
ARTICLE XIII. ELECTION CODE

Editor's note: Ord. 46-1975, as amended by Ord. 63-1977, Ord. 77-1978 and Ord. 24-1981, set forth the previous Election Code, which has been replaced in its entirety by Ord. 17-1993.

Section 1. DECLARATION OF POLICY.

Public disclosure and regulation 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 passage or defeat of a measure. The principle that the candidate assumes ultimate and complete responsibility for the conduct of the campaign is therefore incorporated into this Charter and shall be implemented according to this Election Code.

(Ord. 17-1993)

Section 2. DEFINITIONS.

(a) "Anonymous Contribution" means a contribution received by a candidate or a Measure Finance Committee for which the contributor cannot be identified. Contributions received by a host pursuant to Section 4(j) of this Election Code shall not be considered anonymous contributions.

(b) "Board" means the Board of Ethics and Campaign Practices established pursuant to Article XII of this Charter.

(c) "Campaign Materials" means any published, printed or broadly distributed campaign advertising or communications such as newspaper advertisements, handbills, petitions, circulars, letters, radio or TV broadcasts, cable distributions, electronic or telephonic transmissions or similar written material used in a campaign by a candidate or a Measure Finance Committee.

(d) "Candidate" means any individual who has (1) obtained a nominating petition from the City Clerk pursuant to Section 4(c)1.D. of this Election Code for the office of Mayor or Councillor, (2) filed an affidavit on a form approved by the City Clerk, stating that he or she is a candidate for either the office of Mayor or City Councillor or (3) filed as a candidate for elected office as required by law, whichever first occurs.

(e) "Candidate Finance Committee" consists of the candidate, the candidate's treasurer, and any person authorized either expressly or by implication by the candidate to participate in the

solicitation, receipt, expenditure, or employment of contributions on behalf of the candidate. "Member of the Candidate Committee" means any such person.

(f) "Candidate's Treasurer" means the person who is appointed by a 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.

(g) "Contributions" means:

1. Monies, loans, debts incurred, obligations incurred, property in-kind, including the use thereof, or commercial or professional services:

A. Incurred or received by a candidate, the candidate's treasurer, the Candidate Finance Committee, or a member thereof on behalf of the candidate, or by a Measure Finance Committee or a member thereof on behalf of the Committee. For the purposes of this Subsection, a debt or obligation shall be considered incurred at the time authorization is given or contract made for the debt or obligation.

B. Not received by a person or entity named in Subparagraph A above, but expended or employed on behalf of a candidate or measure, where such monies, loans, debts incurred, obligations 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 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 connection with such use; the services of the person who is performing the duties of the candidate's treasurer; and the use of vehicles for any campaign purpose other than in connection with the performance of a commercial or professional service.

(h) "Election" means any City of Albuquerque municipal election.

(i) "Expenditure" means the payment or furnishing of money or anything of value or the incurring or repayment of indebtedness or obligation, by or on behalf of any person, candidate or political committee in consideration for any services, supplies, equipment or other thing of value performed or furnished for any reason, including support of or opposition to a candidate or political committee or for reducing the debt of a candidate or political committee.

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

(k) “Measure Finance Committee” means a political committee or any person or combination of two or more persons acting jointly in aid of or in opposition to the effort of anyone seeking to have their name placed on the ballot for city office, a petition to place a measure on the ballot pursuant to Article III of this Charter, voter approval or disapproval of one or more measures on the ballot and/or the election to, or recall from, office of one or more candidates for office when such person or people have accepted contributions in excess of \$250 or make expenditures in excess of \$250 for any of the purposes listed heretofore.

(l) “Person” means any individual, cooperative association, club, corporation, company, firm, partnership, joint venture syndicate, profit or nonprofit organization, or other entity.

(Ord. 17-1993; Am. Ord. 45-2003; Am. Ord. 34-2006; Am. Ord. 44-2008)

Section 3. DISCLOSURE WITH DECLARATION OF CANDIDACY.

