513279

# SANTA FE COUNTY

*Ordinance No.* 1984-6

SFC CLERK RECORDED 12/05/2006

REQUESTED BY THE BOARD OF ETHICS & CAMPAIGN PRACTICES

AN ORDINANCE
RELATING TO THE ELECTION CODE (BEING ORDINANCE NO. 1983-3), AMENDING THE TIME OF FINANCIAL STATEMENT SUBMITTALS, INCLUDING A FUND RAISING CONTRIBUTIONS SUBSECTION, AND GENERAL CLEAN-UP OF LANGUAGE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF SANTA FE.

Section 1. DECLARATION OF POLICY

Public disclosure and regulations of certain campaign practices will serve to increase public confidence in the integrity of government by informing the public of the qualifications of a candidate for elective office and of the possible sources of influence upon that candidate and of the financing of a campaign to influence the ultimate and complete responsibility for the conduct of the campaign is therefore incorporated into this Ordinance, and shall be implemented according to this Election Code.

Section 2. DEFINITION

A. The terms "Candidate for Elective Office", and "Candidate" mean any individual who has commenced, actively campaigning, or filed a Declaration of Candidacy with the County Clerk for the office of County

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Commissioner, Clerk, Treasurer, Assessor, Probate Judge, Surveyor and Sheriff.

B. "Person" means any individual, cooperative, association, club, corporation, company, firm, partnership, joint venture syndicate, profit or non-profit organization, political action committee for or against a measure or candidate, or other entity.

C. "Candidate Finance Committee" consists of the candidate, the treasurer, or any person authorized either expressly or by implication by the candidate to participate in the solicitation, expenditure or employment of contributions or obligations on behalf of the candidate. "Member of the Candidate Committee" means any such person.

D. Campaign Contributions and Obligations.

(1). Contributions include monies, loans, debts incurred, property in-kind, including the use thereof or commercial or professional services:

(a) Incurred or received by a candidate, his treasurer, his designated representative, the candidate finance committee or a member thereof on behalf of the candidate, or by a Measure Finance Committee. For the purpose of this subsection, a debt shall be considered incurred at the time authorization is given or contract made for the debt.

(b) Not received by a person or entity named in subparagraph (b) above, but extended or employed on behalf of a candidate or measurer where such monies, loans debts incurred, property in-kind, or commercial or professional services have been solicited or otherwise consented to by such committee or have been expended or employed in a manner or amount directed, authorized, either expressly, by implication, or consented to by such committee.

(2). Contributions of property including the use thereof, and contributions of commercial or professional services shall be attributed a

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cash value equal to their fair market value.

(3). Notwithstanding the foregoing, none of the following shall be considered a contribution: A candidate's own services and property, other than cash; the use of a dwelling unit, and residential premises incidental thereto for any campaign purpose and the provision of refreshments and entertainment in connections with such use; and the use of vehicles for any campaign purpose other than in connection with the performance of commercial or professional service.

E. The terms "Election" and "Elections" refer to County of Santa Fe elections of the following types: regular, general, special, primary, and any other elections.

F. "Measure" means any proposition submitted to a popular vote at an election, whether by initiative, referendum, or recall procedure, or otherwise.

G. "Measure Finance Committee" means any person or combination of two or more persons acting jointly in aid of, or in opposition to the qualification for the ballot or voter approval or disapproval of one or more measures.

H. "Treasurer" means any person who is appointed by the candidate to receive, keep and disburse all money which may be collected, received, or disbursed by the candidate, the candidate finance committee or any of its members.

Section 3. ONE CANDIDATE FINANCE COMMITTEE.

Each candidate for elective office shall establish no more than one candidate finance committee and shall appoint a treasurer who shall not be the candidate, nor serve as treasurer for any other candidacy. It shall be the responsibility and duty of a candidate to inquire of any person the amounts being spent for or against his/her candidacy, and notify said person of

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limitations imposed by this ordinance.

Section 4. ONE BANK ACCOUNT-FILING REQUIREMENTS.

A. Each candidate for elective office, his treasurer, or his designated representative shall establish one and only one campaign bank checking account for each election. All parties having signature authorization for the checking account, the checking account number, and the bank branch name shall be registered with the Board of Ethics and Campaign Practices.

B. All contributions of monies received for the benefit of the candidate's campaign shall be deposited in that account, and all disbursements shall come from that account.

C. Each candidate shall file with the bank at which the campaign checking account has been established a letter authorizing the release of information concerning that account to the Board of Ethics and Campaign Practices and shall submit a copy of the letter of authorization to the Board. Upon the request of the Board, each candidate shall provide to the Board all bank records, cancelled checks and any other financial information relating to the campaign as may be requested by the Board.

Section 5. DISCLOSURE WITH DECLARATION OF CANDIDACY.

Each candidate for elective office within the County shall file with the Board of Ethics and Campaign Practices, within two days of filing the declaration of candidacy with the County Clerk , a notarized statement signed by the candidate under oath, setting forth the names, titles and nature of the candidate's business professional associations, and all other sources of income that account for ten percent (10%) or more of the candidate's total income, and any known present business relationships the candidate has or may have with the County.

