

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

2 **BILL NO. 2011-31**

3 **INTRODUCED BY:**

4
5 Councilor Calvert

6
7
8
9
10 **AN ORDINANCE**

11 **AMENDING THE SANTA FE ELECTION CODE, ARTICLE 9-1 SFCC 1987 AND THE**
12 **PUBLIC CAMPAIGN FINANCE CODE, ARTICLE 9-3 SFCC 1987 TO ENCOURAGE**
13 **PARTICIPATION IN PUBLIC CAMPAIGN FINANCING BY ADVANCING THE PRE-**
14 **ELECTION TIMETABLE; REPEALING SECTIONS 9-3.12 AND 9-3.13 SFCC 1987**
15 **REGARDING MATCHING FUNDS; AMENDING SECTION 6-16.7(B) SFCC 1987; AND**
16 **MAKING SUCH OTHER CHANGES AS ARE NECESSARY.**

17
18 **BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:**

19 **Section 1. Section 9-1.2 SFCC 1987 (being Code 1973, §1-13, as amended) is**
20 **amended to read:**

21 **9-1.2 Conduct of Elections.**

22 Municipal elections in the city shall be conducted in accordance with the Santa Fe
23 Election Code, the Santa Fe Municipal Charter and the New Mexico Municipal Election Code,
24 being Sections 3-8-1 through 3-9-16 NMSA 1978. Unless inconsistent with the Santa Fe
25 Municipal Charter or city ordinances, the New Mexico Municipal Election Code shall govern all

1 municipal elections.

2 **Section 2. Section 9-1.5 SFCC 1987 (being Ord. #1985-60, §5) is amended to**
3 **read:**

4 **9-1.5 Residency of Candidates**

5 A. Only persons residing in a particular municipal election district and who
6 otherwise meet all applicable requirements imposed by law or ordinance, shall be allowed to be
7 candidates for the position of city councilor for that municipal election district.

8 B. In determining whether the residence of a person is in a particular district, the
9 rules set forth in Section 3-8-3 and 1-1-7 NMSA 1978 shall apply.

10 C. In addition to the requirements for a declaration of candidacy set forth in [~~3-8-~~
11 ~~27A NMSA 1978~~] Section 3-8-27 NMSA 1978 and Section 9-1.6 SFCC 1987, the municipal
12 clerk shall not accept a declaration of candidacy for the position of city councilor unless the
13 declaration of candidacy states which district the candidate resides in and is seeking election
14 from. The municipal clerk shall determine if the candidate's residence is within the district from
15 which the candidate is seeking election. If the candidate does not reside within the district, the
16 municipal clerk shall determine that the declaration of candidacy is invalid.

17 [~~D. A write-in candidate shall not be elected to fill the position of councilor unless~~
18 ~~the write-in candidate resides in the district from which he is elected~~]

19 **Section 3. Section 9-1.6 SFCC 1987 (being Ord. #1985-60, §6) is repealed and a**
20 **new Section 9-1.6 SFCC 1987 is ordained to read:**

21 **9-1.6 [NEW MATERIAL] Election Resolution; Declaration of Candidacy;**
22 **Certification of Candidacy and Withdrawal of Candidacy.**

23 A. *Election Resolution.* The requirements for the election resolution shall be
24 governed by Section 3-8-26 NMSA 1978, except that the election resolution shall be adopted by
25 the governing body no earlier than one hundred forty-seven (147) days and no later than one

1 hundred nineteen (119) days prior to the date of a regular municipal election.

2 B. *Candidate Filing Day.* The requirements for candidate filing day shall be
3 governed by Section 3-8-27(A) NMSA 1978, except that candidate filing day shall occur
4 between the hours of 8:00 a.m. and 5:00 p.m. on the ninety-first (91st) day preceding the day of
5 election.

6 C. *Certification of Declaration of Candidacy.* The requirements for the certification
7 of declaration of candidacy shall be governed by Section 3-8-27(G) NMSA 1978, except that no
8 later than the ninetieth (90th) day preceding the day of the election, the municipal clerk shall
9 determine whether a declaration of candidacy shall be certified.

10 D. *Posting the List of Certified and Not Certified Candidates.* The requirements for
11 posting the list of certified and not certified candidates shall be governed by Section 3-8-27(H)
12 NMSA 1978, except that the municipal clerk shall post such list no later than 9:00 a.m. on the
13 eighty-ninth (89th) day preceding the election.