Each candidate shall file with the Board, within two days of filing the Declaration of Candidacy with the City Clerk, a notarized statement, signed by the candidate under oath, setting forth a listing of the candidate's membership's and positions, if any, in professional organizations, and any source of income that accounts for 5% or more of the candidate's total income, and any known present business relationships the candidate has or may have with the city, and any and all real estate interests held by the candidate within Bernalillio County, excluding the candidates' home.

(Ord. 17-1993; Am. Ord. 32-1999)

Section 4. CAMPAIGN FINANCING.

(a) *One Candidate Finance Committee.* Each candidate shall establish no more than one Candidate Finance Committee and shall appoint a treasurer who shall not be the candidate.

(b) *One Bank Account Filing Requirements.*

1. Each candidate or the candidate's treasurer and each Measure Finance Committee 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 upon filing a Declaration of Candidacy or formation of a Measure Finance Committee.

2. All contributions of monies received for the benefit of the candidate's campaign or the Measure Finance Committee shall be deposited in that account, and all disbursements shall be made from that account.

3. Each candidate and each Measure Finance Committee 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 and shall submit a copy of the letter of

authorization to the Board. Upon the request of the Board, each candidate, the candidate's treasurer, or the chairperson or treasurer of each Measure Finance Committee 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.

(c) *Disclosure of Campaign Financing.*

1. Each candidate for the office of Mayor or Councillor and each Measure Finance Committee, shall file with the Board the statements required in Section 4(c)2. of this Election Code, each of which shall be cumulative, signed under oath by the candidate or the candidate's treasurer or by the chairperson or treasurer of the Measure Finance Committee, setting forth to 5:00 p.m. of the day preceding the filing of each statement:

A. The total of all contributions, which shall include all contributions received, regardless of whether the contribution has been deposited in the candidate's or Measure Finance Committee's campaign bank checking account. A contribution is deemed received when a candidate or a Measure Finance Committee or any agent of a candidate or a Measure Finance Committee receives a contribution or the benefit of the services donated.

B. When the contributor is an individual, the name of the contributor, the contributor's principal business or occupation, the name and address of the contributor's employer, if self employed, the address of the contributor's business, and the nature of the contributor's or the contributor's employer's business. If the contributor is retired or not employed, the residential address of the contributor shall be disclosed. When the contributor is an entity other than an individual, the name and address of the contributor, the business or activities conducted by the contributor and the owners and managers of the contributor. The amount of each contribution and the cumulative value of all contributions contributed by the contributor. Measure Finance Committees that support or oppose more than one candidate or measure shall specify in separate sections in each disclosure statement the candidate or measure to which each contribution and expenditure applies. In the event a contribution or expenditure applies to more than one candidate or measure, the pro rata share of such contribution or expenditure shall be clearly identified for each candidate or measure.

C. All expenditures made on behalf of the campaign, including any reimbursements and the nature thereof, and the name and address of the person or business to which payment was made.

D. A person seeking to qualify to be on the ballot for the office of Mayor or Councillor shall include any person who has obtained a nominating petition form approved by the City Clerk. The City Clerk shall issue an approved nominating petition only to the person seeking to be on the ballot. Such approved nominating petition forms shall state the name of the person and the city office for which such person is petitioning to qualify to be on the ballot. People who have sought to be on the ballot as described above, but who do not qualify for the ballot or do not file a declaration of candidacy are required to file as provided in this section on the Friday of the twelfth week preceding the election and to file a final report on or before the Friday of the fourth week preceding the election.

E. Within 48 hours of the receipt of a statement listing campaign contributors, or as soon thereafter as reasonably possible, the Purchasing Office shall determine if any contributor has business dealings with the city. For the purposes of this section, a person is deemed to have business dealings if the person or in the case of an individual, the contributor's principal business or the contributor's employer has received \$20,000 or more pursuant to a contract with the city in the 24 months prior to the date of contribution. The Purchasing Office shall immediately notify the City Clerk of any campaign contributors who have business dealings with the city and the City Clerk shall post that information (including: contribution amount, recipient and business relationship) on the city's website.

