



# Office of the City Clerk 2021 Candidate Guide

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# 2021 Candidate Information Guide Revision History

Revision Number	Date	Updates
1.0	10/6/2020	Original Publication Date

## About this Guide:

This publication has been prepared by the Office of the City Clerk in Albuquerque, New Mexico, to serve as a reference for candidates seeking municipal office in the 2021 regular local election. We recommend that even experienced candidates take time to review this guide as recent amendments to local and state laws have changed the way elections are managed in New Mexico.

This guide is intended as a reference on the election process and is not a legal authority. Despite our good faith efforts and multiple reviews, this guide may contain inadvertent errors. Please email [elections@cabq.gov](mailto:elections@cabq.gov) immediately if you notice any error. Also, please remember that this guide is not a substitute for legal research or for the advice of an attorney.

Copies of the New Mexico Election Code, the Local Election Act, and the City Charter can all be obtained electronically. It is important that users of this guide read it in conjunction with the laws referenced herein.

This guide is written specifically for City Council and Mayoral candidates for the 2021 regular local election. For candidates looking for information on any future election, we suggest emailing your questions to [elections@cabq.gov](mailto:elections@cabq.gov).

This guide will be updated as necessary. Please check back regularly to make sure you have the most recent version of the guide. The guide will be maintained on the main page of the City Clerk's election webpage at [www.cabq.gov/vote](http://www.cabq.gov/vote).

If you have any questions about the information in this guide or if you have questions regarding running for office that are not addressed in this guide, please feel free to call the City Clerk's office at: 505-924-3650 or email at [elections@cabq.gov](mailto:elections@cabq.gov).

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2021 Candidate Calendar:



## CANDIDATE CALENDAR FOR THE 2021 REGULAR LOCAL ELECTION

\*Calendar subject to change. Check back regularly for updates.\*

Date	Activity, Requirement or Deadline
Mon., Mar. 1	First day of Public Financing Exploratory Period for Mayoral Candidates (City Charter Article XVI, § 3(G)) Exploratory Period is from March 1 – April 16.
Mon., Mar. 1	<p>First day for Mayoral Candidates to submit Declaration of Intent to seek public financing. Council Candidates may file their intent to seek public financing at any point after March 1 until the Qualifying Period has closed.</p> <p>In order to File the Declaration of Intent, the applicant candidate must schedule an appointment with the City Clerk at least one day prior to filing. The Clerk will review the public finance process with the candidate and provide the Declaration of Intent for public financing.</p> <p><b>The Declaration of Intent shall specify that the candidate has not, within one year prior to the declaration, raised or expended any monies in excess of the pre- and post- Exploratory Period contribution limits with the intent or effect of campaigning for elected office. (City Charter Article XVI, § 4(E))</b></p>
Mon., Mar. 1	One-on-one meetings with the City Clerk and Mayoral Applicant Candidates by Appointment. The City Clerk will begin taking meetings by appointment at the beginning of the Exploratory Period and continue to take appointments through the Qualifying Period.
TBD – or via Zoom	<p>Mandatory Orientation Session with City Clerk and Auditor.</p> <p><b><u>Candidates may not circulate Petitions or collect Qualifying Contributions without meeting with the City Clerk to receive all necessary forms and information.</u></b> You are encouraged to bring your campaign manager and/or Treasurer with you. Candidates will receive</p>

Date	Activity, Requirement or Deadline
	<p>instructions on collecting signatures and financial reporting compliance. This is a very important meeting.</p> <p>Candidates who are unable to attend the Orientation Session must schedule an appointment with the City Clerk prior to circulating petitions or collecting qualifying contributions.</p>
Mon, April 12	<p><b>First Campaign Disclosure Statement Due.</b> First campaign disclosure statement due at the City Clerk’s office by 5:00pm. (City Charter Article XIII, § 4)</p>
Mon, April 12	<p>Biannual Disclosure Statement due for elected officials reporting all contributions and expenditures made and contributions received on or before the first Monday in April and not previously reported. The online reporting statement must be filed (posted) no later than 5:00pm. (City Charter Article XII, § 4)</p> <p><b>**In an election year, rather than filing biannual disclosure statements, reporting individuals who are candidates for office shall file campaign disclosure statements.</b></p>
Fri., April 16	<p>Last day of Public Financing Exploratory Period for Mayoral Candidates (City Charter Article XVI, § 3(G))</p>
Sat., April 16	<p><b>First day of Public Financing Qualifying Period for Mayoral Candidates</b> (City Charter Article XVI, § 3(Q)) Qualifying Period is from April 16 – June 19.</p>
Sat., April 16	<p><b>First day for Mayoral candidates seeking public financing to collect Signatures for Petitions.</b> Candidates must gather the signatures of 3000 voters registered within the City of Albuquerque. (City Charter Article II, § 4 and ROA 1994, § 2-4-13) Signature Period is from April 16 – June 19 (§ 2-4-13)</p>
Tues., April 20	<p>Weekly return of petitions and qualifying contributions. (ROA 1994, § 2-4-13 (C)) <b>Returns of petitions and qualifying contributions shall be made every subsequent Tuesday by noon, even when not noted on this calendar.</b></p>
Sun., April 25	<p>First day of Public Financing Exploratory Period for Council Candidates (City Charter Article XVI, § 3(G)) <i>Exploratory Period is from April 25 – May 30.</i></p>
Sun., April 25	<p>First day for Council Candidates to submit Declaration of Intent to seek public financing. Council Candidates may file their intent to seek public financing at any point after April 25 until the Qualifying Period has closed.</p> <p>In order to File the Declaration of Intent, the applicant candidate must schedule an appointment with the City Clerk at least one day prior to filing. The Clerk will review the public finance process with the candidate and provide the Declaration of Intent for public financing.</p>

Date	Activity, Requirement or Deadline
	<b>The Declaration of Intent shall specify that the candidate has not, within one year prior to the declaration, raised or expended any monies in excess of the pre- and post- Exploratory Period contribution limits with the intent or effect of campaigning for elected office. (City Charter Article XVI, § 4(E))</b>
Mon, May 10	<b>Second Campaign Disclosure Statement Due.</b> Second campaign disclosure statement due at the City Clerk's office by 5:00pm. (City Charter Article XIII §4)
Sun., May 30	Last day of Public Financing Exploratory Period for Council Candidates (City Charter Article XVI, § 3(G))
Mon., May 31	<b>First day of Public Financing Qualifying Period for Council Candidates.</b> (City Charter Article XVI, § 3(Q)) Qualifying Period is from May 31 - July 5.
Mon., May 31	<b>First day for Council candidates seeking public financing to collect signatures for Petitions.</b> Candidates must gather the signatures of 500 voters registered within the district the candidate wishes to represent. (City Charter Article II, § 4 and ROA 1994, § 2-4-13) Signature Period for participating candidates is from May 31 – July 5 (§2-4-13)
Tue., June 8	Weekly return of petitions and qualifying contributions. (ROA 1994, § 2-4-13 (C)) <b>Returns of petitions and qualifying contributions shall be made every subsequent Tuesday by noon, even when not noted on this calendar.</b>
Tue., June 8	<b>First day for Mayoral candidates who are seeking private financing to collect signatures for Petitions.</b> Candidates must gather the signatures of 3000 voters registered within the City of Albuquerque. (City Charter Article II, § 4 and ROA 1994, § 2-4-13 ROA) Signature Period for privately financed candidates is from June 8 - August 10. (§ 2-4-13)
Mon., June 14	<b>Third Campaign Disclosure Statement Due.</b> Third campaign disclosure statement due at the City Clerk's office by 5:00pm. (City Charter Article XIII, § 4)
Sat., June 19	Last day of Public Financing Qualifying Period for Mayoral Candidates (City Charter Article XVI, § 3(Q)) Qualifying Period is from April 17 – June 19.
Sat., June 19	<b>5:00pm.</b> Deadline for Mayoral Candidates seeking public financing to submit Petitions to the Office of the City Clerk containing the signatures of 3,000 registered voters in the City of Albuquerque. (City Charter Article II, § 4 and ROA 1994, § 2-4-13(B)-(C)). Final submission of qualifying contributions for Mayoral Candidates. (§2-4-13(B))
Sat., June 19	Deadline for Mayor Applicant Candidates to return unused Qualifying Contribution Receipt Books to the Office of the City Clerk. (2021 Regulations of the Albuquerque City Clerk for the OEEC)
Sat., June 19	<b>Declaration of Candidacy</b>



Date	Activity, Requirement or Deadline
	Deadline for Mayor Applicant Candidates to file their Declarations of Candidacy with the City Clerk. The City Clerk will submit petitions and Declaration to the County Clerk. The County Clerk shall notify the City Clerk within 3 days if candidate is qualified. (NMSA 1978, § 1-22-3.2(D)(2)).
Thurs., July 1	Elected Official's Annual Financial Statement Due. (City Charter Article XII, § 5(d))
Mon., July 5	<b>5:00pm.</b> Deadline for Council Candidates seeking public financing to submit Petitions to the Office of the City Clerk containing the signatures of 500 registered voters in the district that the candidate wishes to represent. (City Charter Article II, § 4 and ROA 1994, § 2-4-13(B)-(C))
Mon., July 5	Last day of Public Financing Qualifying Period for Council Candidates. (City Charter Article XVI, § 3(Q))
Mon., July 5	Deadline for Council Applicant Candidates to submit their Application for Certification to the City Clerk.
Mon., July 5	Deadline for Council Applicant Candidates to return unused Qualifying Contribution Receipt Books to the Office of the City Clerk. (2021 Regulations of the OEEC Part C4)
Mon., July 5	<b>Declaration of Candidacy</b>  Deadline for Council Applicant Candidates to file their Declarations of Candidacy with the City Clerk. The City Clerk will submit petitions and Declaration to the County Clerk. The County Clerk shall notify the City Clerk within 3 days if candidate is qualified. (NMSA 1978, § 1-22-3.2(D)(2)).
<b>Tue., July 6</b>	<b>First day for Council candidates seeking private financing to collect signatures for Petitions.</b> Candidates must gather the signatures of 500 voters registered within the district the candidate wishes to represent. (City Charter Article II, § 4 and ROA 1994, § 2-4-13) Signature Period for privately financed candidates is from July 6 - August 10. (§ 2-4-13)
Tue., July 6	City Clerk certifies Mayoral Applicant Candidates meeting the requirements of the Open and Ethical Elections Code as Participating Candidates. (City Charter Article XVI, § 7(B))
Tue., July 6	Following certification, the City Clerk distributes funds to Participating Mayoral Candidates. (City Charter Article XVI, § 12) The distribution is completed electronically between the City Treasurer and the candidate's financial institution. The banking process can take several business days to complete.
Mon, July 12	Deadline for Unopposed Participating Mayoral Candidates to return public financing funds to the City Clerk. (2021 Regulations of the OEEC, Part D § 7)
Mon, July 12	<b>Fourth Campaign Disclosure Statement Due.</b> Fourth campaign disclosure statement due at the City Clerk's office by 5:00pm. (City Charter Article XIII, § 4)

Date	Activity, Requirement or Deadline
Sun., July 25	City Clerk certifies Council Applicant Candidates meeting the requirements of the Open and Ethical Elections Code as Participating Candidates. (City Charter Article XVI, § 7(B))
Sun., July 25	Following certification, the City Clerk distributes funds to Participating Council Candidates. (City Charter Article XVI, § 12) The distribution is completed electronically between the City Treasurer and the candidate's financial institution. The banking process can take several business days to complete.
Mon, July 26	Deadline for Unopposed Participating Council Candidates to return public financing funds to the City Clerk. (2021 Regulations of the OEEC, Part D § 7)
Mon, Aug. 9	<b>Fifth Campaign Disclosure Statement Due.</b> Fifth campaign disclosure statement due at the City Clerk's office by 5:00pm (City Charter Article XIII, § 4)
Tues., Aug. 10	<b>5:00pm.</b> Deadline for Mayoral and Council Candidates seeking private financing to submit Petitions to the Office of the City Clerk containing the signatures of 500 registered voters in the district that the candidate wishes to represent for Council Candidates, or the signatures of 3000 voters registered within the City of Albuquerque for Mayoral Candidates. (City Charter Article II, § 4 and ROA 1994, § 2-4-13(B)(C))
Tue., Aug 24	<b>Declaration of Candidacy</b>  Privately Financed Candidates must file their Declarations of Candidacy with the County Clerk between 9:00am. and 5:00pm. (NMSA 1978, § 1-22-7).
Tue., Aug 24	<b>Deadline for Candidates to File Organization and Income Disclosure Statement.</b> Candidates shall file with the City Clerk their disclosure statements reflecting the candidate's memberships and positions in professional organizations; their sources of income producing 5% or more of the candidate's total income; businesses relationships with the City; and real estate interests within Bernalillo County, exclusive of the candidate's residence. (City Charter Article XIII, § 3)
Tue., Aug 31	<b>5:00pm. Withdrawal of Candidacy</b> Last day for certified candidates to withdraw candidacy with the County Clerk (NMSA 1978, § 1-22-9)
Tue., Aug 31	<b>9:00am. to 5:00pm. Filing day for Write-in Candidates</b>  Candidates must file with the County Clerk. (NMSA 1978, § 1-22-8.1)
Fri., Sept 3	First day candidates may display political signs. (ROA 1994, § 14-16-3-5(C)(3))
Mon, Sept 13	<b>Sixth Campaign Disclosure Statement Due.</b> Sixth campaign disclosure statement due at the City Clerk's office by 5:00pm. (City Charter Article XIII, § 4)
Tue, Sept 14	Deadline for Unopposed Participating Candidates to return public financing funds to the City Clerk. (2021 Regulations of the OEEC Part D § 6) Applies

Date	Activity, Requirement or Deadline
	only to Participating Candidates whose opposing candidate was a write-in that withdrew.
Sat., Sept 18	County Clerk shall transmit ballots to federal qualified electors whose applications have been accepted up to and on this day. (NMSA 1978, § 1-6B-7(A)(D)) Uniformed and Overseas Citizens Absentee Voting Act is commonly referred to as UOCAVA- MOVE ACT (45 days before the election)-Must be done on this day regardless of weekend or holiday.
Mon, Oct. 4	<p>Biannual Disclosure Statement due by 5:00pm for elected officials reporting all contributions and expenditures made and contributions received on or before the first Monday in October, and not previously reported. (City Charter Article XIII, §,4)</p> <p>**In an election year, rather than filing biannual disclosure statements, reporting individuals who are candidates for office shall file campaign disclosure statements.</p>
TBD	<b>Last day to register to vote, or update voter registration with County Clerk</b> (NMSA 1978, § 1-4-8(A)(3))
TBD	<p><b>Absentee Ballots.</b> First day for County Clerk to issue absentee ballots to voters whose applications have been approved. (NMSA 1978, § 1-6-5(E))</p> <p>First Day for Absentee in-person voting at the County Clerk Annex. (NMSA 1978, § 1-6-5(F))</p>
Mon., Oct 11	<b>Seventh Campaign Disclosure Statement Due.</b> Seventh campaign disclosure statement due at the City Clerk’s office by 5:00pm. (City Charter Article XIII, § 4)
Mon., Oct 18	<b>Eighth Campaign Disclosure Statement Due.</b> Eighth campaign disclosure statement due at the City Clerk’s office by 5:00pm. (City Charter Article XIII, § 4)
TBD	<b>Early Voting.</b> First day for in person early voting on voting machine at the City Clerk’s Office and other early voting sites. (NMSA 1978, § 1-6-5.7(A))
Mon., Oct 25	<b>Ninth Campaign Disclosure Statement Due.</b> Ninth campaign disclosure statement due at the City Clerk’s office by 5:00pm (City Charter Article XIII, § 4)
Wed, Oct 27	<b>Notify Candidates of Mandatory meeting with Board of Ethics, scheduled for Friday, Nov 1st.</b> Candidates must appear before the Board of Ethics some time between noon on the Friday before the election and Election Day. This is a mandatory meeting and is usually scheduled at 4:00pm. Candidates shall receive a minimum of three days written notice of the meeting. (City Charter Article XIII, § 4 (i)3)
Fri, Oct 29	<b>Supplemental Financial Reports.</b> Any contribution or pledge to contribute \$500 or more shall be reported to the City Clerk within 24 hours. (City Charter Article XIII, § 4)

Date	Activity, Requirement or Deadline
Sat., Oct 30	Last day for early voting and in-person absentee (NMSA 1978, § 1-6-5.7(A); NMSA 1978, § 1-6-5(F)).
Mon., Nov 1	<b>Tenth Campaign Disclosure Statement Due.</b> Tenth campaign disclosure statement due at the City Clerk's office by 5:00pm. (City Charter Article XIII, § 4)
TUES, NOV. 2	<b>ELECTION DAY Polls Open at 7:00am. and close at 7:00pm. (NMSA 1978, § 1-22-3(A))</b>  <b>7:00 p.m. Polls Close. Any voter in line waiting to vote may vote. (NMSA 1978, § 1-12-26)</b>
Fri., Nov 12	<b>Political Signs</b> Last day to take down political signs, except for runoff candidates. (ROA 1994, § 14-16-3-5(C)(3))
Tues., Nov 16	<b>Return unspent Regular Election Public funds</b> Deadline for Participating Candidates to pay City Clerk all unspent or unencumbered funds received from the Open and Ethical Elections Fund and any Seed money from the regular election.  (City Charter Article XVI, § 8(C))
Thurs., Dec 2	<b>Eleventh Campaign Disclosure Statement Due.</b> Eleventh campaign disclosure statement due at the City Clerk's office by 5:00pm. (City Charter Article XIII, § 4)

\*This calendar will be updated online to reflect runoff dates should that become necessary.

