

SANTA FE COUNTY

ORDINANCE NO. 2004-3

AN ORDINANCE AMENDING ORDINANCE NO. 1993-1 TO LIMIT PARTICIPATION WITHIN ONE YEAR AFTER COMPLETION OF COUNTY GOVERNMENT SERVICE ON MATTERS IN WHICH A PERSON HAS PARTICIPATED PERSONALLY AND SUBSTANTIALLY; REPEALING ORDINANCE NO. 1993-1.

BE IT ENACTED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY:

Section 1. SHORT TITLE.

This ordinance may be cited as the "Elections and Ethics Ordinance".

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Section 3. PURPOSE OF ORDINANCE.

A. The purpose of the Elections and Ethics Ordinance is:

- (1) to assure the integrity of representative and elective government and to sustain the confidence and trust of the residents of Santa Fe County in their elected and appointed officials, and in the county governmental process; and
- (2) to provide a comprehensive and unified statement of the ethical principles, considerations and obligations inherent in government service and to establish specific standards of conduct to ensure that those entrusted with public authority avoid conduct that might undermine the people's respect for the County government.

Section 4. DEFINITIONS.

For the purpose of this Ordinance, the following phrases and words, and their derivations have the following meanings. Where appropriate, the singular includes the plural. The word "shall" is always mandatory and not merely directory.

- A. **"Administrative Action"** means conduct related to the application, or interpretation of a County Ordinance or a state statute, or a proceeding involving a license, permit, franchise or development use.

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B. **“Anything of Value”, “benefit” or “thing of value”** includes all matters, whether tangible or intangible, that could reasonably be considered to be of advantage or worth, use or service to the person to whom they are conferred.

(1) **“Anything of value”, “benefit” or “thing of value”** includes:

- (a) money, which includes campaign contributions or pledges;
- (b) products or merchandise;
- (c) works of art or collectibles;
- (d) stocks, bonds, notes or options;
- (e) an interest in real property;
- (f) contracts or a promise of a future interest in a contract;
- (g) an interest or a promise of a future interest in a business;
- (h) meals, beverages or lodging;
- (i) transportation and related travel expenses;
- (j) services, including loaned employees;
- (k) loans, loan guarantees or co-signing;
- (l) loans at below market interest;
- (m) forgiveness of a debt;
- (n) discounts or rebates not extended to the public generally;
- (o) preferential treatment;
- (p) tickets of admission;
- (q) paid compensation not commensurate with the fair and reasonable value of the services rendered;
- (r) free or discounted use of office equipment and facilities;

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- (s) intentional overpayment or knowing duplicate payments for expenses or costs;
- (t) radio or television time which is not paid at fair market value;
- (u) promise or offer of present or future employment;
- (v) use of autos, boats, apartments, or other recreational or lodging facilities;
- (w) intangible rights such as a cause of action;
- (x) licenses, patents, copyrights, or an interest in them; and
- (y) any other item, tangible or intangible, having economic value.

(2) **“Anything of value”, “benefit” or “thing of value”** does not include political endorsements, support in a political campaign or a promise of endorsement or support.

C. **“Appointed Official”** means a person who is appointed by the Board of County Commissioners, who is not a paid County employee or who is appointed to serve on a County Board, Commission, or Committee established by the Board of Commissioners.

D. **“Board of Commissioners”** means the Board of County Commissioners of Santa Fe County.

E. **“Candidate”** means a person who has filed a declaration of candidacy as an Elected Official of the County.”

F. **“Close personal relationship”** means a special relationship between an Elected Official, Appointed Official, or County employee and another person that creates strong bonds of loyalty, friendship or love that could potentially conflict with public duties and the obligation to exercise objective independent judgment, or

could create the appearance that the other person may have access to confidential information or otherwise receive favored treatment regarding administrative actions; the term includes relationships with immediate family members, long-term personal friends, former business associates and persons with whom an Elected Official, Appointed Official, or County employee has a significant and continuous romantic relationship.