Section 6. DISCLOSURE OF CAMPAIGN FINANCING.

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A. All campaign finance records and statements must be open to inspection by the Board of Ethics and Campaign Practices, its designated representative, or its auditor, and upon request of the Board shall be presented to the Board for audit.

B. Each candidate for elective office, or person for or against a measure or candidate shall file with the Board a minimum of four statements, each of which shall be cumulative, signed under oath by the candidate or his designated representative, setting forth to 5:00 p.m., of the date preceding the filing of each statement.

(1). The total of all campaign contributions and obligations.

(2). The name of each contributor, the contributor's principal business or occupation, and name of employer together with the total cumulative cash value contributed, where that amount equals or exceeds a $100.00 contribution.

(3). All candidate expenditures including any reimbursements and the nature thereof, including identification of the name of the person or business to whom payment was made.

C. Each Measurer Finance Committee which either receives funds in excess of $100.00 in aid of, or in opposition to the qualification for the ballot or voter approval or disapproval of one or more measures, shall file with the Board a minimum of four statements signed under oath by the Chairman of the Measure Finance Committee setting forth to 5:00 p.m., of the date preceding the filing of each statement.

(1). The total of all campaign contributions and obligations

(2). The name and address of each contributor, the contributor's principal business or occupation, employer together with the total cumulative cash value contributed, where that amount equals or exceeds $50.00.

(3). All campaign expenditures including any reimbursements and

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the nature thereof, including identifications of the name of the person or business to whom payment was made.

D. The four statements shall be filed as follows:

The first no later than 4:00 p.m., on Friday of the fourth week preceding the election; the second not later than 4:00 p.m.,ten calendar days immediately preceding the election; the third statement not later than thirty days following the election; and the fourth and final statement not later than forty five (45) days from the date of election.

E. Semi-Annual Campaign Statements. Every candidate and committee that receives contributions or makes expenditures during the period specified in this section, and every elected officer except as provided below shall file campaign statements as provided in this section. Also the candidate, committee, or elected officer is required to file campaign statements in connection with any election or elections held within the periods specified as per Section 2, Subsection E 6 months after an election as per Section 2, Subsection E, campaign statements shall be filed not later then January 31.

If a campaign statement was filed in connection with an election held during the six month period immediately prior to a period specified in this section, the period covered by the campaign statement filed pursuant to this section shall begin from the day after the closing date of the previous campaign statement. This section is not applicable to elected officers whose salaries are less than one hundred dollars (100.00) a month or to judges, unless such an elected officer or judge is a candidate or committee who receives contributions or makes expenditures during the specified periods.

Section 7. PRESERVATION OF DISCLOSURE STATEMENTS.

The records and statements required by this ordinance shall be preserved intact as permanent public records by the Board of Ethics and Campaign Practices for a period of at least three (3) years from the date of the

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election in question.

Section 8. LIMITS TO CAMPAIGN FINANCING.

No candidate for elective office or person for or against a measure shall allow contributions or make expenditures in excess of the following for any regular or special elections:

A. Any elected office - $10,000.00 each for any regular or special election.

B. Expenditure Limitations for Incumbents. The amounts set forth in Section 8 shall be reduced by ten percent (10%) for an incumbent who is seeking re-election to the same elective office.

C. Expenditure Limitations for measure election, for or against a measure shall be limited to $5,000.00.

D. A person is limited to financing for or against a candidate in the amount not to exceed $5,000.00.

Section 9. LIMIT TO CONTRIBUTIONS BY PERSONS AND ORGANIZATION.

A. No candidate for County elective office shall for any one election, allow total contributions from any one person or organization with the exception of contributions from the candidate himself or herself of more than $250.00.

Section 10. DISPOSITION OF UNUSED FUNDS.

Any contributions not expended on the campaign shall either be retained in the campaign bank checking account for future re-election, possible runoff for election that office, or shall be returned to the person or organization who made the contribution, placed in the County's General Fund or given to a charity of the candidate's choice, or in the case of individual contributions to himself/herself may be returned for personal use of the candidate. Final disposition of any excess funds shall be accounted for in the office of the County Manager and reported in the final report submitted to the Board.

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Section 11. PROHIBITIONS -- CONTRIBUTIONS.

A. Cash Contributions. All cash contributions or expenditures of fifty dollars $50.00 or more shall be reported as required in section 6. Any contribution of fifty $50.00 or more other than an in-kind contribution shall be made by written instrument containing the name of the donor and the name of the payee.

B. Contributions by Agent. No person shall make a contribution on behalf of another, or while acting as the intermediary or agent of another, without disclosing to the recipient of the contribution both his own full name and street address, occupation, and the name of his employer, if any, or his principal place of business if he is self-employed, and the full name and contributor.

C. Expenditures by Agent. No expenditure shall be made, other than overhead or normal operating expenses by an agent or independent contractor, including but not limited to an advertising agency, on behalf of or for the benefit of any candidate or committee unless it is reported by the candidate or committee as if the expenditure were made directly by the candidate or committee, unless the agent or independent contractor files a campaign statement reporting the expenditure. The agent or independent contractor shall make known to the candidate or committee all information required to be reported by this section.