## 2021 Important Dates:

### Mayoral Candidates

- Participating in Public Financing:
  - March 1 – First day candidate can submit a declaration of intent to seek public financing
  - March 1 – April 16 – Exploratory Period
  - March 1 – June 19 – Seed Money Period
  - April 17 – June 19 – Petition Signature Period
  - April 17 – June 19 – Qualifying Contribution Period
  - June 19 – Submit Declaration of Candidacy to City Clerk
- Privately Financed:
  - June 8 – August 10 – Petition Signature Period
  - August 24 – Submit Declaration of Candidacy to County Clerk

### Council Candidates

- Participating in Public Financing:
  - April 25 – First day candidate can submit a declaration of intent to seek public financing
  - April 25 – May 30 – Exploratory Period
  - April 25 – July 5 – Seed Money Period
  - May 31 – July 5 – Petition Signature Period
  - May 31 – July 5 – Qualifying Contribution Period
  - July 5 – Submit Declaration of Candidacy to City Clerk
- Privately Financed:
  - July 6 – August 10 – Petition Signature Period
  - August 24 – Submit Declaration of Candidacy to County Clerk

2021 Financial Reporting Calendar:



2021 Regular Local Election Financial Reporting Calendar

Statement 1:	Monday, April 12, by 5:00pm
Statement 2:	Monday, May 10, by 5:00pm
Statement 3:	Monday, June 14, by 5:00pm
Statement 4:	Monday, July 12, by 5:00pm
Statement 5:	Monday, August 9, by 5:00pm
Statement 6:	Monday, September 13, by 5:00pm
Statement 7:	Monday, October 11, by 5:00pm
Statement 8:	Monday, October 18, by 5:00pm
Statement 9:	Monday, October 25, by 5:00pm
Daily Supplementals: (Reporting items over \$500 threshold)	Friday, October 29, within 24 hours
Statement 10:	Monday, November 1, by 5:00pm
Statement 11:	Thursday, December 2, by 5:00pm

\*Recent updates to the 2019 Regulations for the Open and Ethical Elections Code have removed the additional reporting requirement of the Seed Money reports for publically financed candidates. Publically financed candidates are required to file financial disclosures on the schedule outlined above, but are not subject to any additional disclosures. (2021 City Clerk Regulations for the OEEC)

## Roles of City Clerk and County Clerk:

Due to recent changes in local and state laws, the roles of the City and County Clerk have shifted and have changed the way candidates conduct their campaign compared to the 2019 election cycle. Though we encourage you to read the Local Election Act, the Albuquerque City Charter, and the Administrative Rules, all of which can be found online, below we've highlighted the major roles of the City Clerk and the County Clerk as they pertain to a candidate for City Council and Mayor.

### 1. City Clerk:

- Optional one-on-one meetings prior to the Public Financing Exploratory Period to answer any questions you have.
- Mandatory Orientation Session with the financial reporting auditor prior to the Public Financing Qualifying Period to discuss financial reporting.
- Accepts the Declaration of Intent prior or during the Public Financing Qualifying Period for any candidate seeking public financing.
- Manages and oversees the Public Financing Qualifying Period and the collection of the \$5 contributions.
- Manages and verifies nominating petition signatures for qualification as a candidate.
- Manages the financial reporting for all candidates and committees.
- Accepts Board of Ethics complaints.
- Accepts requests for advisory opinions.
- Accepts declarations of candidacy for publicly financed candidates and submits to County Clerk on behalf of candidates.

### 2. County Clerk:

- Accepts Declaration of Candidacy.
- Accepts Withdrawal of Candidacy.
- Accepts Nominating Petitions, following signature verification by City Clerk.
- Determines ballot order of candidates.
- Administers all aspects of the election, including absentee ballots, polling locations, and canvass of the election.

## Eligibility Requirements:

New Mexico law outlines certain requirements for candidates to have their name printed on a ballot based upon the candidate's voter registration information. In order to become a candidate, the person's record of voter registration must show that the person is a qualified elector of the state, physically resides in the district in which the person is a candidate and was registered to vote in the district on the date the proclamation calling a local election is filed in the office of the Secretary of State.

By law, the Secretary of State's Election Proclamation is issued ninety (90) days before the election. Any changes to voter registration must be effective on the date of the Election Proclamation. Attempted changes to ballot name appearance at the time of candidate filing is NOT allowed.

Additionally, in order to appear on the ballot, the candidate must not have any outstanding campaign finance compliance issues or fines with the office of the City Clerk.

## Public Financing Exploratory Period:

The Exploratory Period is the time frame when candidates can submit their intent to seek public financing, and may begin collecting seed money and in-kind contributions.

### 1. Seed Money

Candidates seeking public financing may raise seed money during the exploratory period and the qualifying period, but not after. Candidates may accept no more than \$250 of seed money per person, and may donate no more than \$2,500 of seed money to their own campaign. Seed money may not exceed 20% of the applicable spending limit. The spending limits differ per Council district based on the number of voters in each district. The number of voters will be posted on the City Clerk's website. Any seed money raised will be deducted from the public funds distributed to the applicant. Any seed money raised in excess of the 20% limit will also be deducted from the amount of public funds distributed and may also be a violation of the OEEC.

### 2. In-Kind Contributions

In-Kind Contributions are goods or services that are donated or provided to the campaign at no cost, or at a cost discount of 20% or more. In-kind contributions are subject to contribution limits for both publically financed and privately financed candidates.

Publically financed candidates may begin receiving in-kind contributions at the beginning of the exploratory period through the regular election or runoff election. The total in-kind contributions cannot exceed 10% of the spending limit (which is posted on the Clerk's website) and any individual in-kind contribution cannot exceed 5% of the annual salary for the office being sought.

**NOTE:** The information below is incomplete as the applicable 2021 salaries have not yet been determined as of the time of publication. The City Clerk's Office expects to provide the salaries by March 1, 2021 and will be able to update the below shortly thereafter.

In 2021, the Mayor has an annual salary of \$XXX. For participating Mayoral candidates in the 2021 elections, the per person limit for in-kind contributions is \$XXX.

In 2021, each City Council seat up for election has an annual salary of \$XXX. For participating Council candidates in the 2021 City Council elections, the per person limit for in-kind contributions is \$XXX.



The aggregate total of in-kind contributions for candidates in each City Council district for the regular local election in 2021 are:

Mayor	\$XXX
District 1	\$XXX
District 3	\$XXX
District 5	\$XXX
District 7	\$XXX
District 9	\$XXX

In the event of a runoff election, new in-kind contribution limits will be provided by the Office of the City Clerk.

### 3. Expenditures

Publically financed candidates may only use seed money and in-kind contributions to make expenditures during the exploratory period.

## Petitions:

### 1. Minimum Number of Signatures:

To qualify as a Mayoral Candidate for the 2021 Regular Local Election, a person must submit to the City Clerk **3,000** verified signatures from registered voters in the City of Albuquerque. To qualify as a City Council Candidate for the 2021 Regular Local Election, a person must submit to the City Clerk **500** verified signatures from registered voters in their district.

### 2. Form Used:

The form used to collect petition signatures is outlined in New Mexico statutes (NMSA 1978, §§ 1-8-30, 1-8-50, and 1-8-65) and the form provided by the City Clerk is the only acceptable form. Candidates may make as many copies as necessary of the form. Petition forms must be on 8.5" x 11" normal weight copy paper and must be copied on only one side of the paper. Submitting previous versions of the petition form or alternative versions of the form is not allowed and will not be accepted. With or without a showing of fraud or a reasonable opportunity for fraud, a nominating petition shall be considered invalid if the required information is not listed on the petition before the petition is signed by a voter or if any of the required information is subsequently changed in any way. Do not scratch out, white-out, or otherwise alter the items filled in on the header of the petition form. The petition form is an electronically fillable form and all information at the top of the form must be completed before signatures are collected. Candidates not electronically filling the form must assure that forms are completed with blue or black ink and are legible.

The City Clerk recommends that a candidate accurately complete the required information and keep copies of the completed form to protect against candidacy challenges. State law requires the following information on all nominating petitions:

- The candidate’s name (as it appears on the candidate’s certificate of registration);
- The candidate’s address (as it appears on the candidate’s certificate of registration);
- The office the candidate seeks; and,
- The district, if any, of the office sought.

Because City of Albuquerque elections are non-partisan, candidates need not indicate their party affiliation on the nominating petitions.

### 3. Circulating Nominating Petitions

For candidates circulating petitions, it is extremely important that individuals assisting the candidate with collecting petition signatures are adequately trained and appropriately informed. Candidates, and the individuals assisting them, risk significant penalties for failing to follow the law regarding petitions. Specifically:

- A person knowingly falsifying any information on a nominating petition is guilty of falsifying an election document. (NMSA 1978, § 1-8-32). Falsifying an election document is a fourth-degree felony. (NMSA 1978, § 1-20-9(F)).
- It is a misdemeanor to knowingly circulate, present, or offer to present a nominating petition for the signature of a voter that does not contain the information specified under the law. (NMSA 1978, § 1-8-32(B)).
- Petitions submitted that are not in compliance with the law are not counted, which invalidates the signatures on those petitions and they therefore do not count towards the candidate’s required number of nominating signatures.

A person who signs a nominating petition shall sign only one petition for any given office. A person who signs a nominating petition shall indicate the person's registration address. If the person does not have a standard street address, the person may provide the mailing address as shown on the person's certificate of registration. A signature shall be counted on a nominating petition unless there is evidence presented that the person signing:

- failed to provide information required by the nominating petition;
- is not a voter of the state, district, county, or area to be represented by the office for which the person seeking the nomination is a candidate;
- has signed more than one petition for the same office, or has signed one petition more than once;
- is not the person whose name appears on the nominating petition.

Because City of Albuquerque elections are non-partisan, the party affiliation, or lack thereof, of the person signing is not a basis for rejecting a signature.

### 4. Submission of Nominating Petitions

Nominating petitions are submitted to the City Clerk for signature verification each Tuesday during the Nominating Petition period. The City Clerk’s staff will verify petition signatures

throughout the petition gathering period. Only signatures on original petition pages are counted. Copied, reproduced, or electronically stored petitions not collected through the City Clerk's website will not be counted by the City Clerk toward the number of required signatures. After all petition signatures have been verified by the City Clerk, candidates are responsible for submitting verified petition signatures along with their Declaration of Candidacy to the proper filing official on the required date noted in the "Important Dates" section.

Number of signatures: Individual petition pages may contain one (1) to twenty (20) signatures. The total number of petition forms must contain 500 valid signatures to qualify the candidate to appear on the ballot for a City Council office, and 3,000 valid signatures are required to qualify a candidate to appear on the ballot for the office of Mayor. Petitions with incomplete voter information are not counted. Each signature line requires the signature of the voter, the voter's name printed as registered, the address as registered, and the city or zip code. For example, if a petition contains 10 voter signatures, but 3 of those voters failed to provide the required information, those 3 signatures are not counted, but the remaining 7 are counted. No alterations may be made to submitted petitions. Additionally, once the petitions are submitted to the County Clerk, no person is permitted to revoke their signature. (NMSA 1978, § 1-8-34) Candidates are encouraged to make copies of their petitions for their own records prior to filing them with the appropriate filing officer. Copies will not be provided at the time of filing for office. When submitting petitions, candidates must submit all original petitions. (NMSA 1978, § 1-8-30(E))

## Qualifying Contributions:

Candidates seeking office as a publically financed candidate are required to collect \$5 qualifying contributions from voters registered in the district they are seeking to represent. (Albuquerque City Charter Article XVI, Section 5)

### 1. Number of Qualifying Contributions:

A candidate for City Council must obtain qualifying contributions from 1% of the registered voters in the district they seek to represent. A Mayoral Candidate must obtain qualifying contributions from 1% of registered voters in the City of Albuquerque. These exact numbers will be calculated and posted online a month prior to the beginning of each qualifying period.

### 2. Timeframe:

Mayoral candidates may collect qualifying contributions from April 17, 2021, through June 19, 2021.

City Council candidates may collect qualifying contributions from May 31, 2021, through July 5, 2021.

### 3. Qualifying Contribution Books:

The City Clerk will provide candidates with qualifying contribution books that contain receipts for contributions. The books are pre-printed, and the candidate must fill in their name and the district they are campaigning to represent. The books contain three pages for each receipt: the pink page is the contributor's receipt, the white original is for the City Clerk, and the yellow is the candidate's copy. Candidates or their representatives must obtain books from the City Clerk and sign an Acknowledgement of Receipt for the number of books received. Candidates shall return to the Clerk with original white pages intact. All books must be returned by the end of the Qualifying Period, though candidates should return completed books at the end of each week so that the Clerk's office can verify contributions on a rolling basis.

### 4. Qualifying Contribution Website:

All candidates who have filed a Declaration of Intent to Seek Public Financing, and who do not have any outstanding campaign finance compliance issues or fines with the Office of the City Clerk or Board of Ethics, will be included on the City Clerk's web-based application, the Clean Campaign Website. This website will allow candidates to accept electronic qualifying contributions. All candidates using the Clean Campaign website must abide by the City Clerk's Guidance for the Clean Campaign Website, and any amendments thereto. The Clean Campaign website is the only permitted method for a candidate to accept electronic qualifying contributions.

The CCP allows for automatic voter verification. Potential contributors will be asked to verify their voter registration and then will be directed to electronically contribute to a campaign. This will allow for additional means for donation, and will provide an accurate and almost instant tally of a candidate's number of verified qualifying donations. Because the site verifies a voter's registration prior to allowing for donation, it requires additional personal information that the receipt books do not. We encourage candidates to use both options.

### 5. Soliciting Qualifying Contributions:

Candidates may solicit qualifying contributions from all registered voters in the district the candidate seeks to represent. It is the candidate or candidate's representative's responsibility to ensure that the receipt books are filled out accurately, including a signature from the contributor. All the information on the receipt book can be filled out by someone other than the contributor, but the contributor must sign the receipt on their own. All \$5 contributions must be paid by the contributor. If any of the funds are provided by someone other than the contributor listed on the receipt, those contributions will be deemed fraudulent.

### 6. Contribution Reporting:

Candidates shall bring fully or partially completed receipt books to the City Clerk's office each Friday of the qualifying period. For each book submitted, a corresponding amount of \$5 contributions shall be attached to the book and submitted at the same time. The final submission of books and contributions shall be made on the last day of the qualifying period.

## 7. Verification of Contributions:

The Office of the City Clerk will verify each qualifying contribution to make sure the contribution counts toward the candidate's minimum number of contributions necessary to participate in the public financing program. The City Clerk staff will notify the candidate of the number of contributions accepted and rejected. In the event that candidates have contributions to report each week, the City Clerk staff will update candidates on the number of contributions accepted and rejected in a timely manner.

## 8. Certification for Public Financing:

The City Clerk will certify candidates who meet the requirements under the Open and Ethical Elections Code, and who submit an Application for Certification along with their final qualifying contribution by the final day of the qualifying period. To be certified to participate in the public financing program, candidates must meet the criteria listed in the City Charter Article XVI, Section 7(A) and 2021 Regulations for the Open and Ethical Elections Code, as well as have collected the minimum number of required qualifying contributions, and have complied with seed-money and in-kind contribution restrictions. Other restrictions that could disqualify a candidate are outlined in the 2021 OEEC Rules and Regulations. The City Clerk will notify a candidate of certification by email, and by posting a list of qualified candidates on the City Website.