- G. **"Compensation"** means remuneration for services rendered, including salary, fees, commissions, bonuses, and similar payments, but excluding reimbursement for actual expenses incurred by a person.
- H. **"Confidential information"** means information that has been classified as confidential by law.
- I. **"County Employee"** means a person who is hired and employed by the County of Santa Fe.
- J. **"Earned income"** means income from wages, salaries, professional fees, and compensation received or promised for personal services rendered. "Earned income" does not include:
 - (1) any income derived from stocks, bonds, property, or other investments, or from retail or wholesale sales;
 - (2) any amount paid by or on behalf of an Elected Official to a tax-qualified pension, profit-sharing or stock bonus plan received by the Elected official from the plan; or
 - (3) community property interest in the income of a spouse.

- K. **“Elected Official”** means an individual elected by popular vote or appointed to fill a vacancy in elective office (i.e., County Commissioner, County Clerk, County Treasurer, County Sheriff, County Assessor, County Surveyor and Probate Judge).
- L. **“Immediate family”** includes spouses, children of siblings, parents, grandparents, grandchildren, like in-laws, and like step-relationships.
- M. **“Non-public information”** means information that:
- (1) is obtained in the course of an Elected Official’s, Appointed Official’s or a County employee’s governmental duties and is subject to public inspection under state law, but that, because of its nature, is not readily accessible to the public; and
 - (2) if used or disclosed, a personal benefit or advantage is likely to result.
- N. **“Personal benefit”** means the obtaining or the promise of obtaining anything of value.
- O. **“Political action”** means conduct in which Elected Officials or Appointed Officials use their official positions to exercise influence on County employees, Elected Officials or Appointed Officials use their official positions to exercise influence on County employees, Elected Officials or Appointed Officials; the term includes intervention on behalf of constituents with a governmental agency, and endorsement, pledging support, or actively supporting a County governmental matter, a nominee or a candidate for public office.
- P. **“Reasonably should know”** means that, under the circumstances, a reasonable person would know a fact.

Section 5. NON-PARTISANSHIP.

All actions, decisions and votes on matters relating to the County government shall be made on their merits. Decisions shall be made objectively, and without party or partisanship considerations, or without facts which are not directly and properly related to the matter requiring action.

Section 6. PUBLIC TRUST.

- A. Elected Officials, Appointed Officials, and County Employees shall act according to the highest principles of representative democracy to ensure that the County government is worthy of public respect, trust and support.
- B. Elected Officials, Appointed Officials, and County employees shall not engage in conduct that they know or reasonably should know is likely to create in the minds of reasonable, objective, fair-minded observers the perception that they have used their public positions improperly or otherwise have not conducted themselves in accordance with the ethical standards of conduct of this Ordinance.

Section 7. PUBLIC INTEREST.

- A. In pursuing the public interest, Elected Officials shall scrupulously observe and abide by the constitutions of the United States and of New Mexico Statutes, County Ordinances, and all applicable laws and democratic and administrative processes.
- B. In pursuing the public interest, Elected Officials shall pursue the broad public good.
- C. Elected Officials shall ensure that County government is conducted efficiently, equitably and honorably.

Section 8. CONDUCT AVOIDING IMPROPRIETY.

- A. Elected Officials, Appointed Officials, and County employees shall avoid conduct that creates the appearance of impropriety or that is otherwise unbefitting a public official.
- B. Elected Officials, Appointed Officials, and County employees shall not knowingly engage in conduct that violates the rights of others to be treated fairly and with dignity and respect.
- C. Elected Officials, Appointed Officials, and County employees shall refrain from engaging in conduct, even if lawful, where personal gain or advantage is involved in a way that creates a reasonable inference that such office has been used for private benefit.
- D. The Board of Commissioners may from time to time adopt a Resolution which approves a Disclosure Statement for use by the County. All Elected Officials and Appointed Officials shall fill out such a Disclosure Statement, once such a form is adopted for use by the Board of Commissioners, and such Disclosure Statement shall be retained in the office of the County Manager for public inspection.