14 E. *Candidate Statement to Ascertain Validity of Declaration of Candidacy.* The
15 requirements for the candidate statement to ascertain validity of declaration of candidacy shall be
16 governed by Section 3-8-27(D)(5) NMSA 1978, except that the candidate or the candidate's
17 authorized representative shall contact the office of the municipal clerk during normal business
18 hours on the eighty-ninth (89th) day before the election to ascertain whether the municipal clerk
19 has certified the declaration of candidacy as valid.

20 F. *Affidavit of Withdrawal of Candidacy.* The requirements for the affidavit of
21 withdrawal of candidacy shall be governed by Section 3-8-27(I) NMSA 1978, except that no later
22 than 5:00 p.m. on the eighty-fourth (84th) day before the day of the election, a candidate for
23 municipal office may file an affidavit on the form provided by the municipal clerk in the office of
24 the municipal clerk stating that the candidate is no longer a candidate for municipal office.

25 G. *Confirmation of Names and Positions on the Ballot.* The requirements for the

1 confirmation of the names and positions on the ballot shall be governed by Section 3-8-
2 27(J)NMSA 1978, except that no later than 10:00 a.m. on the eighty-third (83rd) day preceding
3 the election, the municipal clerk shall confirm with the printer on contract with the municipality
4 and the county clerk the names of the candidates and their position on the ballot.

5 **Section 4. Section 9-1.8 SFCC 1987 (being Ord. #1985-60, §8) is amended to**
6 **read:**

7 **9-1.8 Ballots.** In addition to the requirements of Section 3-8-29 NMSA 1978:

8 A. ~~¶~~The municipal clerk shall cause all ballots to be printed so that candidates are
9 grouped for the position of city councilor by district.

10 B. The order of the candidates on the ballot [running] for ~~[office within each~~
11 ~~district]~~ city councilor within each district shall be determined by a drawing by lot, which shall be
12 held at 5:01 p.m. on the eighty-ninth (89th) day preceding the election. ~~[There shall be a position~~
13 ~~for a voter to insert the name of a write in candidate below the names of the candidates running~~
14 ~~for the position of city councilor from each district.]~~

15 C. The order of the candidates on the ballot for mayor and for municipal judge shall
16 be determined by a drawing by lot, which shall be held at 5:01 p.m. on the eighty-ninth (89th) day
17 preceding the election.

18 **Section 5. [REPEAL] Section 9-1.15 SFCC 1987 (being Ord. #1985-60, §11) is**
19 **repealed.**

20 ~~[9-1.15 Election of Other Municipal Officers.~~
21 ~~Nothing in the Municipal Election Code shall be construed to affect the manner in which~~
22 ~~municipal officers other than city councilors are elected.]~~

23 **Section 6. Section 9-1.17 SFCC 1987 (being Ord. #1985-60, §13) is amended to**
24 **read:**

25 **9-1.17 Canvass of Returns, Election Certificate.**

1 Appropriate election officials shall assure that election returns are canvassed and election
2 certificates are issued for the positions of mayor and municipal judge and on a district-by-district
3 basis for the position of city councilor.

4 **Section 6. Section 9-3.1 SFCC 1987 (being Ord. #2009-44, §2) reads:**

5 **9-3.1 Short Title.**

6 Article 9-3 SFCC 1987 may be cited as the Public Campaign Finance Code.

7 **Section 7. Section 9-3.2 SFCC 1987 (being Ord. #2009-44, §3) is amended to**
8 **read:**

9 **9-3.2 Findings and Purposes.**

10 A. Findings. The governing body of the city of Santa Fe finds and declares that the
11 current system of privately financed campaigns for municipal office:

12 (1) Undermines public confidence in the democratic process and democratic
13 institutions.

14 (2) Creates a danger of undue influence by encouraging elected officials to
15 take money from private interests that are directly affected by governmental actions.

16 ~~[(3) — Drives up the cost of campaigns, making it difficult for qualified~~
17 ~~candidates without access to large contributors to mount competitive campaigns.]~~

18 ~~[(4)]~~ Forces candidates to raise increasing amounts of money from interest
19 groups that have a financial stake in matters before Santa Fe city government in order to
20 keep pace with escalating campaign costs.

21 ~~[(5)]~~ Diminishes elected officials' accountability to their constituents by
22 compelling them to be disproportionately accountable to the contributors who finance
23 their campaigns.

24 ~~[(6)]~~ Burdens officeholders with the incessant need to raise campaign funds
25 and thus decreases the time available to them to carry out their public responsibilities.

1 B. Purposes. The purposes of the Public Campaign Finance Code are:

2 (1) To strengthen public confidence in the governmental and election
3 processes.

4 (2) To eliminate the danger of undue influence on elected officials caused by
5 the private financing of campaigns.