## Financial Reporting Site:

The current financial reporting software is available through the City Clerk's website, or can be reached at: [campaignfinance.cabq.gov](http://campaignfinance.cabq.gov).

A candidate or their treasurer will need to create an account on the site, enter contact information for the campaign, and declare if the campaign will be publically financed or privately financed.

Contributions, expenditures, debts, etc., can be entered as unique entries, or can be maintained in an Excel document and uploaded on the day each financial report for a period is due. The financial reporting site has created an excel document that can be uploaded to the system. In order to use the excel document provided, rather than entering each item uniquely on the site, you will be required to use "codes" to distinguish different types of contributions and expenditures. These codes are outlined in the PDF document that explains in detail how to use the excel file. Both the excel file and the PDF explanation are available on the City Clerk's website after logging in, just below the link to log into the site. The PDF explanation sheet is included in the Forms section of this Guide as well. Please do not create your own Excel document to track these items. The site will not allow other Excel files to be uploaded.

Following each financial report submission, an independent auditor will review the financial reports and determine their sufficiency. If the auditor determines a financial report needs to be corrected, the City

Clerk's office will issued a notice to the candidate detailing the problem and outlining the timeframe in which the candidate must correct the problem.

In addition to your financial reports submitted through the financial reporting website, the City Clerk also requires campaigns submit of any images of campaign materials referenced on each financial report. Images must be submitted by the filing deadline for the financial report in which the campaign material is referenced. Images of campaign materials may be submitted by email to [elections@cabq.gov](mailto:elections@cabq.gov) or by hand delivering them to the City Clerk's office by the 5:00pm.

Prior to the beginning of the Qualifying Period, the City Clerk and the independent auditor will have a mandatory orientation session for all candidates to discuss the financial reporting system and answer any questions candidates may have about this process. The City Clerk will update the 2021 Calendar to reflect the date for this orientation session once the date has been set.

Forms:



P.O. Box 1293  
 Albuquerque, NM 87103  
 Phone (505) 924-3650 Fax (505) 924-3660  
[www.cabq.gov/clerk](http://www.cabq.gov/clerk)

Ethan Watson, City Clerk

**Candidate Forms**

FORM	REFERENCE	ELECTRONIC DUE DATE
Declaration of Intent	Charter: Article XVI, § 4	Anytime after the beginning of the Exploratory Period and before the end of the Qualifying Period.
Candidate Contact Sheet		To be submitted along with Declaration of Intent, or when candidate requests Petitions.
Notice of Weekly Nominating Petitions	Ordinance: ROA 1994, § 2-4-12	Every Tuesday during the Petition Period.
Application for Certification as a Participant Candidate	Charter: Article XVI, § 7	The last day of the Qualifying Period.
Candidate's Acknowledgement of Familiarity with Codes	Charter: Article XIII, § 7	Within three days of receipt of Candidate Guide.
Candidate's Campaign Bank Account Statement	Charter: Article XIII, § 4(b)1	Within three days of filing online campaign finance registration.
Sample Authorization Letter To Bank	Charter: Article XIII, § 4(b)3	Within three days of filing online campaign finance registration.
Candidate's Financial Disclosure Statement	Charter: Article XIII, § 3	Within two days of filing Declaration of Candidacy.
Acknowledgement of Electronic Reporting Training	Charter: Article XIII, § 4(j)1	Due on the date candidate or treasurer took campaign finance reporting training.
Campaign Financing Affidavit	Charter: Article XIII, § 4(c)2	
Agreement Regarding the Use of the Clean Campaign Website		Must be submitted before the City Clerk will add candidate to website.

Notices:



Albuquerque, NM 87103  
Phone (505) 924-3650 Fax (505) 924-3660  
[www.cabq.gov/clerk](http://www.cabq.gov/clerk)

Ethan Watson, City Clerk

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### Candidate Notices

NOTICE	PAGE	ACTION NEEDED
Signature Requirement Notice	25	No Action Needed
Calendar/Important Dates	6/13	No Action Needed
Board of Ethics Rules and Regulations	Attachment A	No Action Needed
2021 Regulations of the Albuquerque City Clerk	Attachment B	No Action Needed



# NOTICE

To: All Mayoral and City Council Candidates

Pursuant to the Albuquerque City Charter, Article II, Section 4, candidates for Mayor are required to submit to the Office of the City Clerk the signatures of at least **Three Thousand (3,000)** registered voters residing in the City of Albuquerque. Candidates for City Council are required to submit at least **Five Hundred (500)** registered voters residing in the City Council District in which they are running.

The Petition Signature Periods are:

Mayoral Candidates Participating in Public Financing: April 17 – June 19  
Mayoral Candidates, Privately Financed: June 8 – August 10  
Council Candidates Participating in Public Financing: May 31 – July 5  
Council Candidates, Privately Financed: July 6 – August 10

\*See ROA 1994, § 2-4-13.

The Clerk will accept only those petitions in the form prescribed by the Office of the City Clerk. The Clerk will receive petitions, during regular business hours, from the campaign representative who will remain present in the Clerk's office while the petition pages are numbered.

Office of the City Clerk will not accept Petitions after 5:00 p.m. of the final day of the above reference petition period.

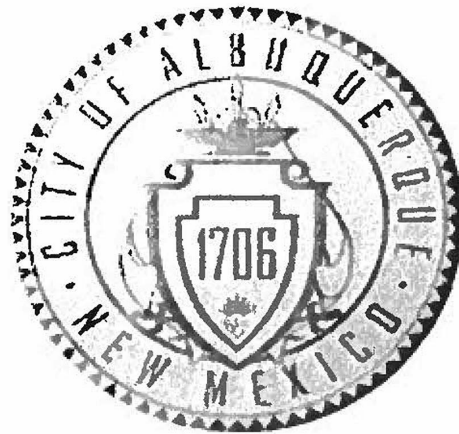


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Ethan Watson

City Clerk

**RULES & REGULATIONS  
OF THE  
BOARD OF ETHICS  
&  
CAMPAIGN PRACTICES**



**FOR THE  
ELECTION CODE, THE  
OPEN AND ETHICAL ELECTION CODE,  
AND THE CODE OF ETHICS  
OF THE  
CITY CHARTER**

**OFFICE OF THE CITY CLERK  
P.O. Box 1293  
ALBUQUERQUE, NM 87103**

**RULES AND REGULATIONS OF THE BOARD OF ETHICS AND CAMPAIGN  
PRACTICES RELATING TO THE ELECTION CODE, THE OPEN AND ETHICAL  
ELECTION CODE, AND THE CODE OF ETHICS OF THE CITY CHARTER**

**Section 1 AUTHORITY AND CONSTRUCTION**

**A** Pursuant to the authority granted by the City Charter of the City of Albuquerque, the Board of Ethics and Campaign Practices (hereafter referred to as the "Board") issues the following Rules and Regulations for its conduct, and for interpretation and enforcement of the Code of Ethics (Article XII), the Election Code (Article XIII), and the Open and Ethical Elections Code (Art. XVI) of the City Charter (hereafter referred to collectively as "the Codes.")

**B** In the event that these Rules and Regulations are in conflict with the provisions of the Codes, the provisions of the Codes shall prevail.

**C** Terms and words, which are used but not defined in these Rules and Regulations, shall have the same meaning as defined or used in the Codes with the exception that an "Official" is any Candidate or the chair of a measure finance committee and "Candidate" shall mean any person who has (1) obtained a nominating petition from the City Clerk pursuant to Election Code Sec. 4(c)(1)(D); (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 Councilor or (3) filed a declaration of candidacy for elected office as required by law, whichever first occurs.

**Section 2 WHERE TO FILE AND ADDRESS INQUIRIES; ORIENTATION**

**A** Questions concerning election matters are to be directed to the Office of the City Clerk. Questions concerning financial records and statements may be directed to the Office of the City Clerk or to the Campaign and Election Auditor, if retained.

**B** All campaign materials and all declarations, statements, forms and any other documents required by the Codes or these Rules and Regulations to be filed with or submitted to the Board shall be filed in the Office of the City Clerk in accordance with the times specified in the Codes or in these Rules and Regulations.

**C** It is the responsibility of the person filing or submitting such campaign materials or documents to request and receive from the Office of the City Clerk a signed receipt showing the date and time of filing or submission.

**D** All documents required by the Codes or these Rules and Regulations to be filed with or submitted to the Board shall be complete in all respects. Documents submitted will be considered incomplete unless all of the enumerated information is provided. Incomplete submissions will not be considered to be timely filed unless the information is provided on a corrected submission filed prior to the times specified in the Codes or these Rules and Regulations. Any documents requiring the address of a

contributor shall be deemed to be incomplete if the contributor's residential street address is not provided

**E** Before any City election with Candidates and subsequent to the filings of Declarations of Candidacies, the City Clerk will hold an orientation for Candidates and their treasurers. Similarly, the City Clerk may hold an orientation for Measure Finance Committees.

### **Section 3 ADVISORY OPINIONS**

**A** The Board shall issue advisory opinions pursuant to Article XII Sec. 3(e) of the City Charter under the following procedures.

1 Each request for an advisory opinion shall be in writing and must be filed with the City Clerk.

2 The City Clerk will hire an outside independent legal consultant to review each request, prepare a draft advisory opinion and submit the draft to the Board within 14 days of the Clerk's receipt of the request. The Board then shall take action on the draft advisory opinion within 30 days of its receipt. The Board may accept or reject the draft advisory opinion as submitted. Alternatively, the Board may revise the draft advisory opinion, and if so, the Board shall take action on the revised advisory opinion within 14 days.

3 The person requesting an opinion may attend any Board meeting at which the proposed advisory opinion is considered. The Board may require the person requesting the advisory opinion to answer questions or provide additional information or documentation at the review meeting.

4 Each advisory opinion shall be issued only after a majority of the entire membership of the Board has voted in favor of the advisory opinion.

#### **B Confidentiality, Public Hearings and Public Record**

1 The request for an advisory opinion shall remain confidential and shall not be a public record until the request and recommendations of the independent legal counsel retained by the City Clerk are heard by the Board.

2 The review meeting on advisory opinions by the Board shall be an open meeting.

3 All advisory opinions approved by the Board shall be filed with the City Clerk and shall be a public record. The City Clerk shall index the advisory opinions by subject matter and date.

## **C Advisory Opinion Requirements**

1 The request for an advisory opinion shall be about only the conduct or contemplated conduct of the candidate, Official or lobbyist (collectively, "Party") making the request, not that of some other person.

2 The request shall be about only prospective conduct, not past or present actions.

3 The request shall be about only a real or potential conflict the requesting Party is facing.

4 All material facts must be revealed in the request.

5 The Party who is issued an advisory opinion is the only person who may use the opinion as a defense, as permitted in Sec. 3(D), below.

6 The Board may include in the advisory opinion that the Party must take particular actions or refrain from certain conduct in order to be eligible to use the advisory opinion as a defense to any future complaint.

## **D Advisory Opinions as a Defense**

1 A Party who receives an advisory opinion may rely on the opinion under the following conditions. If a complaint is filed against that Party based on the same facts that are the basis for the opinion request, then the Party may raise the advisory opinion as a defense in the response to the complaint or any portion of the complaint. The Board shall determine if the opinion was followed and whether the complaint is based on the same facts revealed in the opinion request. If both are found, the Board shall dismiss the complaint or that portion of the complaint that pertains to the advisory opinion.

2 In the event the Board finds that material facts were omitted by the Party in requesting the advisory opinion, that the Party did not follow the advisory opinion, or that the complaint involves material facts other than those that are the basis of the advisory opinion, then the Board shall not dismiss the complaint solely on the basis of the advisory opinion, however the Party may use the advisory opinion as part of the defense to the complaint.

3 Previous advisory opinions may be used by both Complainants and Respondents as precedent, but such opinions are not binding on the Board unless the Board determines that it is an opinion issued to and followed by the Respondent pursuant to paragraph (D)(1) of this Section.

## **Section 4 ENFORCEMENT**

### **A Complaints**

1 A complaint alleging a violation of the Codes or these Rules and Regulations shall be made in writing by the filing of a notarized statement attesting to the truth of its contents on a form approved by the City Clerk. The complaint shall include documentation as to time, place, facts, and the names of any witnesses to the alleged violations. Complaints and answers to complaints shall be verified or made under explicit penalty of perjury. The Board will not hear a complaint that is not verified or made under explicit penalty of perjury. A Respondent's failure to timely file a verified answer may be construed by the Board, depending on the totality of the circumstance, as an admission of allegations. A sample form of verification is available at the Office of the City Clerk.

2 The complaint shall be reviewed by the City Clerk and must meet the following criteria in order to be considered sufficient:

a The complaint is submitted on the form approved by the City Clerk and all required information listed on the form has been provided, including:

- i. Complainant's name, address and telephone number
- ii. Respondent's name, address and telephone number
- iii. If Respondent is a candidate, the office and position sought
- iv. Whether Complainant has filed this complaint with any law enforcement agency, and if so, which one(s). A copy of complaints filed with any law enforcement agency must be attached to the complaint
- v. A description in reasonable detail of the alleged violation, including the Section(s) or Part(s) of the Codes or Rules and Regulations of the Board that Complainant believes in good faith to have been violated
- vi. Evidence that support's the allegations set forth in the complaint, including but not limited to
  - The names/telephone numbers of persons whom Complainant believes to have personal knowledge of the allegations
  - A copy of any political advertisement(s) Complainant references in the complaint
  - A copy of any other document Complainant references in the complaint

- Any other evidence supporting the allegations set forth in the complaint

vii A certification that, to the best of Complainant's knowledge, information and belief formed after a reasonable inquiry under the circumstances, each factual contention of the complaint is supported by evidence

viii. Complainant's notarized signature affixed immediately after the certification

b The complaint contains the name of the Complainant. A complaint cannot be submitted anonymously

c The complaint names a single Respondent. A complaint cannot be filed against more than one Respondent

d The complaint attaches all exhibits or materials referenced in the complaint

e The complaint should differentiate between statements and assertions based on Complainant's personal knowledge and those based on Complainant's information and belief. Statements and assertions not based on Complainant's personal knowledge should identify the source of the information.

3 Within 3 business days after the complaint is filed with the City Clerk, the City Clerk must review the complaint to ensure that it meets all of the requirements set forth in Sec. 4(A)(2), above. The City Clerk's review is only for facial compliance with the requirements of Sec. 4(A)(2). The City Clerk shall not make any determinations regarding the merits of the complaint at this stage.

4 If the City Clerk finds that the submitted complaint fails to comply with the requirements of Sec. 4(A)(2), above, or is otherwise incomplete, the City Clerk shall reject the complaint. The City Clerk shall return the complaint to Complainant and provide written notice of the reason(s) for the rejection. Complainant may file a new complaint or appeal the City Clerk's rejection. Such appeal shall be to the Board.

5 If the City Clerk reviews the submitted complaint and finds it to be sufficient, then the City Clerk must immediately notify the Respondent and provide the Respondent with a copy of the complaint using the best means practicable. The City Clerk shall then refer the complaint to the Board.

6 Upon referring a complaint to the Board, the City Clerk also shall do the following

a Set the complaint for an evidentiary hearing by the Board to be held within 30 days of the date the complaint was referred to the Board. If that hearing date falls within the "blackout period" set forth in Art. XII sec. 12(3)(i)(5) of the City Charter,

then the City Clerk shall add 7 additional days to the hearing date. The Board may extend this deadline only upon a showing of good cause.

b. Contact Complainant and Respondent and attempt to resolve the alleged violation(s) by informal means as set forth in the Board's Rules and Regulations.

7 Limitations. No complaint alleging a violation which occurred more than 120 days prior to the date the complaint is filed will be accepted unless the facts and documentation supporting the charges alleged in the complaint were not public knowledge or available for public inspection within that time frame. But in no event shall the Board hear a complaint alleging campaign violations in which the alleged violation occurred more than one year in the past unless the complainant also alleges fraud or purposeful misrepresentation on the part of the Respondent to conceal the conduct that is the subject of the complaint.

## **B Consent Order/Settlement Process**

1 At any time after the filing of the complaint, Respondent may offer to settle the complaint by requesting a settlement conference with the City Clerk's staff. Based on the settlement conference, the staff shall prepare a proposed settlement agreement that shall be submitted to the Board. The settlement agreement shall state the parties' contentions, the action taken or to be taken by the Respondent to correct the alleged violation, if any, and proposed sanctions, if any, upon Respondent.