Section 9. LIMITATIONS ON EMPLOYMENT FOLLOWING GOVERNMENT SERVICE.

A former Elected Official, Appointed Official or County employee shall not represent a person in dealings with Santa Fe County government on a matter in which the former Elected Official, Appointed Official or County employee participated personally and substantially while an Elected Official, Appointed Official or County employee, for period of one year following termination of service or employment. An Elected Official, Appointed Official or County employee participates in a matter personally and

substantially for purposes of this Section when the Elected Official, Appointed Official or County employee is in a decision-making capacity during the government service and has the capacity to affect the outcome of the matter while an Elected Official, Appointed Official or County employee. Incidental contact with a matter, or supervisory control over persons with direct control over a matter, is not personal and substantial for purposes of this Section.

Section 10. CONFLICT OF INTEREST: DISCLOSURE.

A. Elected Officials and Appointed Officials shall:

- (1) avoid transactions and relationships that create conflicts of interest and improper influences. Where the interests and influences are unavoidable, Elected Officials shall subordinate their other interests to their public duties; and
- (2) exercise their powers and prerogatives without prejudice or favoritism to hire, promote, or simply to reward their immediate family, other relatives, friends, or political supporters, or to hinder or punish enemies and opponents. Elected Officials and Appointed Officials shall not vote for or otherwise participate in the negotiation or the making of any contract with any person, business or other entity in which the Official has a direct or indirect financial interest.

B. Elected Officials or Appointed Officials who intervene in an administrative action shall explicitly convey to the County administrator involved judgment and that no advantage or disadvantage to the administrator or the County will result from a favorable or unfavorable disposition.

- C. Elected Officials shall assure that constituents and others who may be affected by their decisions have a fair and reasonable opportunity to express their concerns, grievances, and ideas without regard to their willingness or ability to provide personal benefits or political support to the Elected Official.
- D. Elected Officials, Appointed Officials, and County employees shall not engage in any conduct that could create in the mind of a reasonable observer the belief that persons will receive better or different service if they provide personal benefits or political or charitable contributions shall not be solicited or accepted under circumstances that create a reasonable belief that special access, services, favors, or official or unofficial actions will be provided as a result of the contribution.
- E. No Elected Official, Appointed Official or County employee shall accept anything of value from a person, business, or other entity when the official or employee knows or reasonably shall know that said person, business, or entity does any business with the County or desires to do business with the County.
- F. Elected Officials, Appointed Officials, and County employees who have any private financial interest, direct or indirect, in any contract or matter pending before the County shall disclose such private interest to the County, and shall be disqualified from participating in any debate, decision or vote relating thereto.

Section 11. CONFIDENTIAL INFORMATION AND MISUSE OF NON-PUBLIC INFORMATION.

No Elected Official, Appointed Official or County employee shall disclose or use confidential information maintained by the County without proper authorization, and such information shall not be used to advance the financial or other private interests of

said person. No Elected Official, Appointed Official, or County employee shall use non-public information for personal benefit.

Section 12. PROCEDURE FOR INVESTIGATING COMPLAINTS.

- A. For any alleged violation of this Ordinance, the filing of a complaint is the first step in the investigatory process.
- B. A complaint may be initiated by any person or by the Board of Commissioners on its own motion.
- C. The Board of Commissioners shall provide a simple form for complaints. A complaint shall include:
 - (1) the name and address of the complainant;
 - (2) a statement of the facts known or believed to be true that form the basis of the complaint, the sources of the information, and the approximate dates of the acts alleged; and
 - (3) a certification that the complainant verifies under penalty of perjury that the facts stated are true to the best of the complainant's knowledge and that the complainant knows that it is a crime under state law to intentionally initiate a false complaint.
- D. Unless the Board of Commissioners concludes that immediate notification would prejudice a preliminary investigation or subject the complainant to an unreasonable risk, a copy of the complaint shall be sent to the person charged with misconduct ("respondent") within fourteen (14) working days. If the matter is to be kept from the respondent for more than fourteen days, a majority of the

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Board of Commissioners shall approve and indicate the conditions under which the respondent will be informed of the complaint.

