

1 CITY OF SANTA FE, NEW MEXICO

2 ORDINANCE NO. 2021-16

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4
5 AN ORDINANCE

6 RELATING TO THE CAMPAIGN CODE; AMENDING SECTION 9-2.3 SFCC 1987 TO
7 AMEND THE DEFINITION OF A “POLITICAL COMMITTEE” TO INCLUDE A
8 THRESHOLD AMOUNT FOR REPORTING CONTRIBUTIONS; AMENDING SECTION
9 9-2.6 TO INCREASE THE AGGREGATE EXPENDITURE AMOUNT REQUIRING
10 REPORTING TO FIVE HUNDRED DOLLARS AND TO EXEMPT AGGREGATE
11 CONTRIBUTION AMOUNTS OF LESS THAN TWENTY-FIVE DOLLARS FROM
12 SEPARATE REPORTING REQUIREMENTS; AMENDING SECTION 9-2.7 TO MAKE
13 NECESSARY CHANGES REGARDING REFERENCES TO A “POLITICAL
14 COMMITTEE”; AND AMENDING SECTION 9-2.11 TO EXEMPT AGGREGATE
15 CONTRIBUTION AMOUNTS OF LESS THAN TWENTY-FIVE DOLLARS FROM
16 SEPARATE REPORTING REQUIREMENTS.

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

19 Section 1. Section 9-2.3 SFCC 1987 (being Ord. No. 1998-41, § 3, as amended) is
20 amended to read:

21 9-2.3 Definitions.

22 As used in the Campaign Code:

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

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

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

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

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

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

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

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

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

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

6 (1) The term "contribution" includes:

7 (a) The transfer of funds or anything of value between political
8 committees

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

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

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

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

16 (f) A coordinated expenditure.

17 (2) The term "contribution" does not include a volunteer's personal services
18 provided without compensation or the travel or personal expenses of such a campaign
19 worker.

20 J. *Contributor* means:

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

24 (2) *Business or organizational contributor* means an individual who uses the
25 assets of a business, corporation, partnership, labor organization, unincorporated

1 association or political committee as a contribution, or any business, corporation,
2 partnership, labor organization, unincorporated association or political committee which
3 makes a contribution.

4 K. *Coordinated expenditure* means an expenditure made:

5 (1) By an individual or entity other than a candidate or the candidate's
6 political committee; and

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

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

16 (b) An entity making the expenditure is directly or indirectly formed
17 or established by or at the request or suggestion of, or with the encouragement of
18 the candidate, candidate's political committee, or his/her representatives or agents;

19 (c) The candidate, candidate's political committee or his/her
20 representatives or agents has solicited funds or engaged in other fundraising
21 activities on behalf of the person or entity making the expenditure during the
22 twelve-month (12) period preceding the date of the expenditure. Fundraising
23 activities include, but are not limited to, exchanging names of potential donors or
24 other lists to be used in engaging in fundraising activity, regardless of whether or
25 not the individual or entity pays fair market value for the names or lists provided;

1 or being a featured guest or speaker at a fundraising event for the benefit of the
2 entity making the expenditure.

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

12 (e) An expenditure is not a coordinated expenditure solely because:

13 (i) The individual or entity and a candidate or candidate's
14 political committee use the same vendor to provide polling services,
15 printing or distribution services or physical space, provided that the vendor
16 has in place prior to the expenditure a firewall to ensure that there is no
17 exchange of information between the individual or entity and the candidate
18 or campaign committee. Evidence of an adequate firewall is a vendor's
19 formal written policy or a contractual agreement with the vendor
20 prohibiting the exchange of information between the individual or entity
21 and the candidate or candidate's political committee, which policy or
22 contract is distributed to all relevant employees, consultants, and clients
23 affected by the policy or contract. The firewall shall be designed and
24 implemented to prohibit the flow of information between employees and
25 consultants providing services to the individual and entity and to those

1 currently or previously providing services to the candidate or candidate's
2 political committee. Coordination will be presumed in the absence of such
3 a firewall; or

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

11 L. *Election* means any regular or special Santa Fe municipal election.

12 M. *Expenditure* means a payment or transfer of anything of value in exchange for
13 goods, services, property, facilities, or anything of value for the purpose of supporting or opposing
14 the election or defeat of any identifiable candidate or the approval or defeat of a ballot proposition.
15 This includes contributions, subscriptions, distributions, loans, advances, deposits, or gifts of
16 money or anything of value, and includes a contract, a promise or agreement, whether or not legally
17 enforceable, to make an expenditure. The term "expenditure" also means the transfer of funds or
18 anything of value between political committees.

19 N. *Political committee* means any entity that:

20 (1) Is formed for the principal purpose of:

21 (a) Raising or collecting, and expending or contributing money or
22 anything of value for supporting the election or defeat of any identifiable candidate
23 or candidates or for supporting the approval or defeat of ballot propositions; or

24 (b) Coordinating or cooperating in efforts to support the election or
25 defeat of any identifiable candidates or of supporting the approval or defeat of any

1 ballot proposition; and

2 (2) Expends five thousand dollars (\$5,000.00) or more in the aggregate for these
3 principal purposes during a single election.