F. The Purchasing Office shall maintain a list of all contributors to the campaign of any elected Mayor or Councillor and, for a period of one and one-half years following the election of that Official, shall notify the City Clerk of any campaign contributors who form business dealings with the city, as defined in the preceding paragraph, and the City Clerk shall post that information (including: contribution amount, recipient and business relationship) on the city's website.

G. In addition to other campaign disclosure requirements of the Election Code, a candidate shall designate in his or her disclosure reports those contributors who have contracts pursuant to which they receive funds from the employer of the candidate if the candidate was solely or partially responsible for the recommendation or award of the contract or for the administration of the contract. The City Clerk shall post this designation separately from the other contributions on the city's website.

2. The statements required by this subsection shall be filed as follows: the first statement on the Friday of the twelfth week preceding the election; the second statement on the Friday of the eighth week preceding the election; the third statement on the Friday of the fourth week preceding the election; the fourth statement on the Friday of the second week preceding the election; the fifth statement on the Friday immediately preceding the election; the sixth statement on the Monday immediately preceding the election, the seventh statement on the seventh day following the election; and the eighth and final statement not earlier than the seventh day nor later than the forty-fifth day after the election. In addition, any expenditure incurred or contribution made after 5:00 P.M. on the Tuesday preceding a regular election, special election or runoff election that is for \$250 or more for City Council candidates, or for \$500 or more for mayoral candidates shall be reported no later than 5:00 P.M. the following day. Each statement shall be filed with the Board no later than noon on the specified day. No person shall intentionally delay making or reporting a contribution or expenditure with the purpose of avoiding a timely report of the contribution or expenditure.

3. Exception to First Filing by Measure Finance Committee. Inasmuch as this subsection requires that the first statement be filed not later than on the Friday of the twelfth week preceding the election, and a Measure Finance Committee might in fact come into existence after such date, in these instances the Measure Finance Committee will be excused from filing its first statement on the date specified by this Election Code but will act as follows: A Measure Finance Committee formed between the twelfth week preceding the election and the Friday four weeks preceding the election shall file its first statement as soon as possible after the Committee has

been formed, but not later than five days after it has complied with the requirements of Section 6 of this Election Code. Measure Finance Committees shall otherwise comply in all respects with the requirements of this Election Code. A Measure Finance Committee formed after the Friday four weeks preceding the election shall file its first statement at the time it registers with the City Clerk, notwithstanding any other time allowed for filing in this Election Code, and shall file all subsequent statements at the times required in Section 4 (c) of this Election Code.

(d) *Limits to Campaign Financing.* No candidate shall allow or accept contributions or make expenditures in excess of the following for any election:

1. To a candidate for the office of Councillor, contributions or expenditures equal to twice the amount of the annual salary paid by the City of Albuquerque to Councillors as of the date of filing of the Declaration of Candidacy.

2. To a candidate for the office of Mayor, contributions or expenditures equal to twice the amount of the annual salary paid by the City of Albuquerque to the Mayor as of the date of filing of the Declaration of Candidacy.

(e) *Limits to Contributions.* No candidate shall, for any one election, allow total contributions from any one person with the exception of contributions from the candidate himself or herself of more than 5% of the annual salary for such office at the time of filing the Declaration of Candidacy.

(f) *Ban on Contributions from Business Entities and City Contractors.* No candidate shall accept a contribution in support of the candidate's campaign from any corporation, limited liability company, firm, partnership, joint stock company or similar business entity or any agent making a contribution on behalf of such a business entity. No candidate shall accept a contribution in support of the candidate's campaign from any person, other than a City employee, who at the time of the contribution is in a contractual relationship with the City to provide goods or services to the City. The remedy for an unknowing violation of this subsection shall be the return of the contribution.

