please contact City Clerk Vigil so your legislation can be introduced at the June 10, 2015 council meeting in order to get it on a timely tract for adoption prior to the commencement of the 2016 campaign season.

Sincerely,



Justin Miller  
Chair, ECRB

1 CITY OF SANTA FE, NEW MEXICO

2 BILL NO. 2015-26

3 INTRODUCED BY:

4  
5 Councilor Peter N. Ives

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9  
10 AN ORDINANCE

11 AMENDING THE CAMPAIGN CODE, SECTION 9.2 SFCC 1987 TO MODIFY THE  
12 DEFINITIONS OF "CONTRIBUTION" AND "EXPENDITURE" AND CREATE A  
13 DEFINITION FOR "COORDINATED EXPENDITURE"; TO MODIFY PROVISIONS  
14 RELATED TO INDEPENDENTLY SPONSORED CAMPAIGN COMMUNICATIONS AND  
15 REPORTING; TO MODIFY PROVISIONS RELATED TO THE CONTENTS OF  
16 CAMPAIGN FINANCE STATEMENTS; AND TO MAKE SUCH OTHER CHANGES AS  
17 ARE NECESSARY TO CLARIFY THE PROVISIONS OF THE CAMPAIGN CODE.

18  
19 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

20 Section 1. Subsection 9-2.3 SFCC 1987 (being Ord. #1998-41, §3 as amended) is  
21 amended to read:

22 9-2.3 Definitions.

23 As used in the Campaign Code:

24 A. *Anonymous contribution* means a contribution for which any of the information  
25 required to be recorded or reported by the Campaign Code is unknown to the persons who are

1 required to record or report it.

2 B. *Ballot proposition* means any measure, amendment or other question submitted  
3 to, or proposed for submission to, a popular vote at a Santa Fe election.

4 C. *Campaign depository* means a bank, mutual savings bank, savings and loan  
5 association or credit union doing business in this state under which a campaign account or  
6 accounts are maintained.

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

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

14 F. *Campaign treasurer and deputy campaign treasurer* means the individual who is  
15 responsible for keeping the financial records of the political committee or candidate (the  
16 candidate may be their own campaign treasurer or deputy campaign treasurer).

17 G. *Candidate* means any individual who seeks election to a Santa Fe municipal  
18 office. An individual shall be a candidate when they:

- 19 (1) Announce publicly;  
20 (2) File for office;  
21 (3) When contributions are accepted or expenditures made; or  
22 (4) Any activity is held to promote an election campaign of an individual if

23 that activity is endorsed or supported by that person or if the benefits of such activity are later  
24 accepted by such person.

25 H. *Charity* means an organization that is exempted from federal taxation by Title 26

1 United States Code, section 501(c)(3).

2 I. *Contribution* means a loan, loan guarantee, gift, advance, pledge, contract,  
3 agreement or promise of money or anything of value or other obligation, whether or not these  
4 items are legally enforceable, made directly or indirectly, to a candidate or political committee, or  
5 to a person obligated to file a report under section 9-2.6 SFCC 1987, for the purpose of  
6 [influencing the outcome of a municipal election] supporting the election or defeat of any  
7 identifiable candidate or the approval or defeat of a ballot proposition.

8 (1) The term "contribution" includes:

9 (a) The transfer of funds or anything of value between political  
10 committees;

11 (b) The transfer of anything of value for less than full consideration;

12 (c) Interest, dividends or other income derived from the investment  
13 of campaign funds;

14 (d) The payment for the services of an individual serving on behalf  
15 of a candidate or political committee, which payments are made by a third party;  
16 and

17 (e) The purchase of tickets for fundraising events such as dinners,  
18 rallies, raffles, etc. and the proceeds of collections at fundraising events.

19 (f) ~~[An expenditure by a person other than a candidate or the~~  
20 ~~candidate's political committee that is made in cooperation, consultation or~~  
21 ~~concert with, or at the request or suggestion of, a candidate or the candidate's~~  
22 ~~political committee.] A coordinated expenditure.~~

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

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

1 (b) The cost of an event held in honor of or on behalf of a candidate  
2 when the total cost of the event amounts to no more than two hundred dollars  
3 (\$200.).

4 J. *Contributor* means:

5 (1) *Individual contributor* means an individual who makes a contribution  
6 from their personal assets which are not those of a business, corporation, partnership,  
7 labor organization, unincorporated association or political committee.

8 (2) *Business or organizational contributor* means an individual who uses the  
9 assets of a business, corporation, partnership, labor organization, unincorporated  
10 association or political committee as a contribution, or any business, corporation,  
11 partnership, labor organization, unincorporated association or political committee which  
12 makes a contribution.

13 K. *Coordinated Expenditure* means an expenditure made:

14 (1) by an individual or entity other than a candidate or the candidate's  
15 political committee; and

16 (2) in cooperation, consultation or concert with, or at the request or  
17 suggestion of, a candidate, his/her representatives or agents or the candidate's political  
18 committee, including but not limited to, the following examples in 9-2.3(K)(2)(a)-(d):

19 (a) there has been substantial discussion between the individual or  
20 entity making the expenditure and the candidate, candidate's political committee,  
21 or his/her representatives or agents. Substantial discussion includes, but is not  
22 limited to, an exchange of campaign strategies, polling information, voter lists or  
23 any other similar information that would facilitate the election or defeat of a  
24 candidate.

25 (b) an entity making the expenditure is directly or indirectly formed

1 or established by or at the request or suggestion of, or with the encouragement of  
2 the candidate, candidate's political committee, or his/her representatives or  
3 agents;

4 (c) the candidate, candidate's political committee or his/her  
5 representatives or agents has solicited funds or engaged in other fundraising  
6 activities on behalf of the person or entity making the expenditure during the  
7 twelve-month (12) period preceding the date of the expenditure. Fundraising  
8 activities include, but are not limited to, exchanging names of potential donors or  
9 other lists to be used in engaging in fundraising activity, regardless of whether or  
10 not the individual or entity pays fair market value for the names or lists provided;  
11 or being a featured guest or speaker at a fundraising event for the benefit of the  
12 entity making the expenditure.

13 (d) if the individual or entity making the expenditure has employed,  
14 has in a leadership position, or has accepted a donation of the campaign related  
15 professional services of any person, who, during the twelve-month (12) period  
16 preceding the date of the expenditure, has been an employee of, has advised, or  
17 provided or is providing services to the candidate or candidate's political  
18 committee. These services include, but are not limited to, any services in support  
19 of the candidate's or candidate's political committee's campaign activities, such  
20 as advertising, message, strategy or policy services, polling, allocation of  
21 resources, fundraising or campaign operations.