- E. Until a preliminary finding that there is probable cause to believe that the allegations set forth in the complaint are true, and constitute a violation of this Ordinance, the existence and substance of a complaint shall be kept confidential, except that all members of the Board of Commissioners and necessary staff may be informed about it.
- F. Upon receiving a complaint, the Board of Commissioners shall review it for formal sufficiency within fourteen (14) days of filing. If the complaint is unsigned or otherwise deficient on its face, it shall be returned to the complainant with a statement of the nature of the deficiency.
- G. Once a complaint has been determined to be formally sufficient, the Board of Commissioners shall evaluate the complaint to determine whether it states a valid complaint that should be investigated. The Board of commissioners may appoint an ad hoc board of disinterested persons to make a determination required under this section. To be valid, the complain must allege:
 - (1) facts that, if true, establish a violation of a provision of a state ethics statute or this Ordinance for which civil or administrative sanctions are authorized;
 - (2) that the conduct providing the basis of the complaint has occurred:
 - (a) within two (2) years of the filing of the complaint; or
 - (b) if the person charged with misconduct intentionally concealed or

otherwise sought to prevent discovery of the relevant facts, within one (1) year of the discovery of the relevant facts; and

- (3) that the person charged with misconduct is either an Elected Official, Appointed Official or County employee within one (1) year of the filing of the complaint.

H. Within thirty (30) days after the review set forth in paragraph 12. F. of this Ordinance is completed, a determination shall be made on the substantive validity of the complaint. If the Board of Commissioners concludes that the complaint is valid, the Board of Commissioners shall request a hearing on the validity of the complaint at a meeting of the Board of Commissioners.

I. If a complaint is dismissed because of invalidity, it shall be returned to the complainant with a notice of dismissal stating in detail the reason for dismissal. If the Board of Commissioners finds that the complaint was frivolous, malicious or filed in bad faith, it shall so state in the notice of dismissal. If the Board of Commissioners finds that the complaint alleges violations outside the scope of the state ethics statute or this Ordinance, it shall so state. If the respondent is a County employee, he or she shall be subject to the disciplinary proceedings set forth in the county Personnel Manual. All others are subject to the penalties of this Ordinance.

J. If the Board of Commissioners concludes that some or all of the allegations of the complaint, if proved, would constitute a violation of a state ethics statute or this Ordinance, or if the Board of Commissioners has initiated the complaint, the complaint shall be certified and a factual investigation shall commence. The

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record of certification for further consideration is confidential subject to subsequent actions that may make it part of a public record. Any time after the Board of Commissioners concludes that some or all of the allegations, if proved, would constitute a violation of a state ethics statute or this Ordinance, then the Board of Commissioners may decide to request an investigations by the District Attorney of the First Judicial District and may also decide to either continue its own investigation, or to allow the District Attorney to carry on with the investigation.

- K. Before commencing an investigation, the Board of Commissioners shall define the scope of the investigation, and shall inform the complainant and the respondent, in writing, of the scope of the investigation. If, during the investigation, additional facts are discovered that justify an expansion of the investigation and the possibility of additional charges beyond those alleged in the complaint, the action shall be amended accordingly with copies sent to the complainant and the respondent. The fact that an investigation has been undertaken, shall be kept confidential by the Board of Commissioners except that, upon inquiry, the Board of Commissioners may verify that it is investigating a complaint, along with a statement that no finding of probable cause has been made and that no adverse inference of impropriety or guilt should be drawn from the decision to investigate. Additional facts concerning the nature or results of the investigation shall not be revealed except as provided in state law after a determination of probable cause has been made.

