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CITY OF SANTA FE, NEW MEXICO

BILL NO. 2015-__

INTRODUCED BY:

Councilor Patti J. Bushee

Councilor Signe I. Lindell

AN ORDINANCE

AMENDING SUBSECTION 1-7.7 SFCC 1987 TO DELETE LANGUAGE PERMITTING THE ACCEPTANCE OF NON-PECUNIARY GIFTS BY MEMBERS OF THE GOVERNING BODY OR PUBLIC EMPLOYEES AS IT RELATES TO THEIR OFFICIAL DUTIES; AND PROHIBITING A PUBLIC OFFICIAL FROM ACCEPTING EMPLOYMENT WITH THE CITY OF SANTA FE WITHIN ONE (1) YEAR OF LEAVING OFFICE.

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

Section 1. Subsection 1-7.7 SFCC 1987 (being Ord. 2014-15, 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

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

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

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

21 ~~(b) If relevant to the performance of his or her official duties, a~~
22 ~~public employee may receive an occasional non-pecuniary gift not to exceed two~~
23 ~~hundred fifty dollars (\$250.); however, such person shall report the gift, its value~~
24 ~~and the provider to the city manager and the public employee shall obtain the~~
25 ~~manager's approval prior to receiving the gift, and if approved, such gift report~~

1 ~~shall be immediately posted by the city clerk, on the city's website;]~~

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

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

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

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

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

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C. *Representation of Private Interests.*

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

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

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

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

E. *Misuse of City Resources.* A public official or public employee shall not use city

1 services, personnel or equipment for personal benefit, convenience or profit, except when such
2 use is generally available to the public.

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

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

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

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

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

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

8 (1) Use of disrespectful and devaluing language;

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

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

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

16 L. *Retaliation and Whistleblower Protection.* A public official or public employee
17 shall not be dismissed, threatened with dismissal, or otherwise singled out for retaliation for the
18 reason that the person has filed a complaint of violation of this Code of Ethics or any other
19 violation of a legal prohibition or requirement or has given evidence or participated in an
20 investigation of any such violation. Any act in violation of this paragraph L. shall be deemed a
21 violation of the Code of Ethics. The outcome of the original ethics complaint shall not be deemed
22 relevant to the complaint of retaliation itself.

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

24 (1) A public official or public employee who has a conflict of interest as
25 defined in subsection 1-7.5 SFCC 1987 shall immediately disclose the conflict in the

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following manner:

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

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

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

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

(3) If compliance with paragraph M.(2) above by a public official or public employee would deprive a governmental body of a quorum for taking necessary action or 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 M.(1) above.

APPROVED AS TO FORM:

KELLEY A. BRENNAN, CITY ATTORNEY