6 ~~[(3) To restrain the escalating cost of elections and reduce the impact of
7 access to large contributions as a determinant of whether a person becomes a candidate.]~~

8 ~~[(4)3]~~ To provide candidates with sufficient resources to communicate with
9 voters without the need to resort to private fund-raising.

10 ~~[(5)4]~~ To increase the accountability of elected officials to the constituents who
11 elect them, as opposed to the contributors who fund their campaigns.

12 ~~[(6)5]~~ To free officeholders from the need to raise campaign money, and thus to
13 allow them more time to carry out their official duties.

14 **Section 8. Section 9-3.3 SFCC 1987 (being Ord. #2009-44, §4) is amended to**
15 **read:**

16 **9-3.3 Definitions.** As used in this ~~[Section]~~ Article, the following terms have the
17 following meanings:

18 A. *Campaign depository* means a bank, mutual savings bank, savings and loan
19 association or credit union doing business in this state under which a campaign account or
20 accounts are maintained.

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

25 C. *Candidate* means any individual who seeks election to a Santa Fe municipal

1 office. An individual shall be a candidate when they:

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

8 D. *Contested race* means a race in which there are at least two (2) candidates for the

9 office sought.

10 E. *Contribution* means a loan, loan guarantee, gift, advance, pledge, contract,

11 agreement or promise of money or anything of value or other obligation, whether or not legally

12 enforceable, made directly or indirectly, to a candidate or political committee for the purpose of

13 influencing the outcome of a municipal election.

14 (1) The term "contribution" includes:

- 15 (a) The transfer of funds or anything of value between political
- 16 committees;
- 17 (b) The transfer of anything of value, including personal and
- 18 professional services, for less than full consideration;
- 19 (c) Interest, dividends or other income derived from the investment
- 20 of campaign funds;
- 21 (d) The payment for the services of an individual serving on behalf
- 22 of a candidate or political committee, which payments are made by a third party;
- 23 and
- 24 (e) The purchase of over twenty-five dollars (\$25.00) of tickets for
- 25 fundraising events such as dinners, rallies, raffles, etc. and the proceeds of

1 collections at fundraising events which are not otherwise reported.

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

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

5 (b) The cost of an event held in honor of or on behalf of a candidate
6 when the total cost of the event amounts to no more than two hundred dollars
7 (\$200.00).

8 F. *Election* means any regular or special Santa Fe municipal election.

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

19 H. *Fund* means the public campaign finance fund created by [subs]Section 9-3.4
20 SFCC 1987.

21 I. *Non-participating candidate* means a candidate who is not a participating
22 candidate.

23 J. *Participating candidate* means a candidate who has qualified and has been
24 certified pursuant to [subs]Section 9-3.9 SFCC 1987 as eligible to receive payments from the
25 fund.

1 K. *Qualified elector* means a person who is registered to vote in the city of Santa Fe.

2 L. *Qualifying contribution* means a contribution of no more or no less than five
3 dollars (\$5.00) that is received from a qualified elector during the qualifying period by a
4 candidate seeking to become a participating candidate.

5 M. *Qualifying period* means the period during which a candidate seeking to become
6 a participating candidate is permitted to collect qualifying contributions and to apply for
7 certification as a participating candidate. It begins 183 days before the election and ends [76] 106
8 days before the election.

9 N. *Race* means the electoral process in which one (1) or more candidates run and
10 one (1) candidate is elected to the office of mayor, municipal judge or city councilor for a
11 particular district.

12 O. *Seed money contribution* means a contribution of no more than one hundred
13 dollars (\$100.00) ~~[made by an individual adult resident of the city of Santa Fe]~~ made and
14 accepted in compliance with the provisions of Section 9-3.6 SFCC 1987 and used exclusively for
15 the purposes specified in that Section.

16 P. *Uncontested race* means a race in which there is only one (1) candidate for the
17 office sought.

18 **Section 9. Section 9-3.4 SFCC 1987 (being Ord. No. 2009-44, §5) is amended to**
19 **read:**

20 **9-3.4 Public Campaign Finance Fund.**

21 A. A dedicated public campaign finance fund (“the fund”) is established to be
22 administered by the [city] municipal clerk for the purpose of providing public financing for the
23 election campaigns of participating candidates. Monies in the fund and disbursed from the fund to
24 participating candidates are public monies entrusted to the candidates to be used solely for the
25 public purposes specified in this Article 9-3 SFCC 1987.

1 B. Beginning with the city budget for fiscal year 2009-2010 and in each fiscal year
2 thereafter, the sum of one hundred and fifty thousand dollars (\$150,000.00) shall be budgeted for
3 and deposited in the fund.