(g) *Unexpended Contributions.* Any contributions not expended on the campaign shall be disposed of, at the option of the candidate, by one of the following methods:

1. Retained in the campaign bank checking account for a possible runoff election for that office,

2. Returned to the person who made the contribution,

3. Placed in the City's General Fund, or

4. Given to a charity identified by the candidate.

The fourth and final campaign financing statement shall reflect the final disposition of such contributions.

(h) *Anonymous Contributions.*

1. All anonymous contributions shall be disposed of by a candidate or the chairperson of a Measure Finance Committee either by placing the contribution in the City's General Fund or by giving the contribution to a charity.

2. An anonymous contribution shall not be considered to be a contribution to or expenditure of the campaign; however, a record of all anonymous contributions shall be kept by the candidate or the candidate's treasurer, or by the chairperson or treasurer of the Measure Finance Committee and the receipt and disposition of every anonymous contribution shall be reported to the Board, in writing, at the time the campaign financing disclosure statements required by subsection (c) of this section are filed. Such report must disclose the goods, services, moneys, or other contributions received, its value, the date of receipt and the date and method of disposition.

(i) For the purposes of this section, contributions and expenditures include those contributions received and expenditures made by or on behalf of an individual at any time prior to the individual filing a Declaration of Candidacy for the office of Mayor or Councillor through the time the final campaign financing disclosure statement is due, or by or on behalf of a Measure Finance Committee at any time prior to the relevant election through the time the final campaign financing disclosure statement is due.

(Amended at Regular Municipal Election, October 2, 2001, as Proposition #9.)

(j) *Campaign Finance Records.*

1. All campaign finance records and statements shall be open to inspection and/or audit by the Board, its designated representative, or its auditor; statements shall be presented to the Board for inspection or audit, or both. The City Clerk shall create an electronic data base for all campaign reporting required in this Election Code and place that information on the City's web site.

2. Campaign Financial Records.

A. Each candidate or the candidate's treasurer and each chairperson or treasurer of a Measure Finance Committee shall keep financial records of the campaign for a period of one year following the date of election, to assure their availability in the event of complaint or inquiry by the Board. Such campaign financial records shall include records of all contributions, regardless of amount, expenditures, cancelled checks, invoices, receipts, bank statements, bills of sales, statements of accounts, leases, rental agreements, and all other financial records pertinent to the campaign.

B. In preparing and maintaining financial records, ledgers, journals, or otherwise, and in recording contributions and expenditures on the statements required by subsection (c) of this section, each candidate or the candidate's treasurer and each chairperson or treasurer of a Measure Finance Committee shall:

1) Record in-kind contributions as both contributions and expenditures equal to the fair market value of the goods or services received.

2) Record campaign loans as contributions, with subsequent repayment of loans credited against contributions.

3) Record returned contributions as credits against contributions.

4) Record names of contributors on the bank deposit slips.

3. During the period between noon on the Friday immediately preceding the election and the day of the election, each candidate or the candidate's treasurer, and the chairperson or treasurer of each Measure Finance Committee, shall appear before the Board at a time and place designated by the Board. The appearance of the candidate's treasurer or the Committee's treasurer before the Board on the candidate's or Committee's behalf does not relieve the candidate or the Committee's chairperson of the ultimate and complete responsibility for the accuracy of all reports filed and the control of the candidate's or Committee's campaign. At the designated time and place, the campaign financial records of each candidate and each Measure Finance Committee required through the second statement pursuant to Section 4 of this Election Code shall be submitted to the Board for inspection and audit, or both. Each candidate and the chairperson of each Measure Finance Committee shall be given at least three days written notice of the designated time and place.