4 **Section 2. Section 9-2.6 SFCC 1987 (being Ord. No. 2005-14, § 29, as amended) is**
5 **amended to read:**

6 **9-2.6 Independently Sponsored Campaign Communications and Reporting.**

7 A. Any person or entity that makes expenditures of five hundred dollars (\$500.00)
8 or more in the aggregate during a single election to pay for any form of public communication
9 including print, broadcast, cable or electronic advertising, billboards, signs, pamphlets, mass
10 mailers, mass electronic mail, recorded phone messages, organized phone-banking or organized
11 precinct-walking, that is disseminated to one hundred (100) or more eligible voters, and that either
12 expressly advocates the election or defeat of a candidate, or the approval or defeat of a ballot
13 proposition; or refers to a clearly identifiable candidate or ballot proposition within sixty (60) days
14 before an election at which the candidate or proposition is on the ballot, shall thereafter, on each of
15 the days prescribed for the filing of campaign finance statements, file with the city clerk a report
16 of all such expenditures made and all contributions received for the purpose of paying for such
17 expenditures on or before the date of the report which have not been previously reported and which
18 are not exempted from reporting by paragraph D of this subsection.

19 B. Each report shall be submitted on a form prescribed by the city clerk. The name
20 and address of the reporting person or entity and the name of its president, chief executive officer,
21 or equivalent position shall be stated in the report.

22 C. Contributions shall be specified by date, amount of contribution, name, address
23 and occupation of the person or entity from whom the contribution was received. No contribution
24 shall be reported in the name of a person who is not the actual contributor or who has been or will
25 be reimbursed or compensated for the contribution by another person. The reporting person or

1 entity shall certify on the filing that its expenditures were or were not made in cooperation,
2 consultation, or concert with, or at the request or suggestion of, a candidate, his/her representatives
3 or agents or the candidate's political committee.

4 D. A contribution received from a contributor whose aggregate contributions to the
5 reporting person or entity for the purpose of paying for the expenditures covered by Paragraph A
6 of this Section are less than twenty-five dollars (\$25.00) need not be separately reported, but the
7 amount thereof shall be included in the reported cumulative total of contributions received by the
8 reporting person or entity during the period covered by the report. Where such a contributor makes
9 subsequent contributions that increase the contributor's aggregate total of such contributions to
10 twenty-five dollars (\$25.00) or more, all such contributions from the contributor, regardless of their
11 amount, shall thereafter be separately reported for the reporting period during which they are
12 received.

13 E. Expenditures shall be specified by date, the amount of the expenditure, the name
14 and address of the person or entity where an expenditure was made and the purpose of the
15 expenditure. No report is required under this subsection for expenditures made exclusively for
16 communications to the news media, editorials, reports or commentary by the news media, impartial
17 candidate forums or debates or the announcements thereof, or for impartial voter guides allowed
18 by the Internal Revenue Code for Section 501(c)(3) organizations or a communication by a
19 membership organization or corporation to its current members, stockholders or executive or
20 administrative personnel unless the membership organization or corporation is a campaign
21 committee or a political committee.

22 F. Any person or entity that has to file under this subsection and receives
23 contributions from another entity that does not have to disclose its contributors to the city clerk,
24 shall place the following visible disclosure on its campaign materials: "This campaign material is
25 supported in part by donations from an organization that is not required to disclose its contributors

1 to the Santa Fe city clerk."

2 **Section 3. Section 9-2.7 SFCC 1987 (being Ord. No. 1998-41, § 5, as amended) is**
3 **amended to read:**

4 **9-2.7 Statement of Political Committee Organization**

5 A. Every political committee shall file a statement of organization with the city clerk
6 within ten (10) days of becoming a political committee as defined in Subsection 9-2.3(N) SFCC
7 1987.

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

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

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

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

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

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

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

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

25 C. Any material changes in information previously submitted to the city clerk shall

1 be reported to the city clerk within ten (10) days of such change.

2 **Section 4. Section 9-2.11 SFCC 1987 (being Ord. No. 1998-41, § 10, as amended) is**
3 **amended to read:**

4 **9-2.11 Campaign Finance Statement; Contents.**

5 A. Each campaign finance statement shall be filed in accordance with subsection 9-
6 2.10 SFCC 1987. The initial statement shall begin with the date of the first contribution or
7 expenditure. Subsequent statements shall begin on the day after the end date of the previous
8 reporting period. Statements shall contain the following information:

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

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

21 (3) The full name, type of business, physical address, date of receipt and
22 amount of each contribution for each business or organizational 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

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

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

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

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

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

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

18 B. A contribution received from a contributor whose aggregate contributions to the
19 candidate or committee are less than twenty-five dollars (\$25.00) need not be separately reported,
20 but the amount thereof shall be included in the reported cumulative total of all contributions
21 received during the period covered by the report. Where such a contributor makes subsequent
22 contributions that increase the contributor's aggregate total to twenty-five dollars (\$25.00) or more,
23 all contributions from the contributor, regardless of their amount, shall thereafter be separately
24 reported for the reporting period during which they are received.

25 C. Loans of money, property or other things made to a candidate or political

1 committee during the period covered by the campaign finance statement shall be reported
2 separately in the statement, with the following information:

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

5 (2) The cumulative total value of all loans received; and

6 (3) The total amount of loans remaining unpaid.

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

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

11 PASSED, APPROVED, AND ADOPTED this 25th day of August, 2021.

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13 
14 MAYOR ALAN WEBBER

15 ATTEST:

16 
17 Kristine Mihelcic (Sep 16, 2021 13:35 MDT)
18 KRISTINE MIHELICIC, CITY CLERK

19 APPROVED AS TO FORM:

20 
21 _____
22 ERIN K. McSHERRY, CITY ATTORNEY

23
24 *Bill No. 2021-16*

25 *Legislation/2021/Ordinances/2021-16 Political Committees and Campaign Spending*