4 C. Beginning with the election of 2014, the governing body shall appropriate and
5 deposit in the fund such additional sums, if any, as may be necessary to ensure:

6 (1) that the balance in the fund [~~eighty-four (84)~~] one hundred nineteen
7 (119) days preceding each election for mayor and four council seats is at least six
8 hundred thousand dollars (\$600,000.00); and

9 (2) that the balance in the fund [~~eighty-four (84)~~] one hundred nineteen
10 (119) days preceding each election for municipal judge and four council seats is at least
11 three hundred thousand dollars (\$300,000.00).

12 D. In addition to the deposits required by paragraphs B and C of this Section, the
13 following shall also be deposited in the fund:

14 (1) All seed money contributions received by candidates seeking to become
15 certified as participating candidates which remain unspent;

16 (2) All qualifying contributions received by candidates seeking to become
17 certified as participating candidates;

18 (3) All amounts paid from the fund to participating candidates which have
19 not been spent or obligated as of the date of the election;

20 (4) All fines levied by the ethics and campaign review board or as decreed
21 by a court of competent jurisdiction as a condition of probation;

22 (5) Voluntary donations made to the fund;

23 (6) All interest and other income earned from investment of the fund; and

24 (7) Such other appropriations to the fund as may be made by the governing
25 body as necessary to fulfill the requirements of this Article 9-3 SFCC 1987.

1 **Section 10. Section 9-3.5 SFCC 1987 (being Ord. No. 2009-44, §6) is amended to**
2 **read:**

3 **9-3.5 Eligibility as a Participating Candidate.** Beginning with the election of 2012,
4 any candidate for municipal office may qualify as a participating candidate eligible to receive
5 payments from the fund pursuant to [~~subsections~~] Section 9-3.10 [~~and 9-3.13~~] SFCC 1987 if the
6 candidate:

7 A. Meets the requisites to be listed on the ballot as a certified [~~as a~~] candidate for
8 municipal office pursuant to the provisions of [~~subs~~] Section 3-8-27 (B) through (E) NMSA 1978
9 and Article IV Section 4.03 of the Santa Fe Municipal Charter;

10 B. Has collected the requisite number of qualifying contributions, as follows:

11 (1) For a candidate running for the office of mayor, [~~S~~]six hundred (600)
12 qualifying contributions from separate qualified electors [~~for a candidate running for the~~
13 ~~office of mayor~~];

14 (2) For a candidate running for the office of city councilor, [~~Θ~~]one hundred
15 fifty (150) qualifying contributions from separate qualified electors [~~for a candidate~~
16 ~~running for the office of city councilor~~] registered to vote in the council district in which
17 the candidate is running;

18 (3) For a candidate running for the office of municipal judge, [~~Θ~~]one
19 hundred fifty (150) qualifying contributions from separate qualified electors [~~for a~~
20 ~~candidate running for the office of municipal judge~~]; and

21 C. Submits an application for certification pursuant to [~~subs~~] Section 9-3.8 SFCC
22 1987 setting forth the agreement and the averments and accompanied by the forms, reports and
23 payments that are required by that section.

24 **Section 11. Section 9-3.6 SFCC 1987 (being Ord. No. 2009-44, §7) is amended to**
25 **read:**

1 **9-3.6 Seed Money Contributions.**

2 A. A candidate seeking to become a participating candidate may solicit and accept
3 seed money contributions to defray expenses incurred in obtaining qualifying contributions and in
4 seeking certification as a participating candidate.

5 B. ~~[No seed money contribution shall]~~ The aggregate amount of seed money
6 contributions from any one contributor shall not exceed one hundred dollars (\$100) [per-
7 contributor], and the aggregate amount of seed money contributions accepted by a candidate shall
8 not exceed ten percent (10%) of the ~~[initial]~~ amount payable under 9-3.10 SFCC 1987 to a
9 candidate in a contested election for the office sought ~~[under subsection 9-3.10 SFCC 1987]~~.

10 C. Each seed money contribution shall be accompanied by a form signed by the
11 contributor, which shall include the contributor's name, home address and telephone number. The
12 form for a contribution exceeding twenty-five dollars (\$25.00) shall also state the contributor's
13 occupation and name of employer.

14 D. All seed money contributions received by a candidate shall be deposited in a
15 campaign depository to be established by the candidate before soliciting or accepting any such
16 contributions. All expenditures of seed money shall be made from the campaign depository.

17 E. Seed money contributions shall be used only for the purposes specified in
18 paragraph A. of this ~~[subs]~~Section, and all seed money contributions that have not been spent or
19 used for such purposes by the time the candidate applies for certification as a participating
20 candidate or by the end of the qualifying period, whichever is sooner, shall then be paid over to
21 the ~~[city]~~ municipal clerk for deposit in the fund.