(k) *Fund-Raising Activity.*

1. The gross receipts of a fund-raising activity on behalf of a candidate are considered to be campaign contributions, and all expenditures associated with such a fund-raising activity are considered to be campaign expenditures. As used in this subsection, the term "gross receipts" includes all monies and donations of any kind which are received as part of the fund-raising activity.

2. The host of a fund-raising activity on behalf of a candidate or Committee shall be responsible for reporting the contributions resulting from the activity unless contributors are identified in the required manner on the Disclosure of Campaign Financing Statement, and the limits to contributions specified in subsection (e) of this Section 4 shall apply as if the total contributions at the fund-raising activity, not otherwise reported, were made by the host.

(l) *Measure Campaign Financing.* Any person or group which has contributed in excess of thirty percent of the Mayor's salary to support or oppose a measure shall have the name of such person or group inserted into the name of the Measure Campaign Committee to which the funds were contributed or shall create a new committee with the name of the contributor in the committee name. It is the obligation of the Measure Finance Committee to immediately inform the Board of the Committee's required name change; the Committee shall simultaneously report the amount of the contribution which triggers the name change. For the purposes of this subsection, "Mayor's salary" means the salary paid by the City of Albuquerque as of the date of

the contribution; support or oppose a measure covers qualification for the ballot plus voter approval or disapproval of a given measure.

(Ord. 17-1993; Am. Ord. 32-1999; Am. Ord. 16-2002; Am. Ord. 13-2003; Am. Ord. 34-2006; Amended at Regular Municipal Election, October 2, 2007; Am. Ord. 44-2008)

Section 5. CAMPAIGN MATERIALS.

Each candidate and each chairperson of each Measure Finance Committee shall ensure that all campaign materials specify the name of the sponsor who authorized the printing or distribution of such material and the name and address of the establishment that printed or otherwise created the campaign materials; provided, that the name and address of the printing establishment is not required to be specified in a newspaper advertisement. Each candidate and each chairperson of each Measure Finance Committee shall also ensure that a copy of each campaign material used in the campaign is promptly filed with the Board upon such material being printed or distributed.

(Ord. 17-1993)

Section 6. MEASURE FINANCE COMMITTEES.

(a) Each Measure Finance Committee shall register with the City Clerk within five days of formation by preparing and filing with the Board a statement, signed by the chairperson of the Committee, setting forth:

1. The exact name of the Committee;
2. The official address and phone number of the Committee; and
3. The names of the officials of the Committee.

(b) When knowledge is received of the formation and existence of any Measure Finance Committee, the Board shall furnish to the chairman, moderator, or head (however designated; herein referred to as the "chairperson") of such committee, and also the fund-raising member thereof (however designated), if known, a copy of this Election Code and the Rules and Regulations of the Board, and call attention to the requirements for reporting contributions and expenditures by the Measure Finance Committee as provided for in this Election Code. Within five days from receipt of said notification from the Board, the Measure Finance Committee shall prepare and file with the Board a statement, signed by the chairperson of the Committee, setting forth:

1. The exact name of the Committee;
2. The official address and phone number of the Committee;
3. The names of the officials of the Committee; and

4. Acknowledgement of receipt of a copy of this Election Code and the Board's Rules and Regulations and of the requirements regarding filing of reports.

(c) It is recognized that an affirmative duty rests on the officials of any such Measure Finance Committee to be aware of the provisions of this Election Code, and nothing contained in this Section shall exempt a Measure Finance Committee from filing its statement of formation or existence as required herein at the earliest possible date. Failure to so file according to the provisions of subsection (a) of this section shall subject the Committee to a fine not to exceed the maximum amount authorized by state law or public reprimand or both as provided in the Board's Rules and Regulations. Accordingly, such officials are enjoined to prepare and file the statement specified in subsection (a) of this section without such a request from the Board. In instances where such statement is filed spontaneously by the Committee, and complies with subsection (a) of this section, the Board is excused from providing the notification specified in subsection (b) of this section.