- L. An Elected Official or an Appointed Official may request in writing that the Board of Commissioners investigate charges of impropriety made against himself or herself. The request shall state with specificity the nature of the investigation requested. If the Board of Commissioners agrees to undertake an investigation, the investigation is not necessarily limited in scope by the request and, once begun, it shall be handled as any other investigation, with the person requesting the investigation formally treated as a respondent.
- M. A preliminary investigation shall be conducted by the Board of Commissioners, and by independent investigators, if deemed necessary by the Board of Commissioners. The purpose of the preliminary investigation is to determine whether there is probable cause to proceed with a full adjudicatory hearing.
- N. The Board of Commissioners may order a hearing and request witnesses and documents, conduct depositions under oath, require the participation of the respondent, and issue interrogatories to be answered under oath. An oral or written statement whether incriminatory or exculpatory, shall not be considered in the investigator's report unless made under oath. The respondent shall be given an adequate opportunity to provide testimonial and documentary evidence.
- O. Upon the completion of the investigation, a public report summarizing the evidence, evaluating its credibility, and detailing findings on each of the allegations investigated shall be drafted by the Board of Commissioners along with recommendations as to whether the complaint, or a portion of it, should be dismissed or whether the matter should proceed to the full hearing stage. The public report shall be prepared so as to exclude unreliable information and

uncorroborated and irresponsible allegations. In order to protect the rights of the respondent, the investigator's notes, records of interviews, and other investigatory matters considered unreliable or unduly prejudicial by the Board of Commissioners shall remain confidential and secure, to be available for consideration upon appeal.

Section 13. PROBABLE CAUSE DETERMINATION.

- A. The Board of Commissioners shall consider the investigator's report in executive session and determine whether probable cause exists for a determination that a violation of a provision of a state ethics statute or this Ordinance has occurred.
- B. If the Board of Commissioners does not find that probable cause exists to warrant a full adjudicatory hearing, it shall dismiss the complaint and so notify the complainant with a notice of dismissal stating in detail the reason for dismissal. If the Board of Commissioners finds that the charges were frivolous, malicious or made in bad faith or that in its opinion the respondent should be exonerated of the charges, it shall so state in the notice of dismissal. If the Board of Commissioners finds that the evidence supports violations outside the scope of this Ordinance, it shall so state and forward the complaint and its report to the appropriate enforcement body for disposition.
- C. A copy of the notice of dismissal shall be sent to the respondent. The notice of dismissal and the investigator's report containing findings and recommendations, but not the underlying investigatory materials, shall be made public unless the Board of Commissioners determines that this would unfairly prejudice either the respondent or complainant. This subsection does not prevent either the

complainant or respondent from making the notice of dismissal and the report public.

- D. If the Board of Commissioners finds that probable cause exists that a violation of a provision of a state ethics statute or this Ordinance has occurred, it shall serve on the respondent, in a manner consistent with the service of summons under the rules of civil procedure, a formal charge stating the specific allegations and a proposed hearing date.
- E. The hearing shall not be scheduled to commence sooner than twenty (20) days after service of the formal charge on the respondent. If the respondent requests an earlier hearing date, the Board of Commissioners may consent. The Board of Commissioners shall, upon request, grant the respondent reasonable additional time to prepare a defense. The respondent may file a responsive pleading admitting or denying the various allegations.
- F. The Board of Commissioners may suspend further proceedings if the respondent acknowledges the violation and agrees to corrective actions and sanctions considered appropriate by the Board of Commissioners. If the Board of Commissioners suspends the proceedings or dismisses the charges as a result of a negotiated settlement, the terms and conditions of the settlement and the reasons for entering into the agreement shall be stated in a written report that shall be sent to the complainant and made part of the public record.
- G. Upon determining that probable cause exists to conduct a full adjudicatory hearing, the Board of Commissioners shall make public the investigator's report

containing findings and recommendations, but not the underlying investigatory materials.