2 Upon receipt of a proposed settlement agreement, the Board shall meet to determine if it will accept the settlement agreement. Board acceptance of a settlement agreement shall be by a majority vote of those Board members in attendance. Upon acceptance, the Board shall issue a consent order that shall be provided to all parties. The review of the settlement agreement and vote on the consent order shall be conducted at a public hearing. Testimony shall not be allowed at such hearing nor shall argument of the parties be accepted. Respondent shall attend the hearing to confirm acceptance of remedial measures, if any, to be taken by Respondent and sanctions imposed. The consent order shall be a final order concluding the case. The settlement agreement approved by the Board and the consent order shall be public records. In the event a settlement agreement is rejected by the Board, such settlement agreement may not be used as evidence in any subsequent hearings.

**C Investigations.** For the purposes of these Rules and Regulations, the term "allegations" means any formal charges filed with the Board and any other information raising a substantial question related to compliance with the Codes which four or more members of the Board vote to investigate.

1 By an affirmative vote of at least four members of the Board, the Board may determine to have an investigation of any formal charge prior to or during any hearing that the Board may hold relative to the formal charge. Decision on any such charges which the Board votes to investigate shall be held in abeyance pending



investigation. The scope of any investigation of allegations authorized by the Board shall be specifically defined by the Board prior to the investigation being undertaken.

2 If the Board determines, by an affirmative vote of at least four members of the Board, to investigate allegations concerning compliance with the Codes, the Board may utilize the Office of Internal Audit and Investigations, City staff assigned to the Board or temporarily employ or contract with investigators. In selecting and retaining investigators to investigate such allegations, the Board shall follow the procurement procedures and ordinances of the City of Albuquerque. The investigator shall be retained by the Clerk on the Board's behalf.

**D Answers.** Respondent's answer to a complaint shall include a response to each allegation in the Complaint and shall be filed with the City Clerk by Respondent within 10 days after Respondent receives notice from the City Clerk that the complaint has been set for a hearing. Respondent shall send a copy of the answer to Complainant by first class mail and file a certificate of mailing with the City Clerk certifying that such mailing occurred on or before the date the answer was filed with the City Clerk.

**E Hearings.** In conducting hearings, all parties shall be afforded an opportunity for a full and fair hearing. In this regard, the Board shall follow these procedures:

1 **Parties.** The party filing a complaint with the Board shall be referred to herein as the "Complainant" and the party responding to alleged violations of the Codes or these Rules and Regulations shall be referred to herein as the "Respondent."

2 **Notice.** The Board shall require that the parties provide in advance of a hearing a written statement of all issues to be addressed, a list of proposed witnesses, a brief statement of the nature of each witness's testimony, and copies of all documentary evidence to be introduced at least 10 days prior to the scheduled hearing. One copy of each item required pursuant to this paragraph shall be provided to the City Clerk to the attention of the Board, and one copy to each opposing party. Failure of a Complainant to comply fully with this paragraph shall result in a dismissal of the complaint with or without prejudice at the Board's discretion in view of a totality of the circumstances. Failure of a Respondent to comply fully with this paragraph may result, based on a totality of the circumstances, in an admission of all alleged charges in the complaint. Parties objecting to authenticity of proposed exhibits must make an objection in writing to the Office of the City Clerk at least 3 days prior to the scheduled hearing and shall provide a copy of the objection to opposing parties simultaneously. A party's failure to make a timely objection to the authenticity of opposing party's exhibits shall result in the admission of those exhibits.

3 **Continuances.** Requests for continuances shall be made, in writing, at least 3 days prior to the hearing, and shall be delivered to the Office of the City Clerk to the attention of the Board. Continuances shall be granted only for good cause shown.

#### 4 Evidence

a The parties may stipulate to some or all of the facts in advance of the hearing. For all contested facts, the Board shall afford all parties an opportunity to present oral or documentary evidence and argument on all issues involved, except that irrelevant, immaterial and unduly repetitious evidence shall be excluded. It is the policy of the Board that testimony and information presented during the hearing must have a direct and substantial bearing on the case at hand.

b Hearsay testimony shall be admissible subject to the other limitations on admissibility contained in these rules, provided that anonymous statements shall not be admissible.

c The Board shall base its decision on evidence of a type commonly relied upon by reasonably prudent people in the conduct of their affairs. Each violation of the Codes or these Rules and Regulations found by the Board shall be supported by at least some evidence that is admissible in a court of law.

d The Board may, but is not required to, recognize any agreements on facts and issues between the parties and eliminate certain facts not in dispute in defining the issues to be heard.

e Prior decisions by the Board on the same issue will generally be followed and the parties are urged to refer to prior rulings on identical or similar issues. Prior decisions are available at the City Clerk's Office. The City Clerk shall index all Board case decisions by subject and date.

f The Board may request clarification by the Complainant of a complaint prior to any hearing, request that certain facts be examined initially in order to determine whether such facts exist as will support the allegations to be heard, or make any other rulings that are procedural, limiting, dispositive, or otherwise, which are in accordance with the law as applied to the facts at issue.

#### 5 Duties of Presiding Officer

a The Chair of the Board shall act as the presiding officer at the hearing unless he/she is unavailable or wishes to delegate this duty, in which case the Board members shall select a presiding officer. The presiding officer shall

- i. Determine the admissibility of evidence and testimony;
- ii. Make rulings on procedural issues; and
- iii. Be responsible for the Board's written ruling in each

case.

iv. Issue an administration subpoena for the appearance of a person at a hearing or for the production of documents, or both. When the Board has authorized an investigation, pertinent documents may be required to be produced to the investigator at other than a Board meeting.

v. Request the City Attorney to apply for a Court order compelling compliance with an administrative subpoena or for a Court order requiring the giving of the testimony or production of documents.

vi. The presiding officer may impose reasonable limits on the number of witnesses to be heard and on the nature and length of the testimony or examination of persons appearing at such hearings.

vii. The presiding officer may set time limits for presentation of opening and closing statements.

viii. The presiding officer may prohibit repetitive testimony.

b Should an action of the presiding officer be challenged by another Board member, and should the presiding officer disagree with the challenge, the issue will be decided by a majority vote of the Board members present.

## 6 Hearing Procedure

a In the absence of the Board's decision to proceed in a different manner, notice of which shall be given to the parties at least three (3) days in advance of the hearing, the sequence of the hearing shall be as follows:

i Opening Statement of Issues. Complainant and then Respondent will present statements of issues involved in the case and outline the case that will be presented.

ii Presentation of Complainant's Case. Complainant's case will first be presented to the Board. Witnesses for Complainant will be called, sworn, and questioned on their involvement in or knowledge of the case. Following each witness's testimony, Respondent will have the opportunity to question the witness. Board members will then have the opportunity to question the witness on matters related to his/her testimony. Follow-up questioning by Complainant will be allowed at the discretion of the presiding officer. This procedure will be followed for each of Complainant's respective witnesses.

iii Presentation of Respondent's Case. Respondent's presentation shall follow Complainant's and the same format as the presentation of Complainant's case shall apply.

iv Rebuttal Testimony. Following presentation of Respondent's position, Complainant will be allowed to present rebuttal testimony at the discretion of the presiding officer. Such testimony shall be brief and specifically

address the issues brought forth in Respondent's presentation. No new issues shall be raised. Rebuttal testimony shall not address a matter that reasonable could have been presented in the presentation of the Complainant's case

v Closing Statements. At the conclusion of the case presentations and rebuttal testimony, Complainant and Respondent will each make closing statements. The closing statements should briefly review the issues presented and the desired outcome. Complainant will then have the opportunity to make a final statement, which shall be limited to issues brought forth in Respondent's closing statement.

vi Decision. Any decision or opinion of the Board, including findings of fact, which shall consist of a written statement of the facts relied on to support the decision of the Board, shall be given to each party by certified mail or personal service, and shall be filed in the Office of the City Clerk.

b Any party may be represented by representatives

7 Record. The following records of the Board's proceedings shall be kept:

a A full record of the hearing by video and/or sound recording (which shall be retained for one year after the final decision is issued);

b All documents of other items considered and received as evidence; and

c Any decision or opinion of the Board.

8 Appeal. Any party who is aggrieved by the Board's decision may file an appeal in the District Court. An appeal shall be filed within 5 days of receipt of the Board's decision.

## **F Reasons for Dismissing a Complaint**

1 Complainant voluntarily may withdraw a complaint at any time up until 14 days before a hearing on the merits of the complaint. After that time, Complainant voluntarily may withdraw a complaint only with Respondent's consent and approval of the Board.

2 The Board may dismiss a complaint if any one of the following is found or for such other reason as may be determined by the Board.

a The Board has no jurisdiction over the subject matter specified in the complaint or over the Respondent.

b The time in which a complaint could be filed has run.

c The conduct alleged in the complaint, if true, would not constitute a violation of the Codes.

d The complaint on its face is frivolous, groundless, or brought for the purpose of harassment.

e The subject of the complaint has become moot.

f The Respondent had obtained an advisory opinion concerning the identical facts alleged in the complaint and Respondent complied with the advisory opinion.

g The Board may dismiss a complaint after hearing evidence if it finds that the Respondent committed the violation due to excusable neglect, Respondent has come into compliance voluntarily and the Board determines that no sanction is required or when the Complainant does not appear at a hearing, but only if the Board determines that it would be unfair to the Respondent not to have the opportunity to examine the Complainant

## **G Fines**

1 Pursuant to the Codes, the Board may, after due hearing, impose on a Candidate or chair of a Measure Finance Committee a fine not to exceed the maximum set by state law, \$500, for each violation of the Codes or these Rules and Regulations or issue a public reprimand or do both.

2 Fines are automatically imposed and public reprimands are issued for failure to file, late filing or incomplete filing of any report, statement or other document required by the Codes or these Rules and Regulations. When a campaign finance report is incomplete, the candidate or the chair of the Measure Finance Committee shall be notified of the failure and shall have 5 calendar days from the date of notice to correct the failure. If the incomplete filing is not corrected within 5 calendar days, there shall be a fine and public reprimand. If the failure is corrected within 5 calendar days and the Board determines from the face of the filings that any failure appears to have been the result of excusable neglect, the Board shall find that there has been no violation.

3 For each of the required Disclosure Statements of Campaign Financing, failure to file a required statement by its deadline for filing, the filing of an incomplete statement, and failure to provide copies and information regarding advertising and signs as required each are considered to be a separate violation of the Codes and these Rules and Regulations. The automatic fine for each violation is \$100. The total of the automatic fines for violations of the Codes or these Rules and Regulations shall not exceed \$500 for any required filing date.

4 The automatic fine for failure to appear before the Board at the mandatory meeting concerning campaign financial records scheduled between noon on the Friday immediately preceding the election and the day of the election is \$500.

5 A supplemental fine of \$300 per filing date may be levied for failure or refusal to file any required document after action, in the form of fine, reprimand or otherwise has been taken by the Board pursuant to any provisions of the Codes or these Rules and Regulations.

6 Written notice of all fines shall be given to the Candidate or chair of a Measure Finance Committee by the Office of the City Clerk.

7 All fines are due when levied and shall be paid to the City of Albuquerque by delivering the amount of any such fine in the Office of the City Clerk. Interest will be assessed at the maximum rate allowed by state law on any fine that is not paid by the thirty-first day following the date that the fine is imposed. For the purposes of this Section, the date of imposition of an automatic fine is the date of the violation.

8 The Board may alter an automatic fine for reasons it considers compelling.

9 Any automatic fine imposed pursuant to these Rules and Regulations without a hearing may be appealed to the Board by filing a written appeal in the Office of the City Clerk but not later than ten days after receipt of the notice of the imposition of the fine.

10 **Limitation on Source of Funds to Pay Fines.** A candidate, the chair of the Measure Finance Committee or any other obligated person subject to a fine pursuant to the Codes and these Rules and Regulations shall not use contributions received by such candidate or the Measure Finance Committee to make payment of any fine assessed under the Codes or these Rules and Regulations.

**H Communications.** After a complaint has been filed, none of the parties or their representatives may communicate on an ex parte basis with the Board or any Board member on any matter pertaining to the complaint. All communications pertaining to the complaint shall be sent to the office of the City Clerk.

**I Board Initiated Charges.** Notwithstanding any other provision in this Section, the Board may, on its own initiative, initiate a charge or charges that a Candidate or the chair of a Measure Finance Committee or any other group has committed a violation of the Codes or of these Rules and Regulations.

**J Mandatory Meeting Concerning Campaign Financial Records**

1 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 chair or treasurer of each Measure Finance Committee, shall appear before the Board at a time and place designated by the Board (hereafter, the "Pre-Election Meeting"). At the designated time and place, the campaign financial records of each Candidate and each Measure Finance Committee shall be submitted to the Board for inspection and/or audit. Any charge of violation of the Codes or these Rules and Regulations arising out of or pertaining to any financial disclosure statements or any other

document required to be filed on or before the Friday immediately preceding the election shall be reviewed by the Board at the Pre-Election Meeting as though it were a hearing. The three day notice required by the City Charter for the Pre-Election Meeting shall constitute notice for any preliminary hearing on complaints based on such financial disclosure statements or other document required to be filed.

2 At the Pre-Election Meeting the Board and its auditor shall be entitled to ask each Candidate and Candidate's treasurer and the chairperson and treasurer of each Measure Finance Committee for clarification and additional documentation concerning all campaign financial disclosure statements or other documents required to be submitted to the Board. Each Candidate, treasurer and chair shall be prepared to discuss the contents, or omissions of any campaign information, material, report, statement or other document required to be filed prior to the Pre-Election Meeting. Such inquiry and the responses thereto shall not be considered a hearing on a complaint or as an answer or response to a complaint, provided however that the Board shall be entitled to bring charges based on the information or lack of information received at the Pre-Election Meeting.

3 In the event that any charge is brought by the Board against a Candidate or a Measure Finance Committee as a result of the Pre-Election Meeting such action shall be deemed to be acceptance of a complaint. Written charges shall be mailed to the Candidate or chair of the Measure Finance Committee and the procedural rules of these Rules and Regulations shall apply thereafter.

## **Section 5 MISCELLANEOUS.**

**A Notice** Any notice required by the Codes or these Rules and Regulations shall be given by mail, personal service, e-mail, or as provided below. For the purposes of providing notice to a Candidate or the chair of a Measure Finance Committee, written notice mailed or delivered to the address specified in a Candidate's Declaration of Candidacy or a Committee's registration statement shall be considered sufficient notice to the Candidate or Committee. Provided, that if a Candidate or chair has furnished a different address pursuant to Section 7 of the Election Code, notice mailed or delivered to such an address shall be considered sufficient notice.

**B Meetings** The Board shall comply with the provisions of the New Mexico Open Meetings Act relating to notice to the public of its meetings and meetings being open to the public. The length of notice given to the public of the Board's meetings shall be determined by annual resolution. Deliberations on cases, including the drafting of findings and conclusions, may be in closed or open sessions.

**C Records** All records of the Board in the conduct of its business, including but not limited to minutes of meetings, recommendations to the City Council and Mayor, or records and statements in connection with any particular election, shall be under the custody of the Office of the City Clerk, and shall be maintained as required by the Codes.

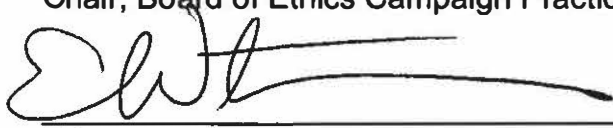
**D Amendments** The Board, by majority vote, may amend these Rules and Regulations pursuant and subject to the authority granted under Section 9 of the Election Code.

**E Effective Date and Filing** These Rules and Regulations, having been approved by the Board of Ethics and Campaign Practices on **February 28, 2020** by a vote of **4** for **0** against and **2** absent, shall be effective on the date entered below and shall be filed in the Office of the City Clerk.

ADOPTED THIS 28th DAY OF FEBRUARY, 2020.



Andrew G. Schultz  
Chair, Board of Ethics Campaign Practices



Ethan Watson, Acting City Clerk



**2021 REGULATIONS OF THE ALBUQUERQUE CITY CLERK  
FOR THE ELECTION CODE**

**PURPOSE:** In 2018, following the implementation of the State Local Election Act, the City Council passed Election Code Reform. The purpose of this reform was to bring the City in line with the Local Election Act, to ensure that the Election Code is administered fairly and consistently, to provide transparency for voters and bring accountability to candidates and Officials. The purpose of these Regulations is to provide guidance and instruction in keeping with the reform passed by Council, and to establish clear procedures that candidates shall follow under the Election Code, Albuquerque City Charter Article XIII (hereinafter referred to as “EC,” with all citations referring to the EC unless otherwise noted). The City Clerk shall create forms, election calendars, timelines and all other documents necessary to implement these Regulations. In conformance with the EC and these Regulations, the documents and forms created by the City Clerk are not part of these Regulations.