22 (e) an expenditure is not a coordinated expenditure solely because:

23 (i) the individual or entity and a candidate or candidate's  
24 political committee use the same vendor to provide polling services,  
25 printing or distribution services or physical space, provided that the

1 vendor has in place prior to the expenditure a firewall to ensure that there  
2 is no exchange of information between the individual or entity and the  
3 candidate or campaign committee. Evidence of an adequate firewall is a  
4 vendor's formal written policy or a contractual agreement with the  
5 vendor prohibiting the exchange of information between the individual  
6 or entity and the candidate or candidate's political committee, which  
7 policy or contract is distributed to all relevant employees, consultants,  
8 and clients affected by the policy or contract. The firewall shall be  
9 designed and implemented to prohibit the flow of information between  
10 employees and consultants providing services to the individual and entity  
11 and to those currently or previously providing services to the candidate  
12 or candidate's political committee. Coordination will be presumed in the  
13 absence of such a firewall; or

14 (ii) the individual or entity making the expenditure  
15 interviews a candidate; has endorsed a candidate; has obtained from the  
16 candidate a biography of the candidate or a position paper, press release,  
17 or similar material about the candidate; has invited the candidate to make  
18 an appearance before the person's members, employees or shareholders;  
19 or has shared space with a candidate or candidate's political committee  
20 for one or more single events of limited duration.

21 [K]L. *Election* means any regular or special Santa Fe municipal election.

22 [L]M. *Expenditure* means a payment or transfer of anything of value in exchange for  
23 goods, services, property, facilities or anything of value for the purpose of ~~[assisting, benefiting~~  
24 ~~or honoring any public official or candidate, or assisting in furthering or opposing any election~~  
25 ~~campaign for a]~~ supporting or opposing the election or defeat of any identifiable candidate or the

1 approval or defeat of a ballot proposition. This includes contributions, subscriptions,  
2 distributions, loans, advances, deposits, or gifts of money or anything of value, and includes a  
3 contract, a promise or agreement, whether or not legally enforceable, to make an expenditure. The  
4 term "expenditure" also means the transfer of funds or anything of value between political  
5 committees. [~~In determining the dollar value of an expenditure, only that proportion of a payment  
6 or transfer of anything of value that is directly related to the campaign shall be considered an  
7 expenditure.]~~]

8 [M]N. *Political committee* means any entity formed for the principal purpose of:

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

12 (2) Coordinating or cooperating in efforts to support the election or defeat of  
13 any identifiable candidate[s] or of supporting the approval or defeat of any ballot  
14 proposition.

15 **Section 2. Subsection 9-2.5 of SFCC 1987 (being Ord. #1998-41, §4, as**  
16 **amended) is amended to read:**

17 **9-2.5 Identification of Campaign Material.**

18 A. Campaign materials disseminated or communicated by a candidate shall  
19 conspicuously identify the name of the candidate and campaign treasurer or deputy campaign  
20 treasurer.

21 B. Campaign materials disseminated or communicated by a political committee  
22 shall conspicuously identify the name of an officer or other responsible person of the political  
23 committee sponsoring such materials.

24 C. Any candidate, or person acting on behalf of a candidate, shall not willfully steal,  
25 destroy, or damage another candidate's campaign materials.

1 [C]D. Written, printed or posted materials shall also show a telephone contact number.

2 **Section 3. Subsection 9-2.6 SFCC 1987 (being Ord. #2005-14, §29, as amended)**

3 **is amended to read:**

4 **9-2.6 Independently Sponsored Campaign ~~[Materials]~~Communications**  
5 **And Reporting.**

6 A. Any person or entity that ~~[contracts for or initiates the dissemination of campaign~~  
7 ~~materials supporting the election or defeat of any identifiable candidate or of a ballot proposition,~~  
8 ~~and that spends in the aggregate]~~ makes expenditures of two hundred fifty dollars (\$250[.]) or  
9 more in the aggregate during a single election to pay for any form of public communication  
10 including print, broadcast, cable or electronic advertising, billboards, signs, pamphlets, mass  
11 mailers, mass electronic mail, recorded phone messages, organized phone-banking or organized  
12 precinct-walking, that is disseminated to one-hundred (100) or more eligible voters, and that  
13 either expressly advocates the election or defeat of a candidate, or the approval or defeat of a  
14 ballot proposition; or refers to a clearly identifiable candidate or ballot proposition within sixty  
15 (60) days before an election at which the candidate or proposition is on the ballot, [for such  
16 purpose] shall thereafter, on each of the days prescribed for the filing of campaign finance  
17 statements ~~[of political committees]~~, file with the city clerk a report of all such expenditures  
18 made and all contributions received for ~~[such]~~ the purpose of paying for such expenditures on or  
19 before the date of the report and which have not been previously reported. Each report shall be  
20 submitted on a form prescribed by the city clerk. Contributions shall be specified by date, amount  
21 of contribution, name, address and occupation of the person or entity from whom the contribution  
22 was made. No contribution shall be reported in the name of a person who is not the actual  
23 contributor or who has been or will be reimbursed or compensated for the contribution by another  
24 person. The president, chief executive officer or equivalent position shall certify on the filing that  
25 its expenditures were or were not made in cooperation, consultation or concert with, or at the

1 request or suggestion of, a candidate, his/her representatives or agents or the candidate's political  
2 committee. Expenditures shall be specified by date, the amount of the expenditure, the name and  
3 address of the person or entity where an expenditure was made and the purpose of the  
4 expenditure. No report is required under this subsection for expenditures made exclusively for  
5 communications to the news media, editorials, reports or commentary by the news media,  
6 impartial candidate forums or debates or the announcements thereof, or for impartial voter guides  
7 allowed by the Internal Revenue Code for Section 501(c)(3) organizations or a communication by  
8 a membership organization or corporation to its current members, stockholders or executive or  
9 administrative personnel unless the membership organization or corporation is a campaign  
10 committee or a political committee.

11 B. Any person or entity that has to file under this subsection and receives  
12 contributions from another entity that does not have to disclose its contributors to the city clerk,  
13 shall place the following visible disclosure on its campaign materials: "This campaign material is  
14 supported in part by donations from an organization that is not required to disclose its  
15 contributors to the Santa Fe city clerk.

16 C. Contributions shall be specified by date, amount of contribution, name, address  
17 and occupation of the person or entity from whom the contribution was made. The name of the  
18 president, chief executive officer or equivalent position and the address of the entity shall be  
19 stated in the report.

20 D. Expenditures shall be specified by date, the amount of the expenditure, the name  
21 and address of the person or entity where an expenditure was made and the purpose of the  
22 expenditure. The name of the president, chief executive officer or equivalent position and the  
23 address of the entity shall be stated in the report.

24 **Section 4. Subsection 9-2.9 SFCC 1987 (being Ord. #1998-41, §7, as amended)**  
25 **is amended to read:**

1           **9-2.9            Campaign Treasurer; Deputy Campaign Treasurer; Duties.**

2           A.       The campaign treasurer or deputy campaign treasurer shall keep a true and full  
3 record of contributions and expenditures. The record of contributions and expenditures required  
4 to be kept under the terms of the Campaign Code and the Public Campaign Finance Code shall  
5 reflect the requirements in subsection 9-2.11 SFCC 1987 and Section 9-3 SFCC 1987,  
6 respectively.

7           B.       The campaign treasurer or deputy campaign treasurer shall maintain:

8                   (1)       Receipts reflecting the purpose of each expenditure and the day and  
9 method of payment; and

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

11           C.       The campaign treasurer or deputy campaign treasurer shall not accept anonymous  
12 contributions. Any such contribution received by the campaign treasurer or deputy campaign  
13 treasurer shall, within seven (7) days of receipt, be donated to a charity or to the city's general  
14 fund. The campaign treasurer or deputy campaign treasurer shall keep a record of the amount and  
15 date of receipt of any such contributions and of the disposition that was made of the contribution,  
16 including the date when it was donated to the city or to a charity and the identity of the recipient  
17 of the donation.

18           D.       Records required to be kept by the campaign treasurer or deputy campaign  
19 treasurer under the terms of paragraph A of this subsection, shall be filed with the city clerk as  
20 part of the public record, shall be provided to the ethics and campaign review board set forth in  
21 Section 6-16, SFCC 1987 upon request and may be inspected by the public during usual business  
22 hours, Monday through Friday, excluding legal holidays.

23           E.       Records kept by the campaign treasurer or deputy campaign treasurer shall be  
24 made current not more than seven (7) days after the date of a contribution or of an expenditure.  
25 During the eight (8) days immediately preceding the date of any election for which the political

1 committee has received any contributions or made any expenditures, the books of the account  
2 shall be kept current within one (1) business day.

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

6 G. The campaign treasurer or deputy campaign treasurer shall deposit within five (5)  
7 business days after receipt all monetary contributions received by a candidate, political  
8 committee, campaign treasurer or deputy campaign treasurer in the campaign depository  
9 designated for that purpose.

10 H. Campaign funds shall be used and distributed as follows:

11 (1) All contributions received shall be under the custody of the campaign  
12 treasurer or deputy campaign treasurer and shall be segregated from, and not be commingled  
13 with, the personal funds of an individual, group or political committee. Contributions shall be  
14 used exclusively to pay expenses incurred in furtherance of the candidate's campaign, and shall  
15 not be used for any other purpose, including:

16 (a) The candidate's personal living expenses or compensation to the  
17 candidate;

18 (b) A contribution to the campaign of another candidate or to a  
19 political party or political committee or to a campaign supporting or opposing a ballot  
20 proposition;

21 (c) An expenditure supporting the election or defeat of [a]any  
22 identifiable candidate or the [~~approval~~] passage or defeat of a ballot proposition; or

23 (d) Any gift or transfer for which compensating value is not  
24 received, other than a donation or distribution permitted by this subsection at the conclusion of an  
25 election.

1                   (2) Any campaign contributions remaining unspent and any tangible assets  
2 with an estimated resale value greater than two hundred dollars (\$200.00) that were purchased  
3 with such contributions and remain in the possession of the campaign at the conclusion of an  
4 election shall be distributed for the following purposes:

5                   (a) Expenditures of the campaign;

6                   (b) Donations to the city's general fund or, in the case of tangible  
7 assets, to the city for its use or disposition in accordance with the city's procurement code.

8 Proceeds from such disposition shall be deposited in the city's general fund;

9                   (c) Donations to charities; or

10                  (d) Disbursements to return unused funds to the contributors.

11                  (3) All unspent campaign contributions shall be distributed within six (6)  
12 months following a municipal election, for any of the purposes listed in this subsection 9-2.9H.

13 All candidates and political committees shall file reports listing the date, amount and recipient of  
14 each post-election expenditure, donation or disbursement made from campaign funds pursuant to  
15 this subsection 9-2.9H. Such report shall be part of the final campaign finance statement that is  
16 required by subsection 9-2.10B SFCC 1987.

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

23                  **Section 5. Subsection 9-2.11 SFCC 1987 (being Ord. #1998-41, §10, as**  
24 **amended) is amended to read:**

25                  **9-2.11 Campaign Finance Statement; Contents.**

1           A.       Each campaign finance statement shall be filed in accordance with subsection 9-  
2 2.10 SFCC 1987. The initial statement shall begin with the date of the first contribution or  
3 expenditure. Subsequent statements shall begin on the day after the end date of the previous  
4 reporting period. Statements shall contain the following information:

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

9                   (2)       The full name, home address, occupation, name of employer, date of  
10 receipt and amount of each contribution received from each individual contributor from whom a  
11 contribution in money, goods, materials, services, facilities or anything of value has been  
12 received and whether the contribution was received in cash, by check, by credit card, by  
13 electronic transfer or otherwise[;]. No contribution shall be reported in the name of a person who  
14 is not the actual contributor, or who has been or will be reimbursed or compensated for the  
15 contribution by another person.

16                   (3)       The full name, type of business, physical address, date of receipt and  
17 amount of each contribution for each business or organizational contributor, from whom a  
18 contribution in money, goods, materials, services, facilities or anything of value has been  
19 received, and whether the contribution was received in cash, by check, by credit card, by  
20 electronic transfer or otherwise[;]. No contribution shall be reported in the name of a person who  
21 is not the actual contributor, or who has been or will be reimbursed or compensated for the  
22 contribution by another person.

23                   (4)       The date of receipt and amount of any anonymous contribution received  
24 by the campaign treasurer or deputy campaign treasurer and the disposition that was made of each  
25 such contribution pursuant to subsection 9-2.9B SFCC 1987, including the date when it was

1 donated to the city or to a charity and the identity of the recipient of the donation.

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

6 (6) The full name of the candidate or political committee and the full name  
7 and complete address of the campaign treasurer or deputy campaign treasurer;

8 (7) For each contributor, the cumulative total of all contributions made; and

9 (8) Where goods, materials, services, facilities or anything of value other  
10 than money is contributed or expended, the monetary value thereof shall be reported at the fair  
11 market value.

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

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

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

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

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

21 C. If a loan has been forgiven or paid by a third person, it shall be reported pursuant  
22 to this section.

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

25 **Section 6. Subsection 9-2.12 SFCC 1987 (being Ord. #1998-41, §11, as**

1 amended) is amended to read:

2 **9-2.12 Campaign Finance Statement; Signing.**

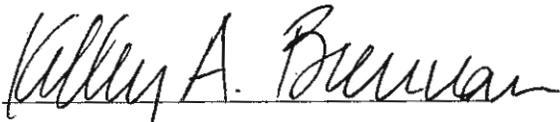
3 Each campaign finance statement shall be signed under oath and acknowledged by both  
4 the campaign treasurer or deputy campaign treasurer and the candidate and shall contain a  
5 statement that:

6 A. the campaign finance statement has been prepared with all reasonable diligence and that  
7 it is true and complete; however, the campaign finance statement of a candidate for  
8 municipal judge is not required to be signed or acknowledged by the candidate.

9 B. a candidate or political committee that receives contributions from another entity that  
10 does not have to disclose its contributors to the city clerk, shall indicate as such on the  
11 campaign finance statement submitted to the city clerk pursuant to existing reporting  
12 requirements.

13

14 APPROVED AS TO FORM:

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16  
17 KELLEY A. BRENNAN, CITY ATTORNEY

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25 *Legislation/Bills 2015/Campaign Code 9-2 Bill*

## 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): AN ORDINANCE AMENDING THE CAMPAIGN CODE, SECTION 9.2 SFCC 1987 TO MODIFY THE DEFINITIONS OF "CONTRIBUTION" AND "EXPENDITURE" AND CREATE A DEFINITION FOR "COORDINATED EXPENDITURE"; TO MODIFY PROVISIONS RELATED TO INDEPENDENTLY SPONSORED CAMPAIGN COMMUNICATIONS AND REPORTING; TO MODIFY PROVISIONS RELATED TO THE CONTENTS OF CAMPAIGN FINANCE STATEMENTS; AND TO MAKE SUCH OTHER CHANGES AS ARE NECESSARY TO CLARIFY THE PROVISIONS OF THE CAMPAIGN CODE.

Sponsor(s): Councilor Peter Ives

Reviewing Department(s): City Attorney's Office

Persons Completing FIR: Zack Shandler Date: 6/18/15 Phone: 955-6303

Reviewed by City Attorney: Kelly A. Brennan Date: 6/19/15  
(Signature)

Reviewed by Finance Director: \_\_\_\_\_ Date: 6-19-2015  
(Signature)

**Section B. Summary**

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

The purpose of the proposed ordinance is to

- modify the definitions of "contribution" and "expenditure" in Section 9-2.3
- create a definition for "coordinated expenditure" in Section 9-2.3
- modify provisions related to independently sponsored campaign communications and reporting in Section 9-2.6
- modify provisions related to the contents of campaign finance statements in Section 9-2.12

**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

Finance Director: 

- 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)

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.)

N/A

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**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

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**2. Consequences of Not Enacting This Bill/Resolution:**

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

Status quo

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**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

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**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.

Since last year's election, the City's ECRB Board has been engaged in an effort to develop recommendations to improve the ordinances. The Board has met monthly, and sometimes twice a month, for the last seven months. The Board has drafted and debated various proposals; invited experts in the field to advise the Board; received testimony from candidates about first hand experiences with the campaign finance laws; and discussed ideas with a variety of dedicated citizens. The Board voted in favor of a final set of recommendations on May 20, 2015. The proposed changes in this bill address one major area of concern to the Board and to the public: (1) coordination between candidates and independent groups.

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

1 **9-2 CAMPAIGN CODE.**

2 **Editor's Note:** Prior ordinance history includes portions of Ordinance Nos. 1976-1, 1981-29,  
3 1987-11, 1987-46, 1989-42, 1995-7.

4 **9-2.1 Title.**

5 This section may be cited as the "Campaign Code." (Ord. #1998-41, §1; Ord. #2005-14,  
6 §24)

7 **9-2.2 Purpose and Intent.**

8 It is the public policy of the City of Santa Fe:

9 A. That public confidence in municipal government is essential and must be  
10 promoted by all possible means;

11 B. That political campaign contributions and expenditures be fully disclosed to the  
12 public and that secrecy in the sources and application of such contributions be avoided;

13 C. That the public's right to know how political campaigns are financed far  
14 outweighs any right that this matter remain secret and private; and

15 D. That the public interest is served by encouraging the widest participation of the  
16 public in the electoral process by reducing the dependence of candidates on large contributions.

17 (Ord. #1998-41, §2)

18 **9-2.3 Definitions.**

19 As used in the Campaign Code:

20 A. *Anonymous contribution* means a contribution for which any of the information  
21 required to be recorded or reported by the Campaign Code is unknown to the persons who are  
22 required to record or report it.

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

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

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

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

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

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

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

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

21 H. *Charity* means an organization that is exempted from federal taxation by Title 26  
22 United States Code, section 501(c)(3).

23 I. *Contribution* means a loan, loan guarantee, gift, advance, pledge, contract,  
24 agreement or promise of money or anything of value or other obligation, whether or not these  
25 items are legally enforceable, made directly or indirectly, to a candidate or political committee, or

1 to a person obligated to file a report under section 9-2.6 SFCC 1987, for the purpose of  
2 [influencing the outcome of a municipal election] supporting the election or defeat of any  
3 identifiable candidate or the approval or defeat of a ballot proposition.

4 (1) The term "contribution" includes:

5 (a) The transfer of funds or anything of value between political  
6 committees;

7 (b) The transfer of anything of value for less than full consideration;

8 (c) Interest, dividends or other income derived from the investment  
9 of campaign funds;

10 (d) The payment for the services of an individual serving on behalf  
11 of a candidate or political committee, which payments are made by a third party;  
12 and

13 (e) The purchase of tickets for fundraising events such as dinners,  
14 rallies, raffles, etc. and the proceeds of collections at fundraising events.

15 (f) ~~An expenditure by a person other than a candidate or the~~  
16 ~~candidate's political committee that is made in cooperation, consultation or~~  
17 ~~concert with, or at the request or suggestion of, a candidate or the candidate's~~  
18 ~~political committee. A coordinated expenditure.~~

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

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

22 (b) The cost of an event held in honor of or on behalf of a candidate  
23 when the total cost of the event amounts to no more than two hundred dollars  
24 (\$200.).

25 J. *Contributor* means:

1 (1) *Individual contributor* means an individual who makes a contribution  
2 from their personal assets which are not those of a business, corporation, partnership,  
3 labor organization, unincorporated association or political committee.

4 (2) *Business or organizational contributor* means an individual who uses the  
5 assets of a business, corporation, partnership, labor organization, unincorporated  
6 association or political committee as a contribution, or any business, corporation,  
7 partnership, labor organization, unincorporated association or political committee which  
8 makes a contribution.

9 K. *Coordinated Expenditure* means an expenditure made:

10 (1) by an individual or entity other than a candidate or the candidate's  
11 political committee; and

12 (2) in cooperation, consultation or concert with, or at the request or  
13 suggestion of, a candidate, his/her representatives or agents or the candidate's political  
14 committee, including but not limited to, the following examples in 9-2.3(K)(2)(a)-(d):

15 (a) there has been substantial discussion between the individual or  
16 entity making the expenditure and the candidate, candidate's political committee,  
17 or his/her representatives or agents. Substantial discussion includes, but is not  
18 limited to, an exchange of campaign strategies, polling information, voter lists or  
19 any other similar information that would facilitate the election or defeat of a  
20 candidate.

21 (b) an entity making the expenditure is directly or indirectly formed  
22 or established by or at the request or suggestion of, or with the encouragement of  
23 the candidate, candidate's political committee, or his/her representatives or  
24 agents;

25 (c) the candidate, candidate's political committee or his/her

1 representatives or agents has solicited funds or engaged in other fundraising  
2 activities on behalf of the person or entity making the expenditure during the  
3 twelve-month (12) period preceding the date of the expenditure. Fundraising  
4 activities include, but are not limited to, exchanging names of potential donors or  
5 other lists to be used in engaging in fundraising activity, regardless of whether or  
6 not the individual or entity pays fair market value for the names or lists provided;  
7 or being a featured guest or speaker at a fundraising event for the benefit of the  
8 entity making the expenditure.

9 (d) if the individual or entity making the expenditure has employed,  
10 has in a leadership position, or has accepted a donation of the campaign related  
11 professional services of any person, who, during the twelve-month (12) period  
12 preceding the date of the expenditure, has been an employee of, has advised, or  
13 provided or is providing services to the candidate or candidate's political  
14 committee. These services include, but are not limited to, any services in support  
15 of the candidate's or candidate's political committee's campaign activities, such  
16 as advertising, message, strategy or policy services, polling, allocation of  
17 resources, fundraising or campaign operations.

18 (e) an expenditure is not a coordinated expenditure solely because:

19 (i) the individual or entity and a candidate or candidate's  
20 political committee use the same vendor to provide polling services,  
21 printing or distribution services or physical space, provided that the  
22 vendor has in place prior to the expenditure a firewall to ensure that there  
23 is no exchange of information between the individual or entity and the  
24 candidate or campaign committee. Evidence of an adequate firewall is a  
25 vendor's formal written policy or a contractual agreement with the

1 vendor prohibiting the exchange of information between the individual  
2 or entity and the candidate or candidate's political committee, which  
3 policy or contract is distributed to all relevant employees, consultants,  
4 and clients affected by the policy or contract. The firewall shall be  
5 designed and implemented to prohibit the flow of information between  
6 employees and consultants providing services to the individual and entity  
7 and to those currently or previously providing services to the candidate  
8 or candidate's political committee. Coordination will be presumed in the  
9 absence of such a firewall; or

10 (ii) the individual or entity making the expenditure  
11 interviews a candidate; has endorsed a candidate; has obtained from the  
12 candidate a biography of the candidate or a position paper, press release,  
13 or similar material about the candidate; has invited the candidate to make  
14 an appearance before the person's members, employees or shareholders;  
15 or has shared space with a candidate or candidate's political committee  
16 for one or more single events of limited duration.

17 [K]L. *Election* means any regular or special Santa Fe municipal election.

18 [L]M. *Expenditure* means a payment or transfer of anything of value in exchange for  
19 goods, services, property, facilities or anything of value for the purpose of ~~[assisting, benefiting~~  
20 ~~or honoring any public official or candidate, or assisting in furthering or opposing any election~~  
21 ~~campaign for]~~ supporting or opposing the election or defeat of any identifiable any identifiable  
22 candidate or the approval or defeat of a ballot proposition. This includes contributions,  
23 subscriptions, distributions, loans, advances, deposits, or gifts of money or anything of value, and  
24 includes a contract, a promise or agreement, whether or not legally enforceable, to make an  
25 expenditure. The term "expenditure" also means the transfer of funds or anything of value

1 | between political committees. [~~In determining the dollar value of an expenditure, only that~~  
2 | ~~proportion of a payment or transfer of anything of value that is directly related to the campaign~~  
3 | ~~shall be considered an expenditure.~~]

4 |       [M]N. *Political committee* means any entity formed for the principal purpose of:

5 |               (1)     Raising or collecting, and expending or contributing money or anything  
6 |               of value for supporting the election or defeat of any identifiable candidate or candidates  
7 |               or for supporting the approval or defeat of ballot propositions; or

8 |               (2)     Coordinating or cooperating in efforts to support the election or defeat of  
9 |               any identifiable candidate[s] or of supporting the approval or defeat of any ballot  
10 |              proposition.

11 | (Ord. #1998-41, §3; Ord. #2005-14, §25; Ord. #2007-11, §5; Ord. #2009-10, §2; Ord. #2013-28,  
12 | §1; Ord. #2014-2, §1; Ord. #2014-12, §3)

13 | **9-2.4 Familiarity with Campaign Code.**

14 |       A.     Each potential candidate obtaining a form for the declaration of candidacy from  
15 |     the city clerk's office as required by Section 3-8-27 NMSA 1978 shall acknowledge in writing  
16 |     receipt and familiarity with the provisions of the Campaign Code and agree to abide by the code's  
17 |     requirements without waiving any legal rights to challenge.

18 |       B.     Refusal to sign said acknowledgement shall not preclude a potential candidate  
19 |     from seeking office, but failure to do so will be made public information.

20 | (Ord. #2005-14, §27)

21 | **9-2.5 Identification of Campaign Material.**

22 |       A.     Campaign materials disseminated or communicated by a candidate shall  
23 |     conspicuously identify the name of the candidate and campaign treasurer or deputy campaign  
24 |     treasurer.

25 |       B.     Campaign materials disseminated or communicated by a political committee

1 shall conspicuously identify the name of an officer or other responsible person of the political  
2 committee sponsoring such materials.

3 C. Any candidate, or person acting on behalf of a candidate, shall not willfully steal,  
4 destroy, or damage another candidate's campaign materials.

5 [E]D. Written, printed or posted materials shall also show a telephone contact number.  
6 (Ord. #1998-41, §4; Ord. #2005-14, §28; Ord. #2007-11, §6; Ord. #2009-10, §3; Ord. #2013-28,  
7 §2)

8 **9-2.6 Independently Sponsored Campaign ~~[Materials]~~Communications And Reporting.**

9 A. Any person or entity that ~~[contracts for or initiates the dissemination of campaign~~  
10 materials supporting the election or defeat of any identifiable candidate or the approval or defeat  
11 of a ballot proposition, and that spends in the aggregate] makes expenditures of two hundred fifty  
12 dollars (\$250) or more in the aggregate during a single election to pay for any form of public  
13 communication including print, broadcast, cable or electronic advertising, billboards, signs,  
14 pamphlets, mass mailers, mass electronic mail, recorded phone messages, organized phone-  
15 banking or organized precinct-walking, that is disseminated to one-hundred (100) or more  
16 eligible voters, and that either expressly advocates the election or defeat of a candidate, or the  
17 approval or defeat of a ballot proposition; or refers to a clearly identifiable candidate or ballot  
18 proposition within sixty (60) days before an election at which the candidate or proposition is on  
19 the ballot, ~~[for such purpose]~~ shall thereafter, on each of the days prescribed for the filing of  
20 campaign finance statements ~~[of political committees], file with the city clerk a report of all such~~  
21 expenditures made and all contributions received for ~~[such]~~ the purpose of paying for such  
22 expenditures on or before the date of the report and which have not been previously reported.  
23 Each report shall be submitted on a form prescribed by the city clerk. Contributions shall be  
24 specified by date, amount of contribution, name, address and occupation of the person or entity  
25 from whom the contribution was made. No contribution shall be reported in the name of a person

1 who is not the actual contributor or who has been or will be reimbursed or compensated for the  
2 contribution by another person. The president, chief executive officer or equivalent position shall  
3 certify on the filing that its expenditures were or were not made in cooperation, consultation or  
4 concert with, or at the request or suggestion of, a candidate, his/her representatives or agents or  
5 the candidate's political committee. Expenditures shall be specified by date, the amount of the  
6 expenditure, the name and address of the person or entity where an expenditure was made and the  
7 purpose of the expenditure. No report is required under this subsection for expenditures made  
8 exclusively for communications to the news media, editorials, reports or commentary by the news  
9 media, impartial candidate forums or debates or the announcements thereof, or for impartial voter  
10 guides allowed by the Internal Revenue Code for Section 501(c)(3) organizations or a  
11 communication by a membership organization or corporation to its current members,  
12 stockholders or executive or administrative personnel unless the membership organization or  
13 corporation is a campaign committee or a political committee.

14 B. Any person or entity that has to file under this subsection and receives  
15 contributions from another entity that does not have to disclose its contributors to the city clerk,  
16 shall place the following visible disclosure on its campaign materials: "This campaign material is  
17 supported in part by donations from an organization that is not required to disclose its  
18 contributors to the Santa Fe city clerk.

19 C. Contributions shall be specified by date, amount of contribution, name, address  
20 and occupation of the person or entity from whom the contribution was made. The name of the  
21 president, chief executive officer or equivalent position and the address of the entity shall be  
22 stated in the report.

23 D. Expenditures shall be specified by date, the amount of the expenditure, the name  
24 and address of the person or entity where an expenditure was made and the purpose of the  
25 expenditure. The name of the president, chief executive officer or equivalent position and the

1 address of the entity shall be stated in the report.

2 (Ord. #2005-14, §29; Ord. #2007-11, §7; Ord. #2013-28, §3)

3 **9-2.7 Statement of Political Committee Organization.**

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

7 (1) Its organization; or

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

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

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

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

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

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

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

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

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

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

4 (Ord. #1998-41, §5; Ord. #2005-14, §30; Ord. #2007-11, §8; Ord. #2009-10, §4)

5 **9-2.8 Appointment of Campaign Treasurer or Deputy Campaign Treasurer and**  
6 **Designation of Depository by Candidate.**

7 A. Each candidate, within two (2) weeks after becoming a candidate, and each  
8 political committee, at the time it is required to file a statement of organization, shall designate  
9 and file with the city clerk the names and addresses of:

10 (1) One (1) legally competent individual, who may be the candidate, to serve  
11 as campaign treasurer and in addition any appointed deputy campaign treasurer(s); and

12 (2) The campaign depository.

13 B. A candidate, political committee, campaign treasurer, or deputy campaign  
14 treasurer may appoint as many deputy campaign treasurers as is considered necessary. The  
15 candidate or political committee shall file the names and addresses of any deputy campaign  
16 treasurers with the city clerk on the next business day after their appointment.

17 C. A candidate or political committee may at any time remove a campaign treasurer  
18 or deputy campaign treasurer or change a designated campaign depository. In the event of the  
19 death, resignation, removal, or change of a campaign treasurer, deputy campaign treasurer, or  
20 depository, the candidate or political committee shall designate and file with the city clerk within  
21 ten (10) days after such designation, the name and address of any successor.

22 D. No contribution and no expenditure shall be accepted or made by or on behalf of  
23 a candidate or political committee unless there is a depository and either a campaign treasurer or  
24 deputy campaign treasurer in office. A candidate is deemed to be their own campaign treasurer or  
25 deputy campaign treasurer until or unless they appoint another person to that office. No

1 expenditure shall be made by or on behalf of a candidate or political committee without the  
2 authorization of the treasurer or deputy campaign treasurer.

3 (Ord. #1998-41, §6; Ord. #2005-14, §31; Ord. #2007-11, §9)

4 **9-2.9 Campaign Treasurer; Deputy Campaign Treasurer; Duties.**

5 A. The campaign treasurer or deputy campaign treasurer shall keep a true and full  
6 record of contributions and expenditures. The record of contributions and expenditures required  
7 to be kept under the terms of the Campaign Code and the Public Campaign Finance Code shall  
8 reflect the requirements in subsection 9-2.11 SFCC 1987 and Section 9-3 SFCC 1987,  
9 respectively.

10 B. The campaign treasurer or deputy campaign treasurer shall maintain:

11 (1) Receipts reflecting the purpose of each expenditure and the day and  
12 method of payment; and

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

14 C. The campaign treasurer or deputy campaign treasurer shall not accept anonymous  
15 contributions. Any such contribution received by the campaign treasurer or deputy campaign  
16 treasurer shall, within seven (7) days of receipt, be donated to a charity or to the city's general  
17 fund. The campaign treasurer or deputy campaign treasurer shall keep a record of the amount and  
18 date of receipt of any such contributions and of the disposition that was made of the contribution,  
19 including the date when it was donated to the city or to a charity and the identity of the recipient  
20 of the donation.

21 D. Records required to be kept by the campaign treasurer or deputy campaign  
22 treasurer under the terms of paragraph A of this subsection, shall be filed with the city clerk as  
23 part of the public record, shall be provided to the ethics and campaign review board set forth in  
24 Section 6-16, SFCC 1987 upon request and may be inspected by the public during usual business  
25 hours, Monday through Friday, excluding legal holidays.

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

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

9 G. The campaign treasurer or deputy campaign treasurer shall deposit within five (5)  
10 business days after receipt all monetary contributions received by a candidate, political  
11 committee, campaign treasurer or deputy campaign treasurer in the campaign depository  
12 designated for that purpose.

13 H. Campaign funds shall be used and distributed as follows:

14 (1) All contributions received shall be under the custody of the campaign  
15 treasurer or deputy campaign treasurer and shall be segregated from, and not be commingled  
16 with, the personal funds of an individual, group or political committee. Contributions shall be  
17 used exclusively to pay expenses incurred in furtherance of the candidate's campaign, and shall  
18 not be used for any other purpose, including:

19 (a) The candidate's personal living expenses or compensation to the  
20 candidate;

21 (b) A contribution to the campaign of another candidate or to a  
22 political party or political committee or to a campaign supporting or opposing a ballot  
23 proposition;

24 (c) An expenditure supporting the election or defeat of [a]any  
25 identifiable candidate or the [~~approval~~]passage or defeat of a ballot proposition; or

1 (d) Any gift or transfer for which compensating value is not  
2 received, other than a donation or distribution permitted by this subsection at the conclusion of an  
3 election.

4 (2) Any campaign contributions remaining unspent and any tangible assets  
5 with an estimated resale value greater than two hundred dollars (\$200.00) that were purchased  
6 with such contributions and remain in the possession of the campaign at the conclusion of an  
7 election shall be distributed for the following purposes:

8 (a) Expenditures of the campaign;

9 (b) Donations to the city's general fund or, in the case of tangible  
10 assets, to the city for its use or disposition in accordance with the city's procurement code.

11 Proceeds from such disposition shall be deposited in the city's general fund;

12 (c) Donations to charities; or

13 (d) Disbursements to return unused funds to the contributors.

14 (3) All unspent campaign contributions shall be distributed within six (6)  
15 months following a municipal election, for any of the purposes listed in this subsection 9-2.9H.

16 All candidates and political committees shall file reports listing the date, amount and recipient of  
17 each post-election expenditure, donation or disbursement made from campaign funds pursuant to  
18 this subsection 9-2.9H. Such report shall be part of the final campaign finance statement that is  
19 required by subsection 9-2.10B SFCC 1987.

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

1 (Ord. #1998-41, §7; Ord. #2005-14, §32; Ord. #2007-11, §10; Ord. #2009-10, §5; Ord. #2009-43,  
2 §1; Ord. #2013-28, §4; Ord. #2013-31 §1)

3 **9-2.10 Campaign Finance Statement Required.**

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

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

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

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

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

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

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

20 B. The candidate or political committee and their respective campaign treasurer or  
21 deputy campaign treasurer shall file a final report no later than six (6) months following a  
22 municipal election. Upon submitting a final report there shall be no obligation to make any  
23 further reports unless there are outstanding debts. If there are, a report shall be filed every six (6)  
24 months until all outstanding debts have been liquidated.

25 C. If a reporting day falls on a weekend, the campaign finance statement shall be

1 filed with the city clerk on the first working day immediately following the weekend.

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

4 E. The city clerk is authorized to reject any incomplete campaign finance  
5 statements. The city clerk shall notify the candidate or political committee that the campaign  
6 finance statement is incomplete.

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

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

11 (Ord. #1998-41, §8; Ord. #2005-14, §33; Ord. #2007-11, §11; Ord. #2009-10, §6)

12 **9-2.11 Campaign Finance Statement; Contents.**

13 A. Each campaign finance statement shall be filed in accordance with subsection 9-  
14 2.10 SFCC 1987. The initial statement shall begin with the date of the first contribution or  
15 expenditure. Subsequent statements shall begin on the day after the end date of the previous  
16 reporting period. Statements shall contain the following information:

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

21 (2) The full name, home address, occupation, name of employer, date of  
22 receipt and amount of each contribution received from each individual contributor from whom a  
23 contribution in money, goods, materials, services, facilities or anything of value has been  
24 received and whether the contribution was received in cash, by check, by credit card, by  
25 electronic transfer or otherwise; No contribution shall be reported in the name of a person who is

1 not the actual contributor, or who has been or will be reimbursed or compensated for the  
2 contribution by another person.

3 (3) The full name, type of business, physical address, date of receipt and  
4 amount of each contribution for each business or organizational contributor, from whom a  
5 contribution in money, goods, materials, services, facilities or anything of value has been  
6 received, and whether the contribution was received in cash, by check, by credit card, by  
7 electronic transfer or otherwise; No contribution shall be reported in the name of a person who is  
8 not the actual contributor, or who has been or will be reimbursed or compensated for the  
9 contribution by another person.

10 (4) The date of receipt and amount of any anonymous contribution received  
11 by the campaign treasurer or deputy campaign treasurer and the disposition that was made of each  
12 such contribution pursuant to subsection 9-2.9B SFCC 1987, including the date when it was  
13 donated to the city or to a charity and the identity of the recipient of the donation.

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

18 (6) The full name of the candidate or political committee and the full name  
19 and complete address of the campaign treasurer or deputy campaign treasurer;

20 (7) For each contributor, the cumulative total of all contributions made; and

21 (8) Where goods, materials, services, facilities or anything of value other  
22 than money is contributed or expended, the monetary value thereof shall be reported at the fair  
23 market value.

24 B. Loans of money, property or other things made to a candidate or political  
25 committee during the period covered by the campaign finance statement shall be reported

1 separately in the statement, with the following information:

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

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

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

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

8 C. If a loan has been forgiven or paid by a third person, it shall be reported pursuant  
9 to this section.

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

12 (Ord. #1998-41, §10; Ord. #2005-14, §34; Ord. #2007-11, §12; Ord. #2009-10, §7; Ord. #2013-  
13 28, §5; Ord. #2013-31 §2; Ord. #2014-12, §4)

14 **9-2.12 Campaign Finance Statement; Signing.**

15 Each campaign finance statement shall be signed under oath and acknowledged by both  
16 the campaign treasurer or deputy campaign treasurer and the candidate and shall contain a  
17 statement that:

18 A. \_\_\_\_\_ the campaign finance statement has been prepared with all reasonable diligence  
19 and that it is true and complete; however, the campaign finance statement of a candidate for  
20 municipal judge is not required to be signed or acknowledged by the candidate.

21 B. \_\_\_\_\_ a candidate or political committee that receives contributions from another entity  
22 that does not have to disclose its contributors to the city clerk shall indicate as such on the  
23 campaign finance statement submitted to the city clerk pursuant to existing reporting  
24 requirements.

25 (Ord. #1998-41, §11; Ord. #2005-14, §35; Ord. #2013-28, §6)

1 **9-2.13 Campaign Finance Statement; Filing.**

2 A. A candidate or political committee is not required to file a campaign finance  
3 statement if neither the contributions received nor the expenditures made on behalf of the  
4 campaign exceeds five hundred dollars (\$500.).

5 B. However, at each of the intervals in which a campaign finance statement is  
6 required to be filed, such a candidate or political committee shall file with the city clerk a written  
7 declaration under oath to the effect that neither the campaign contributions nor the expenditures  
8 of the candidate or political committee have exceeded five hundred dollars (\$500.).

9 C. If contributions received or expenditures made thereafter exceed a sum total of  
10 five hundred dollars (\$500.), including contributions received or expenditures made prior to the  
11 twentieth day before the election, the candidate or political committee shall file campaign finance  
12 statements as required by subsection 9-2.10 SFCC 1987 of the Campaign Code.

13 D. The city clerk shall encourage electronic filing and require posting of all  
14 documents generated pursuant to the Campaign Code in an accessible and searchable format to  
15 inform and educate the electorate. Such documents include:

- 16 (1) Statements of organization of candidates and political committees; and  
17 (2) Campaign finance statements or other required disclosures.

18 (Ord. #1998-41, §12; Ord. #2005-14, §36; Ord. #2007-11, §13)

19 **9-2.14 Spending Limitations.**

20 A. A candidate may volunteer, to limit the candidate's expenditures to one dollar  
21 (\$1.00) per registered voter in the city for the mayoral or municipal judgeship or one dollar  
22 (\$1.00) per registered voter in the applicable district for the city council election.

23 B. A candidate may volunteer to make no contributions to the candidate's own  
24 campaign or political committee of personal assets that in aggregate exceeds ten percent (10%) of  
25 the applicable expenditure limits for the mayoral or municipal judgeship position. A candidate

1 may volunteer to make no contributions to the candidate's own campaign or political committee  
2 of personal assets that in aggregate exceeds twenty-five percent (25%) of the applicable  
3 expenditure limits for the city council position.

4 C. No candidate for council or municipal judge or the candidate's political  
5 committee shall accept contributions from any one individual, entity or organization which in the  
6 aggregate exceed one thousand dollars (\$1000.) in any one election.

7 D. No candidate for mayor or the candidate's political committee shall accept  
8 contributions from any one individual, entity or organization which in the aggregate exceed two  
9 thousand five hundred dollars (\$2,500.) in any one election.

10 E. Contributions from any one individual, entity or organization to any elected  
11 official or his or her election campaign, which in the aggregate exceed two hundred fifty dollars  
12 (\$250) during the two (2) years preceding any official act of the elected official affecting the  
13 financial interest of the contributor, are subject to the conflict-of-interest provisions of  
14 subsections 1-7.5 and 1-7.7M SFCC 1987.

15 (Ord. #1998-41, §13; Ord. #2005-14, §37; Ord. #2009-10, §8; Ord. #2009-43, §1; Ord. #2014-12,  
16 §2)

17 **9-2.15 Temporary Political Signs.**

18 The following requirements shall apply for political campaign signs:

19 A. No building permit is required.

20 B. Signs shall not be located on or overhang onto public property, including but not  
21 limited to, rights-of-way. Signs placed on a curb strip in front of a private residence, with the  
22 permission of the owner, are exempt from this section.

23 C. Each candidate shall designate a liaison contact as responsible for the lawful  
24 placement and location of political campaign signs. The contact's name and telephone number  
25 shall be filed with the city clerk, and shall legibly appear on every political campaign sign. A

1 candidate may be a liaison contact.

2 D. Political campaign signs may be located only on private property, with the  
3 consent of the property owner, who may remove any sign placed on such owner's property  
4 without permission.

5 E. The city manager shall request candidate liaison contacts to remove their own  
6 candidates' unlawful signs within twenty-four (24) hours and upon their failure to do so shall  
7 impose a fine of fifty dollars (\$50.00) per sign per day.

8 F. If not removed as directed in paragraph E. above, the city manager shall direct  
9 city staff to remove those signs placed on public property or rights-of-way in violation of this  
10 section, including the towing of vehicles displaying political campaign signs illegally parked on  
11 city property.

12 G. No sign shall exceed thirty-two (32) square feet.

13 H. All political signs shall be removed within five (5) days after the election.

14 (Ord. #2005-14, §38; Ord. #2007-11, §14; Ord. #2007-21, § 2)

15 **9-2.16 Enforcement.**

16 The Campaign Code shall be enforced by the ethics and campaign review board pursuant  
17 to the provisions of Section 6-16 SFCC 1987. (Ord. #1998-41, §14; Ord. #2005-14, §40)

18 **9-2.17 Effective Date.**

19 The effective date of this section shall be ten (10) days after passage and shall only be  
20 applied prospectively. (Ord. #1998-41, §15; Ord. #2005-14, §41)

21 **9-2.18 Severability.**

22 The requirements and provisions of this section and their parts, subparts and clauses are  
23 severable. In the event that any requirement, provision, part, subpart or clause of this section, or  
24 the application thereof to any person or circumstance, is held by a court of competent jurisdiction  
25 to be invalid or unenforceable, it is the intent of the governing body that the remainder of the

1 section be enforced to the maximum extent possible consistent with the governing body's purpose  
2 of this Campaign Code. (Ord. #2005-14, §42)

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*Legislation/Bills 2015/Campaign Code 9-2 Mockup*