(Ord. 17-1993)

Section 7. FAMILIARITY WITH ELECTION CODE AND RULES AND REGULATIONS.

The Board shall have available on request by candidates and chairpersons of Measure Finance Committees, copies of the Board's Rules and Regulations and the City Charter of Albuquerque, revised to date, and require that each candidate filing a Declaration of Candidacy and each chairperson of a Measure Finance Committee acknowledge in writing receipt of and familiarity with the terms of this Election Code and the Board's Rules and Regulations. Each candidate and chairperson shall furnish an address and phone number at which the candidate or chairperson can be reached, and to which communications, including notifications of alleged violations or hearings, can be mailed or delivered, and agreeing that notice left at such address shall be deemed received by the candidate or chairperson.

(Ord. 17-1993)

Section 8. PRESERVATION OF RECORDS.

(a) The records and statements required by this Election Code shall be preserved intact as public records by the Board for a period of at least seven years after the election in question.

(b) All records of the Board in the conduct of its business, including minutes of meetings and recommendations to the City Council and Mayor, shall be preserved intact as permanent public records by the Board.

(Ord. 17-1993)

Section 9. RULES AND REGULATIONS; ASSISTANCE; [CAMPAIGN AND ELECTION AUDITOR].

(a) The Board shall promulgate reasonable Rules and Regulations for its conduct and in aid of interpretation and enforcement of this Election Code, and amend such Rules and Regulations as it may, from time to time, deem advisable; provided, that amendments to said Rules and Regulations shall not be made by the Board during the ninety days preceding an election. The current Rules and Regulations of the Board shall be made available in published form no later than sixty days prior to any 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 retained by the Board as an independent contractor to serve from the established date of filing of the Declaration of Candidacy for each election until ninety days following the specified final date set forth for filing of the final statement on disclosure of campaign financing; provided, that the Board in its discretion may retain the services of the Auditor at other times including elections in which only measures are to be placed on the ballot.

2. Monitor all disclosure statements to examine the accuracy and compliance by the person filing such statements with the provisions of this Election Code and with any Rules and Regulations promulgated by the Board, and provide such other services as may be required by the Board.

3. At the direction of the Board, be available to assist candidates and Measure Finance Committees in connection with this Election Code and with any Rules and Regulations promulgated by the Board, and provide such other services as may be required by the Board.

(Ord. 17-1993)

Section 10. ENFORCEMENT.

(a) *Charges of Violations.*

1. Any charge or charges that a candidate or the chairperson of a Measure Finance Committee or any other group has committed a violation of this Election Code or of the Rules and Regulations promulgated by the Board shall be made in writing, notarized and brought before the Board.

2. Each charge of any alleged violation shall specify the specific provision alleged to have been violated or a clear and concise statement of why the complainant believes a violation has occurred, and shall include documentation as to time, place, facts, and the names of any witnesses to the alleged violation. No charge shall be accepted unless the complaint is signed and unless the documentation referred to above, the statement of the provision alleged to have been violated, or the reason for the complaint, is presented at the same time the complaint is filed.

3. Except as provided in subsection (d) of this section, the Board shall give written notice of such charge or charges to the candidate or chairperson before taking further action.

(b) The Board, in its discretion, may establish a Complaint Committee to review the complaint for completeness, and the Complaint Committee shall either refer the complaint to the Board or reject the complaint and give written notice to the Board and the complainant of the reasons for the rejection. The complainant may appeal the Complaint Committee's rejection to the Board.

(c) Upon referral of any complaint by the Board, the Campaign and Election Auditor shall investigate the charge or charges and report to the Board.

(d) Notwithstanding any other provision in this section, the Board may, on its own initiative, initiate a charge or charges that a candidate or the chairperson of a Measure Finance Committee or any other group has committed a violation of this Election Code or of the Rules and Regulations promulgated by the Board. In the event that inspection and/or audit of the candidates or Measure Finance Committees campaign financial records made pursuant to Section 4(i)3. results in a charge or charges against a candidate or Measure Finance Committee, written notice to the candidate or chairperson of the charge or charges shall not be required before the Board takes further action.