D. Anonymous Contributions. No candidate may accept a cash contribution of more than fifty dollars ($50.00). If the candidate is unable to return an anonymous contribution of fifty dollars ($50.00) or more the recipient shall promptly pay such anonymous contributions to the County Clerk for deposit into the General Fund of the County.

E. Fund raiser contributions - contributions raised by means of a single or more fund raising activities are not considered anonymous contributions;

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however, the proceeds received shall be reported in the statement in no less than the following itemized categories included but not limited to:

(a) Entry fees

(b) Raffles

(c) Liquor sales

F. The selling of blocks of tickets to an individual in an amount of fifty dollars ($50.00) or more shall be reported as to the individual(s) to whom the tickets were sold.

Section 12. REGULATIONS AND ASSISTANCE.

A. The Board of Ethics and Campaign Practices shall promulgate reasonable rules and regulations for its conduct and to aid in interpretation and enforcement of this article; provided, that amendments to said rules and regulations shall not be made by the Board during the ninety (90) days preceding an election. The current rules and regulations of the Board of Ethics and Campaign Practices shall be made available in published form as a County Standard Procedure no later than sixty (60) days prior to any regular or special election.

B. There is hereby created the position of Campaign and Election Auditor. The Auditor shall be either a Certified Public Accountant, or a Registered Public Accountant, and shall:

(1). Be selected by the Board of County Commissioners to serve the Board of Ethics and Campaign Practices and act as an independent contractor or serve from the established date of filing of the declaration of candidacy for each election until sixty (60) days following the specified date set forth for filing of the final statement on disclosure of campaign financing; provided, that the Board with Commission approval in its discretion may retain the services of an auditor for an election in which only measures are to be placed on the ballot.

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(2). Monitor all disclosure statements to ensure their accuracy and to ensure compliance with the provisions of this Election Code.

(3). The County of Santa Fe shall pay the Auditor costs incurred in his services to the Board of Ethics and Campaign Practices.

C. At the direction of the Board, the services of the auditor shall be available to assist candidates for office in connection with this Election Code.

Section 13. ENFORCEMENT.

A. Any charges that a candidate for elective office or the chairperson of a Measure Finance Committee has committed a violation of this Election Code shall be brought before the Board of Ethics and Campaign Practices in a written statement. The Board shall give written notice of such charges to the candidate or chairperson before taking further action.

B. On referral of such complaint by the Board, the charge shall be investigated and reported to the Board.

C. Should the Board find, after due hearing, that the violation has occurred, it may make a public reprimand or refer the matter to the District Attorney for prosecution in a court of competant jurisdiction and imposition of a fine up to three hundred dollars ($300.00), or imprisonment up to 90 days or both such fine and imprisonment.

D. In addition to imposing such sanctions, or as an alternative thereto, and if the violator be a successful candidate in the election, the Board of Ethics and Campaign Practices may recommend to the Commission that the evidence be submitted to the Santa Fe County Grand Jury for investigation.

E. The Commission may, upon the recommendation of the Board of Ethics and Campaign Practices, after due hearing of the charge, refer to the proper authority for action.

Section 14. NONE WAIVER OF PENALTIES

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Nothing herein set forth shall be construed to affect or otherwise diminish any penalties otherwise provided by law for violation of the matters set forth in this Election Code, or shall prevent the Board of Ethics and Campaign Practices from bringing to the attention of the proper authority any alleged violation coming to its attention which may be subject to such other penalties.

Section 15. AMENDMENTS

The above Election Code for Candidates may be amended by ordinance adopted by a majority of the entire membership of the Board of County Commissioners.

Section 16. SEVERABILITY -- NO IMPAIRMENT FROM PARTIAL INVALIDITY.

The provisions of this ordinance are severable, and if any provision, section, clause, sentence, or part thereof is held to be illegal, invalid, unconstitutional, or inapplicable, to any person, persons, circumstances, situation, or otherwise, the illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining sentences, clauses, sections, articles of this ordinance or their applicability to other persons, circumstances, or situations.

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PASSED, APPROVED AND ADOPTED this 17th day of December, 1984.

SANTA FE COUNTY

By: _____

JEROME D. BLOCK, CHAIRMAN
BOARD OF COUNTY COMMISSIONERS

This ordinance was recorded in the Santa Fe County Ordinance Book on the 11th day of February, 1985. in Book No. 513 pages 279, through 290. This Ordinance shall take effect thirty (30) days after the date of recording.

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

ATTEST: (Montoya, Murphy, Kauffman & Garcia)

BY: _____ BY: _____

ANGIE V. PEREZ, COUNTY CLERK

COUNTY ATTORNEY

560,809

COUNTY OF SANTA FE )SS
STATE OF NEW MEXICO )

I hereby certify that this instrument was filed for record on the 11th day of February A.D. 19 85, at 9:09 o'clock a.m. and was duly recorded in book 513, page 279-290 of the records of Santa Fe County.
Witness my Hand and Seal of Office
ANGIE VIGIL PEREZ
County Clerk, Santa Fe County, N.M.

Lisa Lucy Deputy

SEAL

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