**AUTHORITY:** Section 9 of the EC authorizes the City Clerk to adopt rules to insure the effective administration of the EC.

**APPLICABILITY:** These Regulations apply to all candidates for the offices of Mayor and City Council, and should be read in combination with the Regulations for the Open and Ethical Elections Code (“OEEC”) by candidates seeking eligibility to receive public funds or become Participating Candidates under the OEEC.

**EFFECTIVE DATE:** These Regulations shall be effective upon the approval and signature of the Chief Administrative Officer. Once effective, the City Clerk shall publish these Regulations on the Office of the City Clerk website.

**DATES AND DEADLINES:** Should a deadline fall on a City observed holiday or a weekend, the deadline is automatically moved to the next City working day, unless otherwise published by the City Clerk.

**PART A: DEFINITIONS**

All terms utilized herein shall have the same meaning as defined by the EC, unless the regulation specifically notes otherwise. This Part also contains new definitions and clarified definitions for terms contained within the EC.

**Broadly Distributed:** A communication is “broadly distributed” when a campaign, candidate, Measure Finance Committee, or their agents, sends, delivers, or transmits the communication to more than 100 people.

**Campaign Materials:** Any published, printed, or Broadly Distributed communication, including but not limited to paid or donated advertisements, handbills, petitions,



circulars, letters, radio, television or internet broadcasts, cable distributions, electronic or telephonic transmissions, or similar communication materials or methods, used in a campaign either for or against any candidate.

**Contribution:** As used in these Regulations, a “contribution” includes not only the definition in City Charter Article XIII, Section 2(g), but also Part H below.

**Coordinated Expenditure:** In addition to the definition in City Charter Article XIII, Section 2(o), if an Expenditure is made to promote or support the nomination or election of a candidate, or to oppose or defeat the candidate’s opponent(s), and the Expenditure is made in cooperation, consultation or concert with, or at the request or suggestion of the candidate, the Expenditure is considered to be a Contribution from the spender to the candidate. As used within this definition, the term “candidate” includes a committee authorized by the candidate to promote or support his or her election, and all agents of the candidate or any authorized committee. For more information regarding coordination, please refer to Part C.

**Covered Office:** The Offices of the City Council or the Mayor of the City of Albuquerque.

**Electioneering Communication:** Any audio or visual communication broadcast by any means that:

1. unambiguously refers to any candidate or ballot measure;
2. is broadcast, printed, mailed, delivered or distributed within 60 days of a regular or special election, or 45 days of a runoff election; and
3. is broadcast to, printed in a newspaper distributed to, mailed to, delivered by hand to or otherwise distributed to an audience that includes members of the electorate for a Covered Office.
4. Electioneering Communication does not include:
  - a. any news articles, editorial endorsements, opinion or commentary, writings or letters to the editor printed in a newspaper, magazine, or other periodical not owned or controlled by a candidate or political party;
  - b. any editorial endorsements or opinions aired by a broadcast facility not owned or controlled by a candidate or political party;
  - c. any communication by Persons made in the regular course and scope of their business or any communication made by a membership organization solely to members of such organization and their families; or
  - d. paid for by a candidate or candidate’s campaign committee.

**Expenditure:** As used in these Regulations, an “expenditure” includes not only the definition included in Article XIII, Section 2(j), but also Part B below.

**Express Advocacy.** An Expenditure made by a Person or group, other than a candidate or a candidate’s committee, that advocates the election or defeat of a candidate or ballot measure, including all costs of designing, producing or disseminating a communication that contains

phrases such as “vote for”, “re-elect”, “support”, “cast your ballot for”, “[name of candidate] for [name of office]”, “[name of candidate] in [year]”, “vote against”, “defeat”, “reject” or similar phrases, or other explicit references to a candidate or ballot measure that indicate intent to influence an election.

**Immediate Family:** “Immediate family” means the candidate’s spouse, parent, grandparent, child, grandchild, sister, half-sister, brother, half-brother, stepparent, step-grandparent, stepchild, step-grandchild, stepsister, stepbrother, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, guardian, former guardian, domestic partner, or the Immediate Family of the candidate’s spouse or domestic partner.

**Independent Expenditure:** As used in these Regulations, an “independent expenditure” includes not only the definition included in Article XIII, Section 2(n), but also Part D below.

**In-Kind Contribution:** In addition to the definition included in Article XIII, Section 2(p), “In-Kind Contributions” are goods and services, other than money, that are donated or provided to the campaign at no cost or at a cost that is less than fair market value, but does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee. For more information regarding “In-Kind Contributions,” please refer to Part E.

**Mass Communication:** Any communication of substantially identical content reasonably expected to reach 100 or more individuals within three (3) months of a regular or special election, or within 45 days of a run-off election. This includes communications sent directly to individuals, and communications placed in areas where they will likely be seen by one hundred (100) or more individuals, such as signs.

**Measure Finance Committee:** 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.

**Person:** Any individual, cooperative association, club, corporation, company, firm, partnership, joint venture syndicate, profit or nonprofit organization, or other entity.

**Regular Local Election:** The biennial local election at which local governing body members are elected pursuant to the provisions of the Local Election Act. *See* NMSA 1978, § 1-22-2 (E).

## **PART B: EXPENDITURES**

1. In addition to the definition included in Article XIII, Section 2(j), “Expenditure” means a



payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, unless it is clear from the surrounding circumstances that it is not made for political purposes. An Expenditure is made on the earlier of the date the payment is made or on the date consideration, if any, is received.

2. A payment is made for political purposes if it is made for the purpose of influencing or attempting to influence the action of the voters for or against the election of a candidate or the qualification or passage of any measure.
3. Candidates may not make Expenditures of campaign funds to pay civil penalties, fines, or forfeitures to the Board of Ethics.
4. Expenditures of campaign funds for personal use is prohibited. Personal use is any use of campaign funds of a candidate (or former candidate) to fulfill a commitment, obligation or expense of any person that would exist irrespective of the candidate's campaign or responsibilities as an officeholder.
5. The payment of legal fees to advise a candidate on compliance with campaign laws or regulations, and payment of legal fees or court costs to represent a candidate or candidate committee in any action reasonably related to the campaign or election in which the candidate or committee has been named as a defendant or respondent, are expenditures that must be disclosed, but are not subject to any expenditure limits in the Charter.
6. Candidates who seek eligibility to receive public funds or become Participating Candidates under the OEEC should refer to the OEEC Regulations for additional guidance on Expenditures under the OEEC.

### **PART C: COORDINATED EXPENDITURES**

If an Expenditure is made to promote or support the nomination or election of a candidate, or to oppose or defeat the candidate's opponent(s), and the Expenditure is made in cooperation, consultation or concert with, or at the request or suggestion of, the candidate, the Expenditure is considered to be a Coordinated Expenditure, and is a Contribution from the spender to the candidate. As used within this subsection, the term "candidate" includes a committee authorized by the candidate to promote or support his or her election, and all agents of the candidate or the authorized committee.

1. In cooperation, consultation or in concert with includes, but is not limited to:
  - a. Discussion between the candidate and the creator, producer or distributor of a communication, or the person paying for that communication, regarding the content, timing, location, mode, intended audience, volume of distribution or frequency of placement of that communication; and
  - b. Participation by the candidate in making any decision regarding the content, timing, location, mode, intended audience, volume of distribution, or frequency of placement of

the communication.

2. An Expenditure is presumed to be made in cooperation, consultation or concert with, or at the request or suggestion of a candidate, when:
  - a. the Expenditure is made in cooperation, consultation or in concert with any person who, during the twelve months preceding the Expenditure, has been the candidate's treasurer or an officer of the candidate's authorized committee, has had a paid or unpaid decision-making position in the candidate's campaign, or has received any campaign-related compensation or reimbursement from the candidate; or
  - b. when the candidate has directly shared the candidate's campaign plans, activities, polling, research, or needs with the spender for the purpose of facilitating a payment by the spender on a communication to voters to promote or support the candidate.
  - c. The candidate or spender may rebut the presumption by submitting sufficient contrary evidence.
3. If a candidate requests that a party committee, political action committee, measure finance committee, or other potential spender not make any Expenditure to promote or support the candidate, or oppose or defeat the candidate's opponent(s), the request does not constitute cooperation or coordination.
4. An Expenditure will not be presumed to have been made in cooperation, consultation or concert with, or at the request or suggestion of a candidate, solely because:
  - a. the spender has obtained a photograph, biography, position paper, press release, logo, or similar material about the candidate from a publicly available source;
  - b. the spender has previously provided advice to the candidate on suggested communication strategies, budgets, issues of public policy, or other campaign plans or activities;
  - c. the spender makes an Expenditure in response to a general, non-specific request for support by a candidate, provided that there is no discussion, cooperation, or consultation with the candidate prior to the Expenditure regarding the details of the Expenditure;
  - d. the spender has also contributed to the candidate, or has discussed with the candidate their campaign plans or activities as part of the candidate's solicitation for a donation;
  - e. the Expenditure is made by a for-profit or non-profit organization for invitations, announcements, food and beverages and similar costs associated with an event to which the candidate has been invited by the organization to make an appearance before the organization's members, employees, shareholders and the families thereof; or
  - f. the Expenditure is made by an individual who spends \$100 or less for costs associated with a sign that is lettered or printed individually by hand or that reproduces or replicates a candidate's campaign-related design or graphic.
5. **Correct Reporting:** It is acceptable for Participating Candidates to partake in Coordinated Expenditures, so long as the Expenditures are reported as such by all persons and entities involved with the Expenditure.

## **PART D: INDEPENDENT EXPENDITURES**

- 1. Independent Expenditures; definition.** For the purposes of this Part, an "Independent Expenditure" is presumed when an Expenditure is:
  - a. Spent on Express Advocacy or Electioneering Communications that are made without the cooperation, consultation or coordination with, or at the request or suggestion of, a candidate, a candidate's authorized committee, or an agent thereof. An Independent Expenditure may include materials already distributed to the public or broadcast by a candidate, the candidates authorized committee, or an agent thereof.
  - b. Independent Expenditures may consist of materials previously made public by the campaign without implying coordination with the campaign.
  
- 2. Rebutting presumption.** A person presumed under this Part to have made an Independent Expenditure may rebut the presumption by filing a signed written statement with the Board of Ethics within 48 hours of making the Expenditure stating:
  - a. The cost was not an Expenditure, supported by any additional evidence the person chooses to submit; or
  - b. That the Expenditure was made in cooperation, consultation or coordination with, or at the request or suggestion of, a candidate, a candidate's authorized committee or an agent thereof, supported by any additional evidence the person chooses to submit.
  
- 3. Report required; content; rules.** A person, party committee, political committee or political action committee, or measure finance committee that makes any Independent Expenditure in excess of \$100 during any one candidate's election, or in support or opposition of any one issue before the voters, shall file a report with the City Clerk in compliance with Article XIII, Section 4 of the City Charter.
  - a. A report required by this subpart must contain an itemized account of each Expenditure in excess of \$100 in any one candidate's election, the date and purpose of each Expenditure, and the name of each payee or creditor. The report must state whether the Expenditure is in support of or in opposition to the candidate, and must include, under penalty of perjury, a statement under oath or affirmation whether the Expenditure is made in cooperation, consultation or concert with, or at the request or suggestion of, a candidate or an authorized committee or agent of a candidate.
  
- 4. Disclosure.** Any literature or advertisement purchased from a person, measure finance committee, corporation, limited liability company, organization or any other entity making an Independent Expenditure in an attempt to influence the outcome of an election shall disclose the name of the entity making the Expenditure. Any disclosure statement required by this Part shall be printed clearly and legibly in a conspicuous manner. The disclosure statement shall include the words "paid for by" followed by the name of the entity making the Expenditure and shall state that it is not authorized by any candidate or candidate's campaign committee. Disclosure statements shall also comply with the following:
  - a. If the communication is broadcast via audio, the disclosure shall be spoken at the end of the communication.
  - b. If the communication is visually broadcast, the disclosure shall be printed clearly and

legibly in a conspicuous manner. Text must appear in letters equal to or greater than 4% of the vertical picture height, be visible for the entirety of the communication, and be in a color with a reasonable degree of contrast with the background of the communication.

- c. All disclosures must be clear and conspicuous regardless of the transmission medium. A disclosure is not clear and conspicuous if it is difficult to read or hear, or if the placement is easily overlooked.
  - d. Disclosure is **not** required to include the name of the campaign or MFC treasurer.
- 5. Exclusions.** An Independent Expenditure does not include:
- a. An Expenditure made by a person in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's political committee, or their agents;
  - b. A telephone survey that meets generally accepted standards for polling research and that is not conducted for the purpose of changing the voting position of the call recipients or discouraging them from voting;
  - c. A telephone call naming a clearly identified candidate that identifies an individual's position on a candidate, ballot question or political party for the purpose of encouraging the individual to vote, as long as the call contains no advocacy for or against any candidate; and
  - d. A voter guide consisting primarily of candidate responses to surveys and questionnaires and that contains no advocacy for or against any candidate.
- 6. Allegations and Complaints:** Persons wishing to allege that an Independent Expenditure is a Coordinated Expenditure must file a Complaint with the City Clerk in accordance with the Complaint Diversion Rule in Part I, below.

## **PART E IN-KIND CONTRIBUTIONS**

- 1.** "In-Kind Contributions" are goods and services, other than money, donated or provided to a campaign at no cost or at a discount of 20% or more from fair market value. The following is a non-exhaustive list of In-Kind Contributions:
- a. A person purchases campaign signs for distribution by the campaign and is not reimbursed by the campaign;
  - b. A person pays for some of the candidate's advertising in a community newspaper and is not reimbursed by the campaign;
  - c. A copy shop owner provides the campaign with a 20% discount on printing services;
  - d. A volunteer buys paint and plywood to make signs for a candidate and is not reimbursed by the campaign;
  - e. The owner of a local business provides the campaign, free of charge, some labor of their paid staff members to work for the campaign on company time;
  - f. A commercial vendor extends credit to the campaign under terms that are not substantially similar to the terms extended in the ordinary course of business to nonpolitical customers.
- 2.** Contributors seeking to make an In-Kind Contribution of goods by paying for those goods

must pay the vendor directly. If a contributor gives a monetary Contribution to a candidate, campaign, or MFC directly, even if the intent is that the monetary Contribution be used to pay for specific goods, the Contribution must be reported as a monetary Contribution to the candidate, campaign, or MFC, not an In-Kind Contribution.

3. If a campaign receives an In-Kind Contribution, the campaign must report the fair market value of the Contribution, which is what the goods or services would have cost the campaign if it had paid cash for the donated goods or services. If the campaign received a discount of 20% or more on goods or services, the discount is the amount of the In-Kind Contribution.
4. Professional services, including legal services, accounting services, consulting services and similar services provided directly from the professional to the Candidate are permitted, provided no single In-Kind Contributor exceeds the limits set in the Charter.
  - a. If a professional provides services free of charge or at a 20% or more discount, the kind of occupational services the professional otherwise could provide for compensation, that is an In-Kind Contribution. However, if a professional volunteer their time providing services that they do not otherwise provide for compensation, that is not an In-Kind Contribution. By way of example only:
    - i. If an accountant provides a campaign with free accounting services, that is an In-Kind Contribution that must be reported and will count against In-Kind Contribution limits.
    - ii. If an accountant volunteers their time going door-to-door for a candidate, that is volunteer work, does not need to be reported, and does not count against In-Kind Contribution limits.
    - iii. If a graphic designer provides a campaign with free design services, that is an In-Kind Contribution that must be reported and will count against In-Kind Contribution limits.
    - iv. If a graphic designer volunteers their time assisting a candidate with speech preparation, that is volunteer work, does not need to be reported, and does not count against In-Kind Contribution limits.
5. Other In-Kind Contributions
  - a. *Food, Drink, and Office Supplies.* Contributions of food, drinks, and/or office supplies that have a cumulative fair market value of one hundred dollars (\$100.00) or more per election cycle, must be reported as In-Kind Contributions.
  - b. *Volunteer Services vs. Paid Assistance.* Individuals are permitted to provide their services for free to the campaign as volunteers. However, if the volunteer provides their services with the knowledge of their employer during their paid work-time, then the employer has made a Contribution to the campaign.
  - c. *Appearing in Advertising Sponsored by Third-Parties.* If an individual or organization invites the candidate to appear in a paid advertisement, and the advertisement airs within one-hundred (100) days of an election and primarily features the candidate, the value of the advertising *could* be considered a Contribution to their campaign. If the advertisement qualifies as a Contribution, the candidate would be required to report receiving the value of the Contribution. It would count toward the Contribution limit.