(e) Should the Board find, after due hearing, that a violation of this Election Code or the Rules and Regulations of the Board has occurred, it may, for each violation, issue a public reprimand or impose a fine not to exceed the maximum amount authorized by state law, or do both.

(f) *Automatic Fines.* Notwithstanding subsection (e) of this section, a failure to file or late filing shall subject the candidate or the chairperson of the Measure Finance Committee or any other obligated person, whichever may be the case, to an automatic fine and public reprimand according to the schedules established in the Rules and Regulations of the Board. In situations where there is an incomplete filing the candidate or the chairperson of the Measure Finance Committee shall be notified of the failure and shall have ten days from the date of notice to correct the failure. If the incomplete filing is not corrected within ten days there shall be an automatic fine and public reprimand. If the failure is corrected within ten days and the Board determines from the face of the filings that any failure appears to have been inadvertent and made in good faith, the Board shall find that there has been no violation.

(g) In addition to imposing such sanctions, or as an alternative thereto, and if the violator be a successful candidate in the election, the Board may recommend to the Council that the violator be removed from office.

(h) The Council may, upon the recommendation of the Board, and after due hearing of the charge, order the suspension or removal of an elected official; provided, however, that no official shall be removed or suspended except upon the concurrence of two-thirds of the Councillors qualified to vote thereon.

(i) An appeal may be taken from any findings and action of the Board pursuant to subsections (e) and (f) of this section and from any order of the Council pursuant to subsection (h) of this Section to the District Court of the Second Judicial District, by filing Notice of Appeal in the said District Court within five days of the date of the action or order appealed from, and by filing with said District Court within thirty days a true transcript and record of the proceedings upon which said action or order is based. The hearing in District Court shall be held on said transcript and record only, and new testimony shall not be taken.

(j) All fines not timely paid shall be assessed interest at the maximum rate allowed by state law commencing on the thirty-first day following the date that the fine was imposed.

(k) Any fines collected under this section shall be placed into the City's General Fund.

(Ord. 17-1993; Am. Ord. 34-2006)

Section 11. NON-WAIVER OF PENALTIES.

Nothing herein set forth shall be construed to affect or otherwise diminish any penalties otherwise provided by law for violation of this Election Code or the Rules and Regulations promulgated by the Board, nor shall prevent the Board from bringing to the attention of the proper authority any alleged violation coming to its attention which may be subject to other penalties.

(Ord. 17-1993)

Section 12. AMENDMENTS.

This Election Code may be amended without requiring compliance with Article VI of this Charter by ordinance adopted by a majority plus two of the entire membership of the Council voting in favor of such amendment or amendments, and said ordinance being otherwise governed by Article XI of this Charter.

(Ord. 17-1993)

Section 13. REPRESENTATIVE INSPECTIONS.

(a) Certification of Representatives. All declared and certified candidates for municipal office, measure finance committee or committee or organization dedicated to turning out the voters on election day shall be entitled to designate representatives who may enter precinct polling places for the sole purpose of observing voter signature rosters. Each candidate, measure finance committee or committee or organization dedicated to turning out voters on election day shall request from the City Clerk the number of representative authorization passes that are wished for use on election day. The authorization passes shall designate the name of the candidate, measure finance committee or committee or organization dedicated to turning out

voters on election day and may be used at any precinct within the City Council district that a Councillor candidate is seeking or all districts for Mayoral candidates. The authorization passes may be used by those people designated by the candidate, measure finance committee or committee or organization dedicated to turning out voters on election day. The candidates' representatives' name need not appear on the authorization pass.

