

1 CITY OF SANTA FE, NEW MEXICO

2 ORDINANCE NO. 2014-15

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5 AN ORDINANCE

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

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

12 Section 1. Subsection 1-7.7 SFCC 1987 (being Ord. #2005-14, §7, as amended)  
13 is amended to read:

14 1-7.7 Improper Gifts; Improper Transactions; Representation of Private  
15 Interests; Conflicts of Interest; and Other Prohibitions.

16 A. *Improper Gifts to Public Officials and Employees.* A public official or public  
17 employee shall not request or receive, directly or indirectly, a gift or other financial benefit, including,  
18 but not limited to, travel and accommodations, from any person or entity which, to the knowledge of  
19 the public official or public employee, has any prospect of direct or indirect pecuniary gain or loss  
20 from any official act to be performed by the public official or public employee, other than a gain or  
21 loss shared with a substantial segment of the general public. If a public official or public employee  
22 has received a gift or other financial benefit from a person or entity within the last calendar year and  
23 then discovers that this person or entity has any prospect of direct or indirect pecuniary gain or loss  
24 from any official act to be performed by the public official or public employee, that public official or  
25 public employee shall return the gift or shall be deemed to have a conflict of interest and shall deal

1 with that conflict under the provisions of subsection 1-7.7 M. SFCC 1987. However, nothing in this  
2 paragraph A. shall be deemed to prohibit any of the following:

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

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

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

18 (2) An award, publicly presented in recognition of public service, having a fair  
19 market value not to exceed fifty dollars (\$50.00) valued in a manner consistent with IRS rules  
20 except for employee of the month recognition or non-profit or civic recognition of a public  
21 employee that does not otherwise violate the Code of Ethics;

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

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

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

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

14          C.     *Representation of Private Interests.*

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

19           (2)     A public employee shall not, during his or her term of employment or within  
20     one (1) year after the termination thereof, accept monetary compensation from a third party  
21     for consulting with, representing or advising that party regarding any transaction with the city  
22     department that the public employee is or was employed by or any matter before such city  
23     department in which the public employee has had or reasonably should expect to have any  
24     influence or personal involvement in his or her capacity as a city employee.

25           (3)     A governmental body member, excluding members of the governing body,

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

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

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

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

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

20 H. *Improper Political Campaigning.* A public official or public employee shall not  
21 knowingly request or authorize another person to request that any subordinate of the public official or  
22 public employee make a campaign contribution or provide services to a political campaign, and shall  
23 not engage in political campaigning while on duty for the city, or use city funds, supplies, vehicles or  
24 facilities to benefit or assist a political campaign.

25 I. *City Employment as a Political Reward.* A public official or public employee shall

1 not promise an appointment or the use of his or her influence to obtain an appointment to any position  
2 with the city as a reward for any political activity or contribution.

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

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

- 17 (1) Use of disrespectful and devaluing language;
- 18 (2) Persistent or constant criticism in front of other persons (including co-  
19 workers, vendors, contractors or members of the public) for the purpose of humiliating an  
20 employee;
- 21 (3) Behavior or language that frightens, humiliates, belittles or degrades,  
22 including criticism that is delivered with yelling and screaming;
- 23 (4) Threats and intimidation, including threats to discipline or terminate a public  
24 employee.

25 L. *Retaliation and Whistleblower Protection.* A public official or public employee shall

1 not be dismissed, threatened with dismissal, or otherwise singled out for retaliation for the reason that  
2 the person has filed a complaint of violation of this Code of Ethics or any other violation of a legal  
3 prohibition or requirement or has given evidence or participated in an investigation of any such  
4 violation. Any act in violation of this paragraph L. shall be deemed a violation of the Code of Ethics.  
5 The outcome of the original ethics complaint shall not be deemed relevant to the complaint of  
6 retaliation itself.

7 M. *Conflicts of Interest.* The following shall govern conflicts of interest:

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

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

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

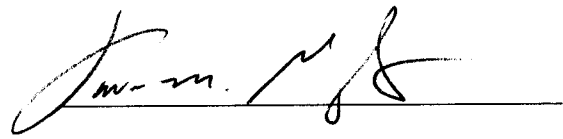
15 (c) In the case of a public employee, to the city manager.

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

19 (3) If compliance with paragraph M.(2) above by a public official or public  
20 employee would deprive a governmental body of a quorum for taking necessary action or  
21 would render the city unable to take necessary action on any matter, and it is deemed an  
22 emergency, the public official or public employee shall be excused from such compliance  
23 when he or she has made the disclosure required by paragraph M.(1) above.  
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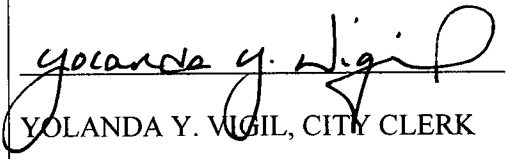
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PASSED, APPROVED and ADOPTED this 26<sup>th</sup> day of March, 2014.



JAVIER M. GONZALES, MAYOR

ATTEST:



YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:



KELLEY A. BRENNAN, INTERIM CITY ATTORNEY