Section 14. APPEALS.

Any person aggrieved by the decision of the Board of Commissioners pursuant to Section 14 of this Ordinance may appeal such decision to the First Judicial District Court, by filing such action within thirty (30) days of the decision of the Board of Commissioners.

Section 15. SANCTIONS.

A. When a hearing board considers the appropriate recommended sanctions to be included in its opinion, it shall give due consideration to the purpose of any state ethics statute, this Ordinance, the nature of the violation, and other circumstances that are included in the hearing record. The Board of Commissioners may recommend either singly or in combination:

- (1) divestiture of specified assets or required withdrawal from specified associations;
- (2) detailed disclosure, with or without additional periodic reporting requirements;
- (3) in the case of County employees, suspension from County employment, with or without pay; suspension of pay until orders are complied with; placement on probationary employment status; and/or a written reprimand or suspension or termination of employment, in compliance with the County Personnel Rules and Regulations;
- (4) restitution or reimbursements;

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- (5) in the case of Appointed Officials, censure, including a recommendation that the person censured shall not serve on a County committee for the remainder of the person's current term.

Section 16. DUTY TO REPORT IMPROPER OFFERS.

- A. Elected Officials, Appointed Officials and County employees who receive an offer of anything of value that reasonably appears to have been intended to improperly influence County governmental action shall firmly and unequivocally reject the offer and caution the person making it about a possible violation of bribery laws.
- B. If the attempt to improperly influence is clear, the person receiving the offer shall report it to law enforcement authorities.

Section 17. MISUSE OF COUNTY PROPERTY AND RESOURCES FOR PRIVATE GAIN OR PERSONAL ADVANTAGE.

- A. No Elected Official, Appointed Official, Appointed Official, or County employee shall use public funds, time, facilities, equipment, mailing lists, computer data, services or any other government asset or resource for a nongovernmental purpose or for the private gain or advantage of said person or another person.

This section does not prohibit:

- (1) the occasional and limited use of County property and resources for personal purposes if:
- (a) the use does not interfere with the performance of public duties;
 - (b) the cost or value related to the use is so nominal that reimbursement procedures would not be justified; and
 - (c) the use does not create the appearance of improper influence; or

- (2) the use of mailing lists, computer data or other information lawfully obtained from a nongovernmental purpose.
- B. No Elected Official, Appointed Official, or County employee shall seek, accept, use, allocate, grant or award public funds for a purpose other than that authorized by law or make a false statement in connection with a claim, request or application for compensation, reimbursement or travel allowances from public funds.
- C. Unless authorized by the County Personnel Manual, no County employee shall be asked or permitted to perform personal services. An Elected Official or Appointed Official shall not require a County employee to perform personal services or assist in a private activity except in unusual and infrequent situations where the person's service is reasonably necessary to permit the Elected Official Appointed Official to perform official duties.

Section 18. MISUSE OF COUNTY PROPERTY AND RESOURCES FOR POLITICAL PURPOSES.

- A. Public resources, including funds, facilities and personnel, may not be used to further partisan campaign purposes or to influence the outcome of an election.
- B. An Elected Official shall not use or authorize the use of public funds, time, facilities, equipment, mailing lists, computer data, services or other government assets or resources for the purpose of political fundraising, campaigning, or influencing an election. This section does not prohibit the use of mailing lists, computer data or other public information lawfully obtained from a government agency and available to the general public for nongovernmental purposes.

