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**CITY OF SANTA FE, NEW MEXICO**

**BILL NO. 2014-11**

**INTRODUCED BY:**

Councilor Rebecca Wurzburger

Councilor Carmichael Dominguez

**AN ORDINANCE**

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

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

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

**is amended to read:**

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

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

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

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

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

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

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

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

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

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

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

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

19 C. *Representation of Private Interests.*

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (1) Use of disrespectful and devaluing language;

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

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

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

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

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

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

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

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

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

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

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

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

APPROVED AS TO FORM:



KELLEY A. BRENNAN, INTERIM CITY ATTORNEY