22 **Section 12. Section 9-3.7 SFCC 1987 (being Ord. #2009-44, §8) is amended to**
23 **read:**

24 **9-3.7 Qualifying Contributions.**

25 A. Each qualifying contribution shall be accompanied by a form signed by the

1 contributor, which shall include the contributor's name, home address and telephone number.

2 B. No candidate or person acting on a candidate's behalf shall pay to any other
3 person any form of compensation for soliciting or obtaining a qualifying contribution.

4 C. No person shall knowingly make and no candidate shall knowingly receive a
5 qualifying contribution which is not from the person named on the form or for which the person
6 named on the form has been or will be reimbursed or compensated by another person.

7 D. All qualifying contributions received by a candidate shall be deposited in a
8 campaign depository to be established by the candidate before soliciting or accepting any such
9 contributions, and shall be paid over to the [city] municipal clerk for deposit in the fund when the
10 candidate applies for certification as a participating candidate or when the qualifying period ends,
11 whichever is sooner.

12 **Section 13. Section 9-3.8 SFCC 1987 (being Ord. #2009-44, §9) is amended to**
13 **read:**

14 **9-3.8 Application for Certification as a Participating Candidate.**

15 A. A candidate who wishes to be certified as a participating candidate shall, before
16 the end of the qualifying period, file an application for such certification with the [city] municipal
17 clerk on a form prescribed by the [city] municipal clerk.

18 B. The application shall identify the candidate and the office that the candidate is
19 seeking, and shall set forth:

20 (1) The candidate's averment under oath that the candidate satisfies the
21 requisites for qualification and certification as a participating candidate prescribed by
22 [subs]Section 9-3.5 SFCC 1987;

23 (2) The candidate's averment under oath that the candidate has accepted no
24 contributions to the candidate's current campaign other than qualifying contributions and
25 seed money contributions solicited and accepted [~~in full compliance with~~] pursuant to

1 [subs]Sections 9-3.6 SFCC 1987 and 9-3.7 SFCC 1987;

2 (3) The candidate's averment under oath that the candidate has made no
3 expenditures for his or her current campaign from any source other than seed money
4 contributions; and

5 (4) The candidate's agreement that his or her current campaign will not
6 accept any further contributions [and] or make any further expenditures from any sources
7 other than payments received from the fund pursuant to [subsections] Section 9-3.10
8 SFCC 1987 [and 9-3.13 SFCC 1987].

9 C. The application shall be accompanied by:

10 (1) Reports listing all seed money contributions and qualifying contributions
11 received by the candidate and all expenditures of seed money contributions made by the
12 candidate, and showing the aggregate amounts of all such contributions and expenditures
13 and the aggregate amounts of all contributions received from each contributor;

14 (2) Copies of forms signed by contributors for all seed money contributions and
15 qualifying contributions received by the candidate; and

16 (3) A check or checks [~~drawn~~] issued to the city of Santa Fe from the candidate's
17 campaign depository for the amount of all qualifying contributions received by the
18 candidate and all seed money contributions received by the candidate and not yet spent
19 for the purposes specified in paragraph A of [subs]Section 9-3.6 SFCC 1987.

20 **Section 14. Section 9-3.9 SFCC 1987 (being Ord. No. 2009-44, 10) is amended to**
21 **read:**

22 **9-3.9 Certification as a Participating Candidate.**

23 A. On or before the [~~fifty-fourth~~] eighty-ninth (89th) day before [~~an~~] the election the
24 [~~city~~] municipal clerk shall make a determination whether the candidate's application complies
25 with the requirements of Section 9-3.8 SFCC 1987 and whether the candidate satisfies the

1 requisites for certification as a participating candidate prescribed by Section 9-3.5 SFCC 1987,
2 and shall thereupon issue a decision, in accordance with the determination so made, granting or
3 refusing such certification to the candidate.

4 B. The [city] municipal clerk may revoke a candidate's certification as a
5 participating candidate for any violation by the candidate of the requirements of this Article, and
6 may require that any candidate whose certification has been revoked [~~shall repay~~] to pay over to
7 the municipal clerk for deposit in the fund any amounts previously paid to the candidate pursuant
8 to Section[s] 9-3.10 SFCC 1987 [~~and 9-3.13 SFCC 1987~~].