- C. An Elected Official or another person on behalf of the Elected Official or a campaign committee of the Elected Official, shall not solicit or accept or authorize the solicitation or acceptance of a campaign contribution in a facility or office ordinarily used to conduct County government business. This provision applies to telephone conversations, personal meetings, and solicitations by mail. If such a contribution is offered, it shall be refused or returned promptly. If an unsolicited contribution is received in the mail, or a lawfully solicited contribution is misdirected to an office ordinarily used to conduct County business, if otherwise lawful, it may be accepted, but it may not be processed in that office, and it shall be delivered promptly to an appropriate location.
- D. An Elected Official, a candidate, or a campaign committee or another person on behalf of the Elected Official or a candidate shall not distribute or post literature, placards, posters, or other communications intended to influence the election of a candidate in an election in a facility or office ordinarily used to conduct County government business.

Section 19. USE OF NON-PUBLIC INFORMATION FOR PRIVATE GAIN.

An Elected Official, Appointed Official or County Employee, or a former Elected Official, Appointed Official or County Employee who terminated County service within one year, shall not use or disclose non-public information to obtain a benefit for the Elected Official, Appointed Official, or County Employee or former Elected Official, Appointed Official or County Employee, or another person, including a person with whom the Elected Official, Appointed Officials, or County Employee or former Elected Official, Appointed Official, or County Employee is associated or has negotiated

prospective employment. This section does not allow the disclosure of information made confidential by law.

Section 20. MISUSE OF TITLE OR PRESTIGE OF OFFICE FOR PRIVATE GAIN PERSONAL ADVANTAGE.

- A. An Elected Official, Appointed Official or a County employee shall not use, induce, cause, or encourage others to use the authority, title, official letterhead or prestige of the Elected Official's, Appointed Official's or County employee's office for his or her own private gain or personal advantage.
- B. An Elected Official, Appointed Official or a County employee shall not solicit or solicit or accept anything of value under terms and conditions where the compensation is not commensurate with the services performed or where a reasonable person would believe that the authority, title or prestige of office had been exploited. Nothing in this section prohibits the use of official title of an Elected Official, Appointed Official, or a County employee as a part of a political campaign or political endorsement.

Section 21. PROPER USES OF CAMPAIGN FUNDS.

Campaign funds shall be used only to advance the interests of a campaign. Campaign funds may properly be expended for any otherwise lawful purpose intended to influence voters to elect or reelect the candidate to an elected office, including payment of staff and consultants; rental of space and equipment for a campaign office; purchase of media time and space; printing and distribution of campaign materials; postage; taking polls and interpreting them; advertising and promotional materials; and travel and related expenses for the candidate and members of the candidate's staff or immediate family.

Section 22. PROHIBITED USES OF CAMPAIGN FUNDS.

- A. A candidate shall not:
- (1) use funds raised and designated as campaign funds for the personal benefit of the candidate or for payment of attorneys' fees and other legal expenses arising from civil, criminal, or administrative actions based on conduct not directly related to the campaign or official duties;
 - (2) convert surplus campaign funds or interest earned on campaign funds to personal income;
 - (3) seek or claim a personal tax deduction or other economic benefit for surplus campaign funds disbursed to a charity; or
 - (4) borrow from campaign funds or lend them to another person or group.
- B. A candidate, or another person on behalf of the candidate or a campaign committee of the candidate, shall not knowingly pay more than the fair market value for goods or services purchased for the campaign.
- C. Campaign funds shall not be paid to a member of the candidate's immediate family as an employee or for goods or services provided to the campaign unless the amounts paid do not exceed the fair market value of the goods or services provided.
- D. A candidate or a committee controlled by a candidate shall not use campaign funds to make a contribution to another candidate running for office or to a committee supporting an opposing candidate for office.

- E. Campaign funds shall not be used to pay fines or other monetary penalties or costs assessed against a candidate by a court or other body, unless the fine, penalty, or cost is assessed as a result of prescribed actions by a member or employee or a campaign committee or another person acting on behalf of the candidate under circumstances where the candidate did not know of or have reason to know of those actions.

Section 23. DISBURSEMENT OF SURPLUS CAMPAIGN FUNDS.