(b) Access to Signature Rosters. Candidate, committee and/or organization representatives who have received an authorization pass may enter the polling precincts to observe the voter signature rosters during the hours the polling place remains open to voters. Those representatives may observe the voter signature rosters at times and in a place and manner that the presiding election judge determines shall not interfere in the orderly and timely process of voting. Only members of the precinct board shall handle signature rosters. The precinct election judges shall facilitate the representatives in observing each page of the voter roster. No more than one representative for a particular candidate, committee or organization shall be present at a precinct at a time. Should representatives for more than one candidate, committee or organization wish to observe the voter roster at the same time, the presiding election judge shall determine the manner in which such observation shall take place.

(c) Orderly Conduct. In the event a candidate, committee or organization representative is disorderly or fails to obey the instructions of a precinct election judge, the representative shall surrender his authorization pass and shall no longer be entitled to be present at the polling place as a representative.

(Ord. 40-2003)

Section 14. [PHOTO VOTER IDENTIFICATION REQUIRED].

When a voter approaches the election polling place seeking to vote, the voter must identify himself or herself audibly by name. The Municipal Election Clerk shall locate in the election rolls the name spoken and ask the individual seeking to vote for one current valid identification card containing the voter's name and photograph. Such photo identification card may include any card issued by a government agency, driver's license, student identification card, commercial transaction card such as a credit or debit card, insurance card, union card, a professional association card or the voter identification card issued by the City Clerk. If the individual is unable to provide a photo identification card, he or she shall be allowed to vote on a provisional ballot, but only if he or she swears or affirms under penalty of perjury in an affidavit provided by the City Clerk that he or she is the registered voter listed on the voter registration rolls at the precinct at which he or she presented himself or herself to vote and provides his or her date of birth and the last four digits of his or her social security number. Provisional ballots shall be issued for no other reason than the failure to present photo identification. Provisional ballots shall be counted only by the Municipal Canvassing Board and only upon the voter's presentation to the City Clerk within the ten day canvassing period one of the photo identification cards described in this section. The Municipal Canvassing Board shall also verify that the voter who cast the provisional ballot was registered to vote for the election and did not vote elsewhere in the same election. If a voter who cast a provisional ballot under this section swears or affirms under penalty of perjury in an affidavit provided by the City Clerk within the ten day canvassing period that he or she has a religious objection to being photographed, such

voter shall not be required to submit photo identification. The Municipal Canvassing Board shall otherwise verify that the provisional ballot was valid. The City Clerk shall develop and provide instructions for elections judges concerning the requirements of this Section and a method of complaint and resolution for individuals who feel they have been discriminated against by election officials' or the City Clerk's administration of this Section, in accordance with federal intimidation guidelines. Knowingly executing a false statement constitutes perjury as provided in Section 30-25-1 NMSA 1978 and voting on the basis of a falsely executed statement constitutes false voting as provided in Section 1-20-8 NMSA 1978. Voter photo identification cards shall be issued by the City Clerk without charge to any voter who presents any two of the following identification documents that show the name and address of the voter: a state issued identification card, social security card, student identification card, library card, insurance card, selective service card, union card, professional association card, utility bill, bank statement, government check or a paycheck. If the individual is unable to present any two of these documents to the City Clerk, then the voter shall swear or affirm in writing under penalty of perjury that he or she is the registered voter and shall be issued a voter photo identification card upon confirmation with the County Clerk that such person is presently registered to vote. The City Clerk issued voter photo identification card shall state on its face that it shall not be valid for identification other than for the purpose of voting in City Elections and shall not be valid if the voter is subsequently purged from the voter rolls. The Municipal Canvassing Board shall certify the results of the Municipal Election by the end of the tenth day after the day on which the election is held. Pursuant to Article II, Section 2 (b) of the City Charter, this Section shall take precedence over the State Municipal Election Code. The provisions of this Section shall apply only to City of Albuquerque Municipal Elections.

(Section 14 adopted at Regular Municipal Election, October 4, 2005.