Contact the City Clerk to receive advice on what factors the Board of Ethics might consider in determining whether the advertisement would be a Contribution.

- d. *Polling and Research.* If an individual or organization provides a campaign or MFC with polling and research at no cost, or at a discount of 20% or more, that is an In-Kind Contribution that must be disclosed.
- e. *Services Contributed Through a Candidate's Business Entity.* If a candidate has a business entity, and that entity provides goods or services to the campaign without charge, or at a 20% or more discount, those contributions are In-Kind Contributions that must be disclosed.
- f. *Coordinated Expenditures v. Independent Expenditures.* Coordinated Expenditures must be reported as In-Kind Contributions. Independent Expenditures are not In-Kind Contributions. A candidate is allowed to ask others not to spend money in support of their candidacy. Even if another person or organization were to subsequently spend money, merely making a request *not* to make an Independent Expenditure does not, by itself, constitute coordination.

## **PART F: PETITIONS**

1. Candidates for Mayor and for City Council must submit a qualified number of verified petition signatures for verification to the City Clerk. Candidates for Mayor must submit 3,000 signatures from verified registered voters in the City of Albuquerque to be eligible for the ballot. Candidates for City Council must submit 500 signatures from verified registered voters in the district they are seeking to represent to be eligible for the ballot. (Art. II, Sec.4)
  - a. Signatures must be collected on the prescribed form designated by the City Clerk. The City Clerk will provide each Candidate with one original petition from which the candidate may make copies to collect signatures.
  - b. Signatures must be collected during the prescribed time based on the office being sought and whether the candidate is seeking public financing. (§ 2-4-13)
  - c. Candidates are solely responsible for their petition signatures and will be held responsible for the conduct of any paid or unpaid circulators assisting with the collection of petition signatures.
2. Candidates must submit petition signatures for the City Clerk's verification every Tuesday during the prescribed petition gathering period by 12:00pm. Weekly submissions can be made by the Candidate or the Candidate's representative.
  - a. The City Clerk's Office will verify signatures throughout the petition gathering period and will update Candidates about their verified and rejected signatures on a regular basis.
3. The City Clerk's office shall verify petition signatures in accordance with NMSA 1978, Section 3-1-5. (§ 2-4-14)
4. Publicly Financed candidates shall file their Declaration of Candidacy with the City Clerk's office 14 days after the last day of the Qualifying Period. The City Clerk will submit the

Candidate's Declaration, the Candidate's original petition signatures, and the City Clerk's signature verification report to the County Clerk on behalf of the Candidate. (§ 2-4-13)

5. Privately financed candidates shall file their Declaration of Candidacy along with their original petition signatures, and the City Clerk's signature verification report to the County Clerk on Candidate Filing Day as prescribed in the Local Election Act. (Section 1-22-7 NMSA 1978)
6. The City Clerk's Office may create a platform for collection of electronic petitions. Additional guidance will be issued for use of this platform.

## **PART G: PUBLICATION OR DISTRIBUTION OF POLITICAL COMMUNICATIONS**

1. **Authorized by candidate.** When a person makes an Expenditure to finance an audio or visual communication advocating the election or defeat of a candidate or ballot measure through broadcasting stations, cable television systems, newspapers, magazines, campaign signs or other outdoor advertising facilities, publicly accessible internet sites, email, text messages, direct mail, flyers, handbills, bumper stickers and other non-periodical publications, or other similar types of general public political advertising, the communication, if authorized by a candidate, a candidate's authorized political committee, or their agents, must clearly and conspicuously state that the communication has been so authorized and must clearly state the name of the person who made or financed the Expenditure for the communication. A communication financed by a candidate or the candidate's committee is not required to state the address of the candidate or committee that financed the communication.
  - a. If a communication financed by someone other than the candidate or the candidate's authorized committee is broadcast only by audio means, only the city and state of the address of the person who financed the communication must be stated.
  - b. A communication broadcast only by audio means is only required to state the city and state of the address of the person that financed the communication.
2. **Not authorized by candidate.** If the communication described in subpart 1 is not authorized by a candidate, a candidate's authorized committee, or their agents, the communication must clearly and conspicuously state that the communication is not authorized by any candidate and state the name of the person who made or financed the Expenditure for the communication. If the communication is in visual form, the communication must contain at the bottom of the communication in print that is equal to or greater than 4% of the vertical picture height, Times New Roman font, the words "NOT PAID FOR OR AUTHORIZED BY ANY CANDIDATE." These words must be visible for the entirety of the visual communication, and be in a color with a reasonable degree of contrast with the background of the advertisement.
3. **Other communications.** Whenever a person makes an Expenditure to finance a communication made for the purpose of influencing an election or defeating a candidate or

ballot measure and the communication is disseminated during the 60 days before a regular or special election, or the 45 days before a runoff election, through the media described in subpart 1, the communication must state the name of the person who made or financed the communication and a statement that the communication was or was not authorized by the candidate. The disclosure is only required if the communication was made for the purpose of influencing the election.

4. **In-Kind Contributions of printed materials.** A candidate, measure finance committee, political committee or political action committee shall report on the campaign finance report as a Contribution to the candidate, measure finance committee, political committee or political action committee any Contributions of In-Kind printed materials to be used in the support of a candidate or in the support or defeat of a ballot question. Any In-Kind Contributions of printed materials used or distributed by a candidate, measure finance committee, political committee or political action committee must include the name or title of that candidate, measure finance committee, political committee or political action committee as the authorizing agent for the printing and distribution of the In-Kind Contribution.
5. **Publication.** A person may not publish or submit to be broadcast a communication described in subparts 1 to 3 without including the disclosure required by this Part. . When necessary, a person may seek the advice of the City Clerk regarding whether or not the communication requires the disclosure.
6. **Enforcement.** A violation of Part F may result in a civil penalty as prescribed by the Board of Ethics.. If the person who financed the communication, or who committed the violation, corrects the violation within 10 days after receiving notification of the violation from the City Clerk by adding the missing information to the communication, the Board of Ethics may decide to assess no civil penalty.
7. **Telephone calls, text messages, emails, and social media posts.** Prerecorded automated telephone calls, scripted live telephone communications, automated text messages blasts, emails, and social media posts that name a clearly identified candidate during the 60 days before a regular or special election, or the 45 days before a runoff election, must clearly state the name of the person who made or financed the Expenditure for the communication. Telephone calls, peer-to-peer text messages, emails, and social media posts made for the purpose of researching the views of voters do not require the disclosure.
8. **Campaign Finance Disclosure Statement.** As a part of each Campaign Finance Disclosure Statement, every Candidate, Treasurer, or Chairperson shall submit a detailed accounting of any political communications that resulted in an expenditure. This includes but is not limited to: signs, billboards, doorknockers, promoted or boosted social media posts, broadcast media, t-shirts, bumper stickers, or buttons. The Campaign Finance Report shall include certain details regarding such communications including size and quantity where applicable. Each Campaign Finance Report shall be accompanied with images or proof of how funds were expended. Images may be submitted electronically before the Campaign Finance report

is due to the email account: elections@cabq.gov.

- 9. Exclusions.** The requirements of this rule do not apply to:
- a. Handbills or other literature produced and distributed at a cost not exceeding \$100 and prepared by one or more individuals who are not required to register or file campaign finance reports with the City Clerk and who are acting independently of and without authorization by a candidate, candidate's authorized campaign committee, measure finance committee, party committee, political action committee or ballot question committee, or an agent thereof;
  - b. Campaign signs produced and distributed at a cost not exceeding \$100, paid for by one or more individuals who are not required to register or file campaign finance reports with the City Clerk and who are acting independently of and without authorization by a candidate, candidate's authorized campaign committee, measure finance committee, party committee, political action committee or ballot question committee, or an agent thereof;
  - c. Internet and e-mail activities costing less than \$100, paid for by one or more individuals acting independently of and without authorization by a candidate, candidate's authorized campaign committee, measure finance committee, party committee, political action committee or ballot question committee or an agent thereof;
  - d. Campaign signs that are financed by the candidate or candidate's authorized committee and that clearly identify the name of the candidate and are lettered or printed individually by hand.

## **PART H: MEASURE FINANCE COMMITTEES**

1. MFCs include:
  - a. Any separate or segregated fund established by any corporation, membership organization, cooperative, labor organization, or other organization whose purpose is to initiate or influence a campaign or election;
  - b. Any organization, including any corporation or association, whose major purpose is initiating or influencing a campaign or election and that receives Contributions or makes Expenditures aggregating more than \$250 for that purpose; and
  - c. Any organization whose major purpose is not influencing candidate or ballot measure elections but that receives Contributions or makes Expenditures aggregating more than \$250 for the purpose of influencing the nomination or election of any candidate to political office.
2. MFCs Apply to Candidate Elections, Ballot Measure Questions and Referenda. Advocacy, charitable, or other organizations that are interested in raising and spending money to influence the election of a candidate, a ballot question or referendum are required to form an MFC for that purpose, and file campaign finance reports with the City Clerk.
  - a. If an organization receives or spends more than \$250 to initiate or influence the outcome of an election, ballot question or referendum, then the organization is an MFC and must register and file campaign finance reports with the City Clerk.

- b. If an organization's only financial activity is to contribute to an MFC that will disclose the Contribution in a campaign finance report, the organization does not have to register with the City Clerk. However, if the organization raises funds for the purpose of contributing to an MFC, rather than from the organization's general treasury, it has received Contributions and is an MFC if those Contributions exceed \$250.
  - c. The MFC registration requirement also applies to an individual who raises or spends more than \$250 to initiate or influence an election, ballot question, or referendum. However, if an individual uses *his or her own funds* to contribute to an MFC, he or she does not qualify as an MFC, *provided that the funds used to make the Contribution were not themselves a Contribution from another source.*
3. When to Register and File an Initial Report
- a. If the total amount of Contributions received or Expenditures made by an organization to initiate or influence the outcome of an election, ballot question, or referendum exceeds \$250, the organization is required to register and file an initial campaign finance report with the City Clerk in accordance with Article XIII, Section 4 of the City Charter.
  - b. *All campaign activity leading up to the \$250 threshold must be reported on the initial report.* The start date for the initial report is the date of the first Contribution, general treasury transfer, or Expenditure, whichever is earlier, even if it is not in the same calendar year as the election.
  - c. The organization is required to report only those Contributions and Expenditures made for the purpose of initiating or influencing a candidate's election, a ballot question or referendum. If the organization uses funds from its general treasury, those amounts must be reported as Contributions from the organization.
  - d. In campaign finance reports, the organization must include an itemization of all Contributions, including the name and address of each contributor, and the contributor's occupation and employer. Every Expenditure made to support or oppose a candidate, ballot question, or referendum must be reported, including Expenditures for the collection of signatures for a direct initiative.
  - e. Contributions received and Expenditures made by opponents of a citizen initiative during the signature-gathering phase as Contributions and Expenditures to influence an election which would count towards the threshold.
  - f. If the organization uses paid staff to influence a candidate's election, a ballot question, or referendum, the amount of compensation for their staff's time must be reported as an Expenditure. Goods or services, including donated staff time the organization receives from other organizations or individuals must be reported as In-Kind Contributions.

**PART I: CONTRIBUTIONS**

- 1. No person may make a Contribution in the name of another person or knowingly permit his or her name to be used to accomplish such a Contribution. No person may knowingly accept a Contribution made by one person in the name of another. The contributor identified in reports submitted to the City Clerk must be the actual source of funds for the Contribution.

2. The term “Contribution” includes:
  - a. A gift, subscription, loan, advance or deposit of money, or anything of value made for the purpose of influencing the nomination or election of any person to elected office or for the purpose of liquidating any campaign deficit of a candidate, except that a loan of money to a candidate by a financial institution in this State made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included;
  - b. A contract, promise or agreement, express or implied, whether or not legally enforceable, to make a Contribution for such purposes;
  - c. Funds received by a candidate or a measure finance committee that are transferred to the candidate or committee from another political committee or other source; and
  - d. The payment, by any person other than a candidate or a measure finance committee, of compensation for the personal services of other persons that are provided to the candidate or committee without charge for any such purpose.
  
3. The term “Contribution” does not include:
  - a. The value of services provided without compensation by individuals who volunteer their time on behalf of a candidate or measure finance committee;
  - b. Unreimbursed travel expenses incurred by an individual in the course of providing voluntary personal services to a candidate and paid for by that individual, if the cumulative amount of these expenses does not exceed \$350 with respect to any election;
  - c. Unreimbursed campaign-related travel expenses incurred and paid for by the candidate or the candidate's Immediate Family;
  - d. Documents, in printed or electronic form, including party platforms, single copies of issue papers, information pertaining to the requirements of the City Charter, lists of registered voters and voter identification information, created, obtained, or maintained by a political party for the general purpose of party building and provided to a candidate who is a member of that party;
  - e. Compensation paid by a political party committee to its employees for the following purposes:
    - i. Recruiting and overseeing volunteers for campaign activities involving 3 or more candidates; or
    - ii. Coordinating campaign events involving 3 or more candidates;
    - iii. Campaign training sessions provided to 3 or more candidates;
  - f. Costs paid for by a political party committee in connection with a campaign event at which 3 or more candidates are present;
  - g. The use or distribution of any communication, as described in the City Clerk’s Rule on Political Communications in Part E, obtained by the candidate for a previous election and fully paid for during that election;
  - h. Activity or communication designed to encourage individuals to register to vote or to vote if that activity or communication does not mention a clearly identified candidate;
  - i. A candidate's own services and property, other than cash;
  - j. 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;

- k. The services of the person who is performing the duties of the candidate's treasurer; or
  - l. The use of vehicles for any campaign purpose other than in connection with the performance of a commercial or professional service.
4. The payment or waiver of legal fees to advise a candidate on compliance with campaign laws or regulations, and payment or waiver of legal fees or court costs to represent a candidate or candidate committee in any action reasonably related to the campaign or election in which the candidate or committee has been named as a defendant, are contributions that must be disclosed, but are not subject to any contribution limits in the Charter.
  5. Candidates who seek eligibility to receive public funds or become Participating Candidates under the OEEC should refer to the OEEC Regulations for additional guidance on Contributions under the OEEC.
  6. PayPal, ActBlue, or any other such electronic contribution portal may be used by candidates to collect contributions or seed money as long as the portal is used only as a passthrough, and all contributions are then deposited into the candidate's bank account and noted in the campaign finance report.

**PART J: CAMPAIGN FINANCE REPORTS**

Campaign finance reports are required to be submitted online on a schedule prescribed by Article XII, Section 4. Each report will be checked for compliance with the City's Election Code and/or the Open and Ethical Election Code by an Independent Election Auditor. The City Clerk may schedule in-person or electronic meetings with the Independent Election Auditor and Candidates and Committees to verify compliance with aforementioned codes, or to clarify questions in reporting.