- A. If a candidate ceases to be a candidate or if there remains a balance in the account of the candidate or a committee controlled by the candidate after the date of the election, unexpended funds in excess of the amount allowed under this section may only be used as provided in this section or to pay for a victory or thank you party. Within sixty (60) days after the end of the candidacy or the election, unexpended funds shall be:
- (1) used to retire bona fide loans supported by written documentation, including loans made to a campaign by the candidate or a member of the candidate's immediate family provided that all other outstanding loans are paid first;
 - (2) returned on a pro rata basis to those who have made contributions in excess of one hundred dollars (\$100) in the aggregate year;
 - (3) donated to the County general fund;
 - (4) donated to one or more organizations that qualify as charitable organizations; provided that the charity is not one that is controlled by the candidate or a member of the candidate's immediate family or in which

the candidate or a member of the candidate's immediate family is personally involved as a director, trustee, member of the board, officer or other position of responsibility;

- (5) transferred to an ongoing political account controlled by the candidate or another candidate, but only in the amounts and according to the requirements set out in this section; or

- B. Funds carried over under subsection A of this section may be expended for any political purpose for which campaign funds may otherwise be properly used.

Section 24. COERCION.

- A. An Elected Official shall not, directly or by authorizing another to act on his or her behalf, state or imply that the Elected Official's willingness to meet with a person, is dependent on the person making a campaign contribution, donating to a cause favored by the Elected Official or providing a thing of value to the Elected Official.
- B. An Elected Official shall not directly, or by authorizing another to act on the Elected Official's behalf:
 - (1) agree or threaten to take or withhold any County governmental action, as a result of a person's decision to provide or not provide a political contribution;
 - (2) state or imply that the Elected Official will perform or refrain from performing a lawful constituent service as a result of a person's decision to provide or not provide a political contribution;

- (3) agree to or participate in a scheme or plan intended to evade the requirements of any applicable state ethics statute, this Ordinance, or another financial disclosure provision of state or County law; or
- (4) knowingly accept a contribution given or offered in violation of any applicable state ethics statute or this Ordinance.

Section 25. PENALTIES.

A. A person who violates this Ordinance is guilty of a misdemeanor and is subject to one or more of the following:

- (1) a fine of up to five hundred dollars (\$500.00) for each separate violation of this Ordinance;
- (2) a public reprimand;
- (3) a recommendation to the District Attorney that the violation be pursued in criminal proceedings; and
- (4) proceedings and penalties pursuant to the Santa Fe County Personnel Manual, where appropriate.

Section 26. REPEAL.

Santa Fe County Ordinance 1993-1 is hereby repealed.

Section 27. EFFECTIVE DATE.

This Ordinance shall become effective as of the date provided by law.

[Remainder of Page Intentionally Left Blank]

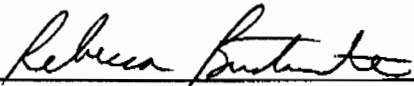
PASSED, APPROVED AND ADOPTED, THIS 13TH DAY OF JULY, 2004.

THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY

By: 

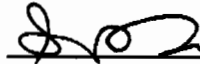
PAUL D. CAMPOS, CHAIRMAN

ATTEST:



REBECCA BUSTAMANTE, COUNTY CLERK

APPROVED AS TO FORM:



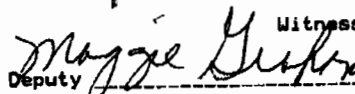
STEPHEN C. ROSS, COUNTY ATTORNEY



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

ORDINANCE
PAGES: 27

I Hereby Certify That This Instrument Was Filed for
Record On The 28TH Day Of July, A.D., 2004 at 12:30
And Was Duly Recorded as Instrument # **1339271**
Of The Records Of Santa Fe County

 Witness My Hand And Seal Of Office
Rebecca Bustamante
Deputy County Clerk, Santa Fe, NM