9 **Section 15. Section 9-3.10 SFCC 1987 (being Ord. #2009-44, §11) is amended to**
10 **read:**

11 **9-3.10 [Initial] Payments to Participating Candidates.**

12 A. [~~Immediately upon~~] Within three (3) business days of certifying a candidate as a
13 participating candidate, the [city] municipal clerk shall disburse to the candidate from the fund:

- 14 1. Sixty thousand dollars (\$60,000.) for a candidate in a contested race for
15 the office of mayor;
- 16 2. Fifteen thousand dollars (\$15,000.) for a candidate in a contested race for
17 the office of city councilor;
- 18 3. Fifteen thousand dollars (\$15,000.) for a candidate in a contested race for
19 the office of municipal judge; or
- 20 4. For a candidate in an uncontested race, ten percent (10%) of the amount
21 that would be due to a candidate in a contested race for the same office.

22 B. If the amounts required to be paid to candidates under paragraph A of this
23 [~~subs~~]Section exceed the total amount available in the fund, each payment shall be reduced in
24 proportion to the amount of such excess. Any such proportionate reduction in the payment due to
25 any candidate under paragraph A of this [~~subs~~]Section shall give the candidate the option to reject

1 the payment and to withdraw as a participating candidate. A candidate who withdraws as a
2 participating candidate pursuant to this paragraph shall file an affidavit with the [city] municipal
3 clerk so stating and shall thenceforth be treated for all purposes as a non-participating candidate
4 relieved of all obligations and restrictions and excluded from all benefits and exemptions imposed
5 or conferred on a participating candidate by this Section 9-3 SFCC 1987.

6 **Section 16. Section 9-3.11 SFCC 1987 (being Ord. #2009-44, §12) is amended to**
7 **read:**

8 **9-3.11 Use of Payments from the Fund; the Fund as Exclusive Source.**

9 A. All payments received by a participating candidate from the fund shall be
10 deposited in the candidate's campaign depository and shall be used exclusively to pay expenses
11 reasonably incurred in furtherance of the candidate's current campaign.

12 B. Payments received from the fund shall not be used for any other purpose,
13 including:

14 (1) The candidate's personal living expenses or compensation to the
15 candidate or the candidate's family;

16 (2) A contribution to another campaign of the candidate or a payment to
17 retire debt from another such campaign;

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

20 (4) An expenditure supporting the election of another candidate or the
21 passage or defeat of a ballot proposition or the defeat of any candidate other than an
22 opponent of the participating candidate;

23 (5) Payment of legal expenses or any fine levied by a court or the ethics and
24 campaign review board.

25 (6) Any gift or transfer for which compensating value is not received.

1 C. All payments from the fund received by a participating candidate which have not
2 been spent or obligated for the purposes specified in paragraph A of this [subs]Section as of the
3 date of the election shall be returned by the candidate and shall be paid over to the municipal
4 clerk for deposit to the fund within ten [days] (10) days after that date.

5 D. In accordance with the agreement entered into pursuant to subparagraph B(4) of
6 [subs]Section 9-3.8 SFCC 1987, a candidate who has been certified as a participating candidate
7 shall not thereafter accept any contribution to the candidate's campaign other than payments
8 received from the fund pursuant to [subsections] Section 9-3.10 SFCC 1987 [~~and 9-3.13 SFCC-~~
9 ~~1987~~], and shall not make any expenditure in support of the candidate's campaign from any
10 source other than payments so received and previously deposited in the candidate's campaign
11 depository.

12 **Section 17. [REPEAL] Section 9-3.12 SFCC 1987 (being Ord. #2009-44, §13)**
13 **is repealed:**

14 ~~**[9-3.12—Reports of Expenditures by Non-Participating Candidates and Other**~~
15 ~~**Persons.**~~

16 A. ~~For any race in which a participating candidate is one of the candidates, every~~
17 ~~non-participating candidate shall, in addition to filing the campaign finance statements required~~
18 ~~by subsection 9-2.10 SFCC 1987, file with the city clerk by 9:00 a.m. on each of the last six (6)~~
19 ~~Thursdays before the election, a report under oath stating the aggregate amounts of the~~
20 ~~contributions received and the expenditures made or obligated to be made by the candidate or by~~
21 ~~the candidate's campaign through the date of the report.~~

22 B. ~~For any race in which a participating candidate is one of the candidates, any~~
23 ~~person or entity, other than a candidate, who spends over two hundred fifty dollars (\$250.) in the~~
24 ~~aggregate to disseminate campaign materials within one hundred eighty (180) days before the~~
25 ~~election for the purpose of influencing the race in favor of an identifiable candidate or candidates.~~

1 shall, in addition to filing any reports required by subsections 9-2.6 SFCC 1987 or 9-2.10 SFCC
2 1987, file with the city clerk, by 9:00 a.m. on each of the last six (6) Thursdays before the
3 election, a report under oath stating the aggregate amounts of the contributions received and the
4 expenditures made or obligated to be made for such purpose through the date of the report.]