**PART K: COMPLAINT DIVERSION PROCESS RULE**

1. Charges of Violations.
  - a. Any charge a candidate, candidate's committee, Measure Finance Committee, or any other group has committed a violation of the Election Code, Code of Ethics, Open and Ethical Elections Code, or the Rules and Regulations promulgated by the Board or the City Clerk shall be made in writing, notarized and brought before the City Clerk.
  - b. The complaint must meet the following criteria:
    - i. The Clerk's complaint form has been used and all information requested by the form has been provided, including:
      - A. Complainant's name, address, and telephone number;
      - B. The Respondent's name, address, and telephone number;
      - C. If the Respondent is a candidate, the office or position sought;
      - D. Whether Complainant has filed this complaint with any law enforcement agency, and if so, which one(s). A copy of complaints filed with any law enforcement agency must be attached to the complaint;

- E.** A reasonably detailed description of the alleged violation(s), including the Section(s) or Part(s) of the Election Code, Code of Ethics, Open and Ethical Elections Code, or Rules and Regulations of the Board or City Clerk allegedly violated, an explanation of how the Complainant believes the Election Code, Code of Ethics, Open and Ethical Elections Code, or Rules and Regulations of the Board or City Clerk were violated, and any other pertinent information;
  - F.** A description of the inquiry undertaken regarding the alleged violation;
  - G.** Evidence supporting the Complainant's allegations, including but not limited to:
    - 1)** The names and telephone numbers of persons who may be witnesses to the facts;
    - 2)** A copy or picture of any political advertisement(s) Complainant references;
    - 3)** A copy of each document Complainant references; and
    - 4)** Any other evidence supporting Complainant's allegations.
  - H.** A certification that: To the best of Complainant's knowledge, information, and belief, formed after a reasonable inquiry under the circumstances, each factual contention of the complaint is supported by evidence.
    - 1)** If, after a reasonable inquiry under the circumstances, the Complainant is unable to certify that certain specifically identified allegations are supported by evidence, the Complainant may also certify that: To the best of Complainant's knowledge, information, and belief, there are grounds to conclude that those specifically identified allegations are likely to be supported by evidence after a reasonable opportunity for further inquiry;
  - I.** The Complainant's notarized signature immediately after the certification or certifications.
- ii.** A single Respondent has been named in the complaint. A single complaint cannot be filed against more than one respondent;
  - iii.** The complaint must not be submitted anonymously;
  - iv.** All exhibits or attachments referenced in the complaint have been included with the complaint;
  - v.** The complaint was signed by the Complainant under oath in the presence of a notary public or other person authorized by law to administer oaths;
  - vi.** The complaint contains the original signature of the Complainant;
  - vii.** The complaint alleges a violation of the Election Code, Code of Ethics, Open and Ethical Elections Code, or Rules and Regulations of the Board or City Clerk;
  - viii.** The complaint contains specific facts upon which the Complainant bases the allegation of a violation of the Election Code, Code of Ethics, Open and Ethical Elections Code, or Rules and Regulations of the Board or City Clerk;
  - ix.** The complaint alleges a violation occurred within 120 days of the date the complaint is filed with the City Clerk; and
  - x.** The complaint is based on personal knowledge or information other than hearsay. Complainant should differentiate between statements based on the Complainant's personal knowledge and those based on information and belief. Statements not based on personal knowledge should identify the source of the information.
- c.** Upon receipt of the filed complaint, the City Clerk must immediately notify the Respondent and provide the Respondent with a copy of the complaint by the most



expeditious means available.

- d. Notwithstanding any other provision of the Rules and Regulations of the Board, within five business days after the complaint is filed with the City Clerk, the City Clerk will review the complaint to ensure it meets the requirements of subpart a(2)(i)-(x) of this Part. The City Clerk's review is only for facial compliance with the requirements and the City Clerk shall not make any determinations regarding the merits of the complaint at this stage.
  - e. If the complaint fails to comply with one or more of the requirements of subpart a(2)(i)-(x) of this Part or is otherwise incomplete, the City Clerk must reject the complaint and give written notice to the Board, the Complainant, and the Respondent of the reasons for the rejection. The Complainant may file a new complaint or appeal the City Clerk's rejection to the Board.
  - f. Within five business days after the complaint is filed with the City Clerk, if the City Clerk determines that the complaint meets all of the requirements of subpart a(2)(i)-(x) of this Part, the City Clerk shall refer the complaint to the Board and set a hearing date within 30 calendar days of the complaint's referral to the Board. If the 30 calendar days falls within a "blackout period," the City Clerk may add an additional 7 days. The City Clerk may require the Respondent to correct the violation or act to prevent further violations by informal methods and may enter into a voluntary compliance agreement with the Respondent prior to the hearing date. The City Clerk may also use this time to engage both parties in settlement negotiations, should both parties be interested in pursuing this option. If the complaint is resolved by informal methods or a voluntary compliance agreement, the City Clerk shall give written notice to the Board and the Complainant of the details of the resolution.
  - g. In the event of rejection under part e, Complainant may file a new complaint with the City Clerk within ten days of receiving notice of the rejection. The new complaint must meet all of the requirements of subpart a(2)(i)-(x) of this Part, except that the alleged violation must have taken place within 120 days of when the original Complaint was filed.
2. If the Board of Ethics determines that the Complainant knowingly or recklessly filed a false certification, the Board may require a person to:
    - a. Pay the Respondent some or all of the expenses, including, but not limited to, reasonable attorney fees, incurred by that person as a direct result of the filing of the complaint; and
    - b. Pay the maximum allowable civil fine.

## **PART L: POLICY ON PAYING CAMPAIGN FUNDS TO FAMILY MEMBERS**

1. **Disclosing A Payment To A Member Of The Candidate's Family Or Household**
  - a. If a candidate uses campaign funds to pay or reimburse a member of the candidate's Immediate Family or household, the candidate must report the family or other relationship (e.g., "brother" or "roommate") in the remarks section of Schedule B (for

- Expenditures) of the campaign finance report.
- b. Candidates seeking eligibility for public financing pursuant to the OEEC, and Participating Candidates pursuant to the OEEC, have additional disclosure requirements. Please see the 2021 OEEC Rules. Please note that a candidate's campaign-related childcare is a legitimate campaign Expenditure, provided it is not provided by a member of the candidate's Immediate Family.

#### **PART M: USE OF PUBLIC RESOURCES BY CANDIDATES CURRENTLY HOLDING OFFICE**

1. In addition to the prohibitions on the use of public property and city employees contained in Article XII, Sections 6 and 7, and AI 4-5, the following regulations apply to all elected officials running for any office covered by the Election Code or Open and Ethical Elections Code:
  - a. The Board of Ethics may assess penalties for violations of Article XII, Sections 6 and 7, and consider such violations as In-Kind Contributions that will count towards a candidate's Expenditure limit.
  - b. Elected officials who are candidates may not include campaign information on their official website, and may not link to their official website from their campaign website.
  - c. Mass Communications distributed within three (3) months of an election using government resources must not:
    - i. Contain campaign-related, electioneering, or promotional language; or
    - ii. Contain contact information for the elected official's campaign.
  - d. Elected official's travel may be paid for with governmental funds only if the *primary purpose* of the trip is the conduct of *official business*. As a general matter, an elected official, while on official travel, may engage in incidental campaign or political activity, provided that no additional travel expenses are incurred as a result. However, when the primary purpose of a trip is in fact the conduct of campaign or political activity, then the travel expenses must be paid with campaign funds and cannot be paid with governmental funds.
  - e. An elected official may make nonpartisan voter registration information available in the elected official's office, but may not make campaign materials available in the elected official's office.

#### **PART N: STATE CAMPAIGN FINANCE ACCOUNTS**

Pursuant to NMSA 1978, Section 1-19-26(K), municipal elections are not covered elections under the Campaign Reporting Act, thus individuals with state campaign finance account funds may not use those funds to make expenditures in any City election, nor may state campaign finance account funds be transferred to a City campaign finance account.

Approved:

*SAN*

\_\_\_\_\_  
Sarita Nair, Chief Administrative Officer

*10/21/20*

\_\_\_\_\_  
Date

Recommended:

*E. Watson*

\_\_\_\_\_  
Ethan Watson, City Clerk

*9/21/20*

\_\_\_\_\_  
Date

## **2021 REGULATIONS OF THE ALBUQUERQUE CITY CLERK FOR THE OPEN AND ETHICAL ELECTIONS CODE**

**PURPOSE:** In 2018, following the implementation of the State Local Election Act, the City Council passed Election Code Reform. In addition to bringing the City in line with the Local Election Act, the Election Reforms seek to update and modernize the City’s public financing program, and to reflect changes in policy that have emerged since the 2011 Regulation for the Open and Ethical Elections Code was implemented. The purpose of these Regulations is to establish procedures that candidates shall follow under the Open and Ethical Elections Code, Albuquerque City Charter Article XVI (hereinafter referred to as the “OEEC,” with all citations referring to the OEEC unless otherwise noted). Certain provisions of the Election Code, Albuquerque City Charter Article XII (hereinafter referred to as the “EC”), are relevant to the OEEC and are referenced where appropriate. The City Clerk shall create forms, election calendars, timelines and all other documents necessary to implement these Regulations. In conformance with the OEEC and these Regulations, the documents and forms created by the City Clerk are not part of these Regulations. These Regulations should be read in concert with the 2019 Election Code Regulations, which apply to all candidates unless the Regulation specifies otherwise.

**AUTHORITY:** Section 19 of the OEEC authorizes the City Clerk to adopt rules to insure the effective administration of the OEEC.

**APPLICABILITY:** These Regulations apply to all candidates for the offices of Mayor and City Council who seek eligibility to receive public funds or become Participating Candidates under the OEEC. These Regulations do not apply to candidates who are Non-Participating Candidates.

**EFFECTIVE DATE:** These Regulations shall be effective upon the approval and signature of the Chief Administrative Officer. Once effective, the City Clerk shall publish these Regulations on the Office of the City Clerk website.

**DATES AND DEADLINES:** Should a deadline fall on a City observed holiday or a weekend, the deadline is automatically moved to the next City working day, unless otherwise published by the City Clerk.

**GENERAL CAMPAIGN REPORTING:** Both Applicant and Participating Candidates under the OEEC shall follow all requirements and obligations of Non-Participating Candidates and shall file any and all campaign financing reports pursuant to City Charter Articles XII and XIII and other applicable state and local laws. OEEC § 9.

### **PART A: DEFINITIONS**

All terms utilized herein shall have the same meaning as defined by the OEEC, unless the regulation specifically notes otherwise. This Part also contains clarified definitions for terms contained within the OEEC.

**Applicable Spending Limit:** For a Regular Local Election, an amount that is equal to the total revenue distributed to the Participating Candidate from the Fund. The Applicable Spending Limit for a runoff election means only the total revenue distributed to the Participating Candidate for a runoff from the Fund. See OEEC §§ 3(R), 6(C) and (E), 12 (B) and (C), 14, and 15.

**Applicant Candidate:** A candidate, but not a write-in candidate, running for a Covered Office and who is seeking to be a Participating Candidate.

**Contribution:** In addition to the definition in City Charter Article XIII, § 2(g), please see the 2021 Election Code Regulations regarding the term “Contribution.”

**Coordinated Expenditure:** Please see 2021 Election Code Regulations regarding the term “Coordinated Expenditure.”

**Covered Office:** City Council or Mayor.

**Disclosure Reports:** The statements filed in the electronic campaign finance report software system of the Applicant Candidate’s Seed Money and In-Kind Contributions pursuant to the OEEC as well as other required reporting pursuant to the Election Code.

**Expenditure:** In addition to the definitions included in Article XVI, Section 3(F), please see 2021 Election Code Regulations regarding the term “Expenditure.”

**Exploratory Period:** The timeframe in which an Applicant Candidate may begin to collect Seed Money and In-Kind Contributions and may file the Declaration of Intent to Seek Public Financing. Applicant Candidates may not collect Qualifying Contributions during this timeframe.

**Fund:** The Open and Ethical Elections Fund required by OEEC § 10, and may be designated as the “ABQ OEE FUND”. Payments to the Fund shall be made payable to the “ABQ OEE FUND” or the “CAOEE Fund.”

**Immediate Family:** "Immediate Family" means the candidate’s spouse, parent, grandparent, child, grandchild, sister, half-sister, brother, half-brother, stepparent, step-grandparent, stepchild, step-grandchild, stepsister, stepbrother, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, guardian, former guardian, domestic partner, the Immediate Family of the candidate’s spouse or domestic partner.

**Independent Expenditure:** Please see 2021 Election Code Regulations regarding the term “Independent Expenditure.”

**In-Kind Contribution:** In addition to the definition in City Charter Article XVI, § 3(K), “In-Kind Contributions” are goods and services that are donated or provided to the campaign at no cost or at a cost that is less than the usual and customary charge, but do not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee. They are subject to the Contribution limits detailed in the OEEC. For additional regulations regarding In-Kind Contributions applicable to Applicant Candidates and Participating Candidates, please see the 2019 Election Code Regulations.

**Participating Candidate:** A candidate for a Covered Office who chooses to obtain financing pursuant to the OEEC and who is certified to participate by the City Clerk.

**Regular Local Election:** An election that is held on the first Tuesday after the first Monday in November in odd numbered years.

**Qualifying Contribution:** A donation of \$5.00 to the Fund in support of an Applicant Candidate and given pursuant to the OEEC and these Regulations. A Qualifying Contribution is not a prohibited Contribution pursuant to Article XIII Section 4 (f) of the City Charter. Qualifying Contributions in the form of checks or money orders shall contain the name of the Applicant Candidate on the face of the check or money order. Qualifying Contributions made via credit or debit card or electronically must be made through the Clerk’s Qualifying Contribution webpage. Applicant Candidates may not accept donations in excess of \$5.00. Credit/debit card processing fees shall be deducted from the candidate’s distribution, or paid by the candidate from seed money. The City Clerk will provide the exact number of Qualifying Contributions needed for qualification as a Participating Candidate to candidates no later than three (3) working days after the candidate files his/her Declaration. OEEC §§ 3(P) and 5.

**Qualifying Period:** The timeframe in which an Applicant Candidate must receive Qualifying Contributions from a minimum of 1% of applicable registered City voters. See OEEC §§ 3(Q) and 5.

**Seed Money:** Cumulative Contributions received by an Applicant Candidate of no more than \$250.00 per person and no more than \$2,500.00 of the Applicant Candidate’s own money raised for the primary purpose of enabling the Applicant Candidate to collect Qualifying Contributions and petition signatures. Seed Money may not exceed 20% of the Applicable Spending Limit and may be raised only during the Exploratory and Qualifying Periods. See OEEC §§3(R) and 6.

## PART B: THE EXPLORATORY PERIOD

1. **Seed Money:** Contributors of Seed Money shall be Persons as defined by § 3(O) of the OEEC. The City Clerk will provide the amount of the Applicable Spending Limits to Applicant Candidates at the beginning of the Exploratory Period. Any Seed Money received by a candidate or their representative(s) shall be deducted from any Fund distributions to the Applicant Candidate. Any Seed Money in excess of 20% of the Applicable Spending Limit (“Excess Seed Money”) at the time of the distribution of revenue from the Fund by the City Clerk shall also be deducted from the amount of the distribution. Any Seed Money collected in excess of the 20% limit may also be a violation of the OEEC. See OEEC §§ 3(R), 6(C), (D), and (F), and 12(C).
2. **In-Kind Contributions:** Applicant Candidates may receive In-Kind Contributions from the beginning of the Exploratory Period through the day the Regular Local Election is held, or day of the runoff election, if applicable. The total In-Kind Contributions cannot exceed 10% of the Applicable Spending Limit and any individual In-Kind Contribution cannot exceed 5% of the annual salary for the office being sought. EC § 4(d), OEEC § 6(E).

In the event any disclosure report shows the cumulative value of In-Kind Contributions exceeds 10% of the Applicable Spending Limit, the candidate shall pay such excess to the City Clerk. Candidates shall also pay to the City Clerk the excess of any individual In-Kind Contribution that exceeds 5% of the annual salary for the office being sought (“Excess In-Kind Contribution”). Any In-Kind Contributions in excess of those allowed in the OEEC or EC will result in a violation of the OEEC.

Persons, as defined in Art. XVI, Sec. 3(O), making In-Kind Contributions are not required to reside in the City of Albuquerque nor are they required to be registered to vote in the City of Albuquerque. For additional regulations regarding In-Kind Contributions applicable to Applicant Candidates and Participating Candidates, please see the 2021 Election Code Regulations.

3. **Expenditures During Exploratory Period** The only funding sources that Applicant Candidates may use during the Exploratory Period for Expenditures related to campaign activities for the City office being sought are Seed Money and In-Kind Contributions. An Expenditure is made on the date the payment is made or on the date consideration, if any, is received, whichever is earlier.
4. **Reporting**
  - a. **Training:** All campaign finance reporting is done electronically. Applicant Candidates and/or their designated representative(s) shall attend a reporting procedures training class conducted by the City Clerk prior to submitting the

First Disclosure Report. All candidates and representatives completing the training shall execute an Acknowledgement of Training following the course which the City Clerk shall keep on file. The training received as an Applicant Candidate shall also serve as training for reporting under the Election Code.

- b. **Affirmation of Accuracy:** When filing their electronic reports, candidates shall affirm the accuracy of their reports under penalty of perjury by clicking the Affirmation of Accuracy box in the electronic filing system, or by executing and delivering a notarized Affidavit, in the form provided by the City Clerk, by 5:00 p.m. on the day each Disclosure Report is due.
- c. **Reporting:** All campaign finance reports made pursuant to the EC, Section 4(c) shall include Expenditures of Seed Money and the receipt of In-Kind Contributions. OEEC § 9.
- d. **Deadlines for Reports:** All financial reports are due at 5:00 p.m. on the day the report is due. This includes filing the electronic report and any forms with the Office of the City Clerk.

5. **Required Information for Reporting Seed Money and In-Kind Contributions:** Disclosure Reports for Seed Money shall list the contributor's name, street address, phone number, occupation, employer, and the employer's address. Self-employed contributors must indicate a physical business address or state "same" if they share a business and personal address. Retired or unemployed contributors may indicate "none" for their business address.

If a Contribution of Seed Money is from an organization, corporation or other entity not prohibited from contributing under the EC, the City Clerk may request additional information from the Applicant Candidate showing ownership or control of the entity and where business is conducted. See OEEC § 3(O)(3).

For In-Kind Contributions, the report shall show all the information required for Seed Money as well as a detailed description of the goods and/or services provided, along with the fair market value of the goods or services at the time the In-Kind Contribution was made. Contributions from city contractors are prohibited by the EC, Section 4(f).

6. **Limitation on Contributions:** The aggregate amount of In-Kind Contributions shall not exceed ten percent (10%) of the Applicable Spending Limit. In the event of a runoff, the aggregate amount of In-Kind Contributions shall not exceed ten percent (10%) of the Applicable Spending Limit for the runoff. The aggregate amount of Seed Money Contributions shall not exceed ten percent (10%) of the Applicable Spending Limit.

7. **Expenditures and Contributions Before the Exploratory Period:**

- a. **Expenditures:** The only funding source that Applicant Candidates may use prior to the Exploratory Period for Expenditures related to campaign activities for the City office being sought are the Applicant Candidate's donation of Seed



Money to their own campaign. No Seed Money from any other source may be accepted or expended prior to the Exploratory Period.

- b. **Contributions:** Applicant Candidates may not accept contributions of any kind prior to the Exploratory Period.
- c. An Applicant Candidate who has accepted Contributions or made Expenditures that do not comply with the requirements of this subpart may petition the City Clerk to remain eligible for certification as a Participating Candidate if the failure to comply was unintentional and does not constitute a significant infraction of these restrictions.

## **PART C: QUALIFYING PERIOD AND QUALIFYING CONTRIBUTIONS**

1. The Qualifying Period is the only time during which a candidate may collect Qualifying Contributions. Collection of Qualifying Contributions during any other timeframe may result in a finding of violation of the OEEC by the Board of Ethics. Candidates may not collect Qualifying Contributions without first meeting with the City Clerk to receive all necessary forms and information.
2. **Declaration of Intent:** Applicant Candidates shall submit a Declaration of Intent (“Declaration”), on the form provided by the City Clerk, prior to collecting any Qualifying Contributions. The Office of the City Clerk will begin accepting Declarations at 8:00 a.m. on the first day of the Exploratory Period. The deadline to submit a Declaration is 5:00 p.m. on the last day of the Qualifying Period. Applicant Candidates may begin to solicit and accept Qualifying Contributions immediately after the City Clerk accepts the Applicant Candidate’s Declaration and the Qualifying Period has begun. **The Declaration of Intent shall specify that the applicant has not, within one year prior to the declaration, raised or expended any monies in excess of the pre- and post-exploratory period contribution limits.**
3. **Determining the Required Number of Qualifying Contributions:** The City Clerk shall calculate the number of Qualifying Contributions required for Applicant Candidates based upon the number of registered voters within the City of Albuquerque as shown on the voter registration rolls of the New Mexico Secretary of State and the Bernalillo County Clerk. In the event that there is a conflict between the number of registered voters listed of the rolls of the New Mexico Secretary of State and the Bernalillo County Clerk, the City Clerk shall determine which roll will be used. The City Clerk will provide the number of required Qualifying Contributions to Applicant Candidates within five (5) working days of the Applicant Candidate submitting their Declaration.
4. **Qualifying Contribution Books:** The City Clerk shall provide Applicant Candidates with Qualifying Contribution Books (“Books”) containing 10 receipts for contributions. Applicant Candidates shall submit all Qualifying Contributions with corresponding Books containing the required information about the contributors and the required signatures.

- a. The Books shall be pre-printed with all receipts containing the necessary notices to the contributor, except for the name of the Applicant Candidate and the candidate's district, which candidates and their representatives must fill in after receiving the Books from the City Clerk. OEEC § 3(P). The three parts include the white original, for the City Clerk; a yellow copy, for the candidate; and a pink copy, for the contributor.
  - b. Applicant Candidates shall only obtain Books from the Office of the City Clerk. The candidate or the candidate's designated representative must sign an Acknowledgement for the number of Books received each time Books are provided to the candidate's campaign. The City Clerk shall not provide the candidate with partial Books.
  - c. Candidates shall submit Books with both the white original and the yellow copy intact. The pink copies may be removed and provided to the contributor.
  - d. At the end of the Qualifying Period, Applicant Candidates shall return all used or unused Books to the Office of the City Clerk. The City Clerk shall accept partially used Books but Applicant Candidates are strongly urged to fully use Books before submitting them whenever possible. It is the responsibility of the Applicant Candidate to ensure that all Books are returned to the Office of the City Clerk. A failure to return Books may result in a finding of violation of the OEEC by the Board of Ethics.
  - e. All Books containing signatures with corresponding Qualifying Contributions shall be submitted to the City Clerk no later than noon on May 25 for Mayoral Applicant Candidates and noon on July 20 for City Council Applicant Candidates. Candidates shall return all unused Books within ten (10) days after the applicable deadline. The City Clerk shall report unreturned books to the Board of Ethics.
- 5. Qualifying Contribution Website:** The City Clerk has developed a Qualifying Contribution website, which may be used as an alternative, electronic, method for collecting Qualifying Contributions. The Clerk has written additional guidance for use of the qualifying contribution website. If an Applicant Candidate chooses to use the website in addition to the books, the Applicant Candidate will be required to sign an agreement to abide by the additional guidance.
- 6. Soliciting and Accepting Qualifying Contributions:** Applicant Candidates and their representatives may solicit and accept Qualifying Contributions from all applicable City voters registered in the district(s) the Applicant Candidate seeks to represent. Applicant Candidates are responsible for assuring that receipts are fully and correctly filled out, including signatures, and that the contributor's name and address are legible. Names, dates, and addresses on the receipts may be filled out by someone other than the contributor, but the contributor himself or herself must sign the receipt. The Applicant Candidate's campaign may not cross out, white out, or otherwise remove any information the contributor has provided on the receipt, however, explanatory information may be added to the receipt if the information is necessary to validate the contribution. For example, if the contributor fills out his or

her name illegibly, the campaign may print that name on the receipt, but may not cross out or remove the information provided by the contributor. All \$5 Qualifying Contributions must be paid by the contributor; if the funds are provided by any person other than the contributor who is listed on the receipt, the Qualifying Contribution will be deemed fraudulent. The City Clerk shall not certify Qualifying Contributions toward the required number of Qualified Contributions necessary to qualify an Applicant Candidate as a Participating Candidate that do not meet the requirements of this paragraph. OEEC § 3(P).

7. **Minimum Requirements for Qualifying Contributions:** A Qualifying Contribution will not be certified toward the required number of Qualified Contributions necessary to qualify an Applicant Candidate as a Participating Candidate unless it:
  - a. is made by a registered City voter residing in the district(s) in which the Applicant Candidate desires to represent;
  - b. is made during the designated Qualifying Period;
  - c. is obtained through efforts made with the knowledge and approval of the Applicant Candidate;
  - d. is acknowledged by a receipt that identifies the contributor's name and physical address as shown on the New Mexico Secretary of State's voter registration rolls on forms provided by the City Clerk;
  - e. is signed by the contributor;
  - f. identifies which Applicant Candidate the City resident supports; and
  - g. is sent to the City Clerk.
  
8. **Date the Qualifying Contribution Was Received:** The date the Contribution was received must be on or after the Applicant Candidate files his or her Declaration of Intent and within the Qualifying Period. The date stated in the Book as the date the Contribution was received by the Applicant Candidate's campaign shall be the date attributed to the Contribution, regardless of the date written on the check or money order.
  
9. **Name and Registered Address of the Contributor:** The contributor must provide their name and address as shown on the New Mexico Secretary of State's voter registration rolls. Although this requirement must be pre-printed on each receipt as a notice to the contributor, it is the responsibility of the Applicant Candidate's campaign to ensure that this requirement is met. If the contributor provides an address other than their address as shown on the New Mexico Secretary of State's voter registration rolls, the campaign may print the correct registered address on the receipt, but may not cross out or remove the information provided by the contributor.
  
10. **Qualifying Contributions Made Via the Clerk's Qualifying Contribution Website:** Guidance specific to Qualifying Contributions made via the City Clerk's Qualifying Contribution website shall be provided once the website has launched.

- 11. Qualifying Contributions to Multiple Candidates Running For The Same Office:** A registered City voter may contribute a Qualifying Contribution to more than one Applicant Candidate, provided that the requirements noted above in Subpart C(5)(a) are met for each contribution.
- 12. Simultaneous Collection of Petition Signatures.** Applicant Candidates may choose to gather petition signatures simultaneously with Qualifying Contributions during any overlap of the petition signature period and the Qualifying Contribution period. If a candidate chooses to collect Qualifying Contributions along with petition signatures, both the petition form and the Qualifying Contribution receipt must be completed in their entirety. The Office of the City Clerk will not accept petition forms or Books with indications to see the other form for voter information. Candidates need not submit petition forms at the same time they submit Books for the same voters.
- 13. Contribution Reporting:** On each Tuesday of the applicable Qualifying Period, Applicant Candidates shall report their Qualifying Contributions by submitting their Books and the corresponding Qualifying Contributions to the City Clerk.
- a. The receipts and Contributions are due at the Clerk's Office by 12:00 p.m. (noon) of each Tuesday.
  - b. If no Qualifying Contributions have been received by the Applicant Candidate by the Tuesday reporting deadline, Applicant Candidates shall report to the City Clerk that no Qualifying Contributions have been received by submitting the form supplied by the City Clerk.
  - c. Applicant Candidates must report and submit all Contributions received to the City Clerk on the Tuesday reporting deadline following receipt of the Contribution.
  - d. The final Qualifying Contribution report is due no later than noon on the City working day immediately following the expiration of the Qualifying Period. OEEC § 9.
  - e. For each Book submitted, a corresponding amount of \$5.00 Contributions shall be attached to the Book and submitted (i.e., if the Book contains eight (8) completed white original receipts, then \$40.00 in contributions must be attached to the Book).
  - f. Applicant Candidates shall submit a prescribed form provided by the City Clerk, with each Qualifying Contribution report.
- 14. Verification of Qualifying Contributions:** The Office of the City Clerk will verify each and every Qualifying Contribution to ensure the Contribution meets all requirements. The City Clerk will ensure that the verifying staff is adequately trained in the verification process. Using the New Mexico Secretary of State's and Bernalillo County Clerk's Voter Registration System, staff will physically verify each contribution by comparing the contributor's name, address, and signature on the receipt to the voter registration rolls, and ensuring that the requirements noted

above in Subpart C(5)(a) are met. Qualifying Contributions are accepted, rejected or left pending by the verifying staff. The City Clerk will notify Applicant Candidates of the number of accepted, rejected, and pending Qualifying Contributions regularly during the Qualifying Period. Pending Qualifying Contributions are reviewed by a supervisor and the City Clerk to determine whether the Qualifying Contribution is accepted or rejected. In the case of a rejected Qualifying Contribution with some evidence of intentional wrong-doing, the City Clerk will notify the City Attorney for further investigation. The City Clerk will consider any Qualifying Contribution submitted to the City Attorney as rejected until receiving an opinion or court order that the Qualifying Contribution is acceptable.

**15. Certification of Participating Candidates for Public Financing:** The City Clerk shall certify as a Participating Candidate, all Applicant Candidates who meet the requirements of the OEEC and submit an Application for Certification. Applicant Candidates must submit the Application for Certification by the last day of the Qualifying Period. The City Clerk shall notify all Applicant Candidates whether they have been certified as a Participating Candidate by posting a list of certified Participating Candidates in the Office of the City Clerk and on the City Clerk's website, and by directly notifying each Applicant Candidate. Certification as a Participating Candidate does not eliminate or modify candidate qualification requirements of the City Charter or under New Mexico law. OEEC § 7.

- a. In addition to the criteria for certification listed in Art. XVI, Section 7(A), upon receipt of a final Qualifying Contribution report from an Applicant Candidate, the Clerk shall determine whether the Applicant Candidate has:
  - i. been found to have accepted Contributions in excess of the pre- and post-Exploratory Period limitations set forth in the OEEC, and has otherwise complied with Seed Money and In-Kind restrictions;
  - ii. run for the same office as a Non-Participating Candidate in the same election year;
  - iii. been found to have made a materially false statement in a report or other document submitted to the City Clerk;
  - iv. failed to pay any civil penalty assessed by the City Clerk or Board of Ethics, except that a candidate has three (3) working days from the date of the request for certification to pay the outstanding penalty and remain eligible for certification; and
  - v. been found to have submitted any fraudulent Qualifying Contributions or any falsified acknowledgement forms for Qualifying Contributions or Seed Money Contributions, where the Applicant Candidate knew or should have known of the fraudulence or falsification.
- b. If the Clerk makes any of the findings above, the Clerk shall not certify the Applicant Candidate as a Participating Candidate.
- c. An Applicant Candidate whose certification has been denied may appeal the Clerk's determination as provided in Art. XVI, Section 20.

**16. Unsuccessful Applicant Candidates:** The Qualifying Contributions submitted by

Applicant Candidates who fail to obtain a sufficient number of Qualifying Contributions or otherwise fail to qualify as a Participating Candidate shall be deposited in the Open and Ethical Elections Fund. Qualifying Contributions to the Applicant Candidate shall not be refunded.

**17. Revocation of Certification.** The certification of a Participating Candidate may be revoked at any time if the City Clerk determines that the candidate or an agent of the candidate:

- a. Did not submit the required number of valid Qualifying Contributions;
- b. Failed to qualify as a candidate by petition or other means;
- c. Submitted any fraudulent Qualifying Contributions or Qualifying Contributions that were not made by the named contributor, and the Participating Candidate knew or should have known of the fraudulence;
- d. Misrepresented to a contributor the purpose of the Qualifying Contribution or obtaining the contributor's signature on the receipt and acknowledgement form and the Participating Candidate knew or should have known of the misrepresentation;
- e. Failed to fully comply with the Seed Money and In-Kind restrictions;
- f. Knowingly made a false statement or material misrepresentation in any report or other document required to be filed under the OEEC or the EC; or
- g. Otherwise substantially violated the provisions of the OEEC or the EC.

The determination to revoke the certification of a candidate must be made by a vote of the members of the Board of Ethics after an opportunity for a hearing. A candidate whose certification is revoked shall return all unspent funds to the City Clerk within three (3) working days of the Board of Ethics' decision and may be required to return all funds distributed to the candidate. In addition to the requirement to return funds, the candidate may be subject to a civil penalty.

Notwithstanding Article XVI, Section 20, the candidate may appeal the Board of Ethics' decision to revoke certification in the same manner provided in Article XII, Section 8, subsection (f) of the City Charter.

## **PART D: PARTICIPATING CANDIDATES**

- 1. Reporting:** All Participating Candidates must fully comply with all aspects of campaign finance reporting pursuant to the City Charter, Revised Ordinances of Albuquerque and any and all Rules and Regulations of the City Clerk and Board of Ethics.
- 2. Distribution of Funds to Participating Candidates**
  - a. **Electronic payment:** The City Clerk, with the assistance of the City's Treasury Department shall distribute all payments from the Fund electronically. Participating Candidates shall provide all necessary information for electronic

transfers on the forms prescribed by the City Clerk.

- b. Timing of Distribution:** Upon certification of the Participating Candidates, and calculation of the funds owed to Participating Candidates, the City Clerk shall provide the necessary information to the Treasury Department to initiate the electronic transfer of the funds constituting the first distribution of monies from the Fund. The transfer of funds is subject to banking regulations and typically occurs one business day after the transfer is initiated. See OEEC § 14(A).
- c. Initial Distribution:** Subject to availability of funds, the City Clerk shall distribute funds as outlined in OEEC Section 12. Qualifying Contributions, Seed Money, and In-Kind Contributions exceeding allowable limits and not paid to the City Clerk shall be deducted from the Fund distribution. The Clerk will determine the total funds available for distribution and apply a formula to calculate fund distribution to individual Participating Candidates. The formula is: \$1.00 per registered voter in the district, minus the total Seed Money collected by the candidate for City Council Candidates, \$1.75 per registered voter in the City, minus the total Seed Money collected by the candidate for Mayor Candidates. Funding in addition to the initial distribution is subject to availability of funds. OEEC §§ 12 and 14.

**3. Expenditures:** The guidelines regarding Expenditures detailed below are in addition to the guidelines and restrictions on Expenditures contained in Article XVI, Section 8 of the City Charter, and the 2021 Election Code Regulations regarding Expenditures.

- a. Permissible Expenditures.** