

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

2 **ORDINANCE NO. 2009-45**

3 **INTRODUCED BY:**

4  
5 **AN ORDINANCE**

6 **AMENDING CERTAIN PROVISIONS OF ARTICLE 6-16 SFCC 1987 REGARDING THE**  
7 **ETHICS AND CAMPAIGN REVIEW BOARD AS IT RELATES TO THE PUBLIC CAMPAIGN**  
8 **FINANCE CODE.**

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

11 **Section 1. Section 6-16.2 SFCC 1987 (being Ord. No. 2005-14, §18 as amended) is**  
12 **amended to read:**

13 **6-16.2 Powers and Duties.**

14 A. The board shall enforce the provisions of the Code of Ethics (Article 1-7 SFCC 1987),  
15 the Campaign Code (Article 9-2 SFCC 1987) and the Public Campaign Finance Code (Article 9-3 SFCC  
16 1987) in accordance with the procedures prescribed in this section and such rules as the board may adopt.

17 B. The board shall establish reasonable rules of practice and procedure which are not in  
18 conflict with the provisions of city code or other city rules of practice and procedure, timetables and  
19 explanatory materials designed to educate the public, to encourage voluntary compliance and to ensure  
20 fair and prompt disposition of alleged violations.

21 C. The board may give advisory opinions regarding matters related to the Code of Ethics,  
22 the Campaign Code or the Public Campaign Finance Code.

23 D. The board shall periodically review and recommend changes for improving the Code of  
24 Ethics, the Campaign Code or the Public Campaign Finance Code, particularly following a municipal  
25 election.

1 E. In the exercise of its responsibilities, the board may audit campaign or other records.  
2 After each election campaign the board may contract for professional reviews or audits of randomly  
3 selected finance statements and shall file their results with the city clerk's office.

4 **Section 2. Section 6-16.3 SFCC 1987 (being Ord. No. 2005-14, §19) is amended to read:**

5 **6-16.3 Complaints.**

6 Any person may make a sworn written complaint, under penalty of perjury, of a violation of the  
7 Code of Ethics, the Campaign Code or the Public Campaign Finance Code. The complaint shall state the  
8 specific provision which has allegedly been violated and the facts which the complainant believes support  
9 the complaint. The sworn complaint shall be filed with the city clerk, who shall promptly refer the  
10 complaint to the board and furnish a copy of the complaint and any supporting documentation to each  
11 respondent who is alleged therein to have violated the Code of Ethics, the Campaign Code or the Public  
12 Campaign Finance Code. The complaint shall be filed within one (1) year after the complainant first  
13 discovered or reasonably should have discovered the facts on which the complaint is based.

14 **Section 3. Section 6-16.4 SFCC 1987 (being Ord. No. 2005-14, §20 as amended) is**  
15 **amended to read:**

16 **6-16.4 Determination of Legal Sufficiency; Setting a Hearing.**

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

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

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

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

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

24 B. The city attorney, or a qualified attorney designated by the city attorney, may file a  
25 complaint with the board on the basis of information referred by the board or obtained otherwise, upon

1 their independent determination that probable cause exists of a violation of the Code of Ethics, the  
2 Campaign Code or the Public Campaign Finance Code.

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

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

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

19 **Section 4. Section 6-16.6 SFCC 1987 (being Ord. No. 2005-14, §21) is amended to read:**

20 **6-16.6 Investigations.**

21 The board may conduct an investigation of allegations brought before it rather than simply  
22 hearing charges; to do this, it shall temporarily contract with qualified investigators. No such  
23 investigation shall be undertaken unless it is specifically authorized and defined by the board. All public  
24 officials and public employees shall promptly furnish the board or its investigator with requested  
25 information and records within their custody which are germane to an investigation authorized by the

1 board. Public officials and public employees may be required to appear as witnesses in hearings  
2 concerning charges of Ethics Code, Campaign Code or Public Campaign Finance Code violations heard  
3 by the board.

4 **Section 5. Section 6-16.7 SFCC 1987 (being Ord. No. 2005-14, §22 as amended) is**  
5 **amended to read:**

6 **6-16.7 Sanctions.**

7 A. To encourage compliance and deter Campaign Code violations, the city clerk shall assess  
8 such fines as provided for in subsection 9-2.10 SFCC 1987 and subsection 9-2.15 SFCC 1987. The fine  
9 shall be payable within ten (10) calendar days to the city of Santa Fe. Respondents may contest the  
10 validity of such fine by filing a written appeal to the board within five (5) calendar days of its assessment,  
11 which the board shall promptly affirm or reject.

12 B. Except as set forth in paragraph C. below, if the board following a hearing determines  
13 that there has been a violation of the Code of Ethics, the Campaign Code or the Public Campaign Finance  
14 Code, it may:

15 (1) Issue a public reprimand;

16 (2) Impose a fine not to exceed five hundred dollars (\$500.00) per violation. Each  
17 day of a continuing or repetitive violation may be deemed a separate offense;

18 (3) Recommend removal or suspension from office of a public official by the  
19 governing body;

20 (4) Refer complaints against public officials, where appropriate, to the district  
21 attorney's office for investigation and prosecution; and

22 (5) In the case of a violation of the Public Campaign Finance Code, revoke a  
23 candidate's certification as a participating candidate or order repayment or refund by a candidate  
24 of any money received by the candidate from the Public Campaign Finance Fund pursuant to  
25 Section 9-3.10 SFCC 1987 or Section 9-3.13 SFCC 1987.

1 C. Although the sanctions set forth in paragraphs A. and B. above do not apply to public  
2 employees, disciplinary actions for violations of the Code of Ethics, the Campaign Code or the Public  
3 Campaign Finance Code regarding public employees shall be in accordance with the personnel rules and  
4 regulations of the city of Santa Fe and applicable collective bargaining agreements. For the purposes of  
5 this paragraph C, public employee is not intended to include any public official or exempt employee.

6 D. The sanctions set forth in paragraphs A., B. and C. do not preclude the enforcement of  
7 applicable existing state and federal statutes.

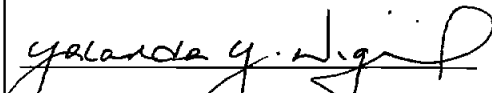
8 E. A respondent may submit a written waiver of hearing.

9 PASSED, APPROVED, and ADOPTED this 14<sup>th</sup> day of October, 2009.

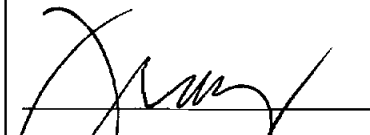
10  
11 

12 DAVID COSS, MAYOR

13 ATTEST:

14  
15   
16 YOLANDA Y. VIGIL, CITY CLERK

17  
18 APPROVED AS TO FORM:

19  
20   
21 FRANK D. KATZ, CITY ATTORNEY