5 Section 18. [REPEAL] Section 9-3.13 SFCC 1987 (being Ord. #2009-44, §14) is
6 repealed:

7 ~~[9-3.13—Additional Matching Payments to Participating Candidates.~~

8 A. ~~By 5:00 p.m. on each of the last six (6) Thursdays before the election, the city~~
9 ~~clerk shall calculate:~~

10 (1) ~~For each participating candidate, the sum of:~~

11 ~~—— (a) —— The aggregate amounts previously paid to the candidate pursuant~~
12 ~~to subsection 9-3.10 SFCC 1987 and this subsection; and~~

13 ~~—— (b) —— The contributions received or the expenditures made or obligated~~
14 ~~to be made, whichever is greater, to disseminate campaign materials within one~~
15 ~~hundred eighty (180) days before the election for the purpose of influencing the~~
16 ~~race in favor of the candidate by every other person or entity who has spent over~~
17 ~~two hundred fifty dollars (\$250.) for such purpose.~~

18 (2) ~~For each non-participating candidate in any contested race in which a~~
19 ~~participating candidate is one of the candidates, the sum of:~~

20 ~~—— (a) —— The contributions received or the expenditures made or obligated~~
21 ~~to be made, whichever is greater, by the candidate or by the candidate's~~
22 ~~campaign; and~~

23 ~~—— (b) —— The contributions received or the expenditures made or obligated~~
24 ~~to be made, whichever is greater, to disseminate campaign materials within one~~
25 ~~hundred eighty (180) days before the election for the purpose of influencing the~~

1 race in favor of the candidate by every other person or entity who has spent over
2 two hundred fifty dollars (\$250.) for such purpose.

3 B. ~~For any race in which a participating candidate is one of the candidates, if the~~
4 ~~greatest of the sums calculated for each candidate pursuant to paragraph A of this subsection~~
5 ~~exceeds the sum calculated for any participating candidate pursuant to paragraph A(1) of this~~
6 ~~subsection, the city clerk shall immediately make an additional payment from the fund to such~~
7 ~~participating candidate in the amount of such excess.~~

8 C. ~~The aggregate amount of additional payments made to any participating~~
9 ~~candidate pursuant to paragraph B of this subsection shall not exceed two hundred percent~~
10 ~~(200%) of the amount initially paid to the candidate pursuant to subsection 9-3.10 SFCC 1987.~~

11 D. ~~If the amounts required to be paid to candidates under paragraph B. of this~~
12 ~~subsection exceed the total amount available in the fund, each payment shall be reduced in~~
13 ~~proportion to the amount of such excess. Any such proportionate reduction in the payment due to~~
14 ~~any candidate under paragraph B of this subsection shall give the candidate the option to reject~~
15 ~~the payment and to withdraw as a participating candidate. A candidate who withdraws as a~~
16 ~~participating candidate pursuant to this paragraph may retain any amounts previously paid to the~~
17 ~~candidate from the fund and shall thenceforth be treated for all purposes as a non-participating~~
18 ~~candidate relieved of all obligations and restrictions and excluded from all benefits and~~
19 ~~exemptions imposed or conferred on a participating candidate by this Section 9-3 SFCC 1987.]~~

20 **Section 19. Section 9-3.14 SFCC 1987 (being Ord. #2009-44, §15) is amended to**
21 **read:**

22 **9-3.14 Reports of Expenditures; Exemption from Certain Reporting Requirements.**

23 A. A participating candidate shall file with the [city] municipal clerk reports under
24 oath of expenditures made from the payments received from the fund, showing the amount of
25 each expenditure, the name and address of the person or organization to whom it was made, the

1 purpose of the expenditure, the aggregate amount of expenditures made to each person or
2 organization and the aggregate amount of all expenditures made by the candidate or by his or her
3 campaign.

4 B. The reports required by paragraph A of this [subs]Section shall be filed on each
5 of the days prescribed for the filing of campaign finance statements by [subs]Section 9-2.10
6 SFCC 1987.

7 C. Except as provided in paragraphs A and B of this [subs]Section and paragraph C
8 of [subs]Section 9-3.8 SFCC 1987, participating candidates are exempt from the requirement to
9 file campaign finance statements imposed by [subs]Sections 9-2.10 SFCC 1987 through 9-2.12
10 SFCC 1987 and from the requirement to file campaign records with the [city] municipal clerk
11 imposed by paragraph C of [subs]Section 9-2.9 SFCC 1987; provided, however, that campaign
12 records shall be maintained in the manner required by the applicable provisions of the Campaign
13 Code (Section 9-2 SFCC 1987) and shall be made available upon request to the [city] municipal
14 clerk and the ethics and campaign review board.

15 **Section 20. Section 9-3.15 SFCC 1987 (being Ord. #2009-44, §16) reads:**

16 **9-3.15 Contributions and Expenditures to Retire Debt from Previous Campaigns.**

17 Notwithstanding any other provision of this section, a candidate shall not be considered
18 ineligible for certification as a participating candidate and shall not be deemed to have violated
19 the provisions of paragraph D of [subs]Section 9-3.11 SFCC 1987 solely by reason of
20 contributions received or expenditures made to retire debt incurred in the course of a previous
21 campaign in which the candidate was not a participating candidate, provided that any such
22 contribution or expenditure has been made and duly reported in full compliance with the
23 requirements of the Campaign Code (Section 9-2 SFCC 1987).

24 **Section 21. Section 9-3.16 SFCC 1987 (being Ord. #2009-44, §17) is amended to**
25 **read:**

1 **9-3.16 Rules and Educational Materials.**

2 The [city] municipal clerk and the ethics and campaign review board may adopt and
3 publish rules and educational materials explaining and applying the provisions of this section.

4 **Section 22. Section 9-3.17 SFCC 1987 (being Ord. #2009-44, §18) is amended to**
5 **read:**

6 **9-3.17 Enforcement and Review.**

7 This section shall be enforced by the ethics and campaign review board pursuant to the
8 provisions of Section 6-16 SFCC 1987. Any decision of the [city] municipal clerk under this
9 section is reviewable by the ethics and campaign review board on petition of an aggrieved party.
10 This provision shall not be construed to prevent the enforcement of any otherwise applicable state
11 criminal or civil statutes, laws or municipal ordinances.

12 **Section 23. Section 9-3.18 SFCC 1987 (being Ord. #2009-44, §19) is amended to**
13 **read:**

14 **9-3.18 Reports and Forms.**

15 A. All reports and forms that are required by [~~Section~~] Article 9-3 SFCC 1987 shall
16 be signed under oath and on forms prescribed by the [city] municipal clerk.

17 B. The [city] municipal clerk is authorized to reject any incomplete report or form.
18 The [city] municipal clerk shall notify a participating candidate that the report or form is
19 incomplete.

20 C. The [city] municipal clerk shall assess a fine of one hundred dollars (\$100.00) for
21 unexcused late filing of reports or forms.

22 **Section 24. Section 9-3.19 SFCC 1987 (being Ord. #2009-44, §20) is amended to**
23 **read:**

24 **9-3.19 Severability.**

25 The provisions of this [~~section~~] Article and each of its [~~sub~~]sections, paragraphs,

1 subparagraphs, sentences and clauses are severable. In the event that any such provision is held to
2 be invalid or unenforceable by any judicial or administrative tribunal, it is the intent of the
3 governing body that all other provisions thereof shall remain in full force and effect.

4 **Section 25. Section 6-16.7 SFCC 1987 (being Ord. #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
8 shall assess such fines as provided for in Section 9-2.10 SFCC 1987 and Section 9-2.15 SFCC
9 1987. The fine shall be payable within thirty (30) calendar days to the city of Santa Fe.
10 Respondents may contest the validity of such fine by filing a written appeal to the board within
11 five (5) calendar days of its assessment, which the board shall promptly affirm or reject.

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

15 (1) Issue a public reprimand;

16 (2) Impose a fine not to exceed five hundred dollars (\$500.00) per violation.

17 Each day of a continuing or repetitive violation may be deemed a separate offense. The
18 board may seek enforcement of fines in district court;

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

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

23 (5) In the case of a violation of the Public Campaign Finance Code, revoke a
24 candidate's certification as a participating candidate or order repayment or refund by a
25 candidate of any money received by the candidate from the Public Campaign Finance

1 Fund pursuant to Section 9-3.10 SFCC 1987 [~~or Section 9-3.13 SFCC 1987~~].

2 C. Although public employees are subject to and bound by the provisions of the
3 Code of Ethics, the Campaign Code and the Public Campaign Finance Code, the sanctions
4 authorized by this Section may not be imposed on public employees unless they are public
5 officials or exempt employees. All other public employees found to have violated the Code of
6 Ethics, the Campaign Code or the Public Campaign Finance Code shall be subject to discipline
7 only in accordance with the personnel rules and regulations of the city of Santa Fe and applicable
8 collective bargaining agreements.

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

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

12 APPROVED AS TO FORM:

13
14 

15 GENO ZAMORA, CITY ATTORNEY

16
17
18
19
20
21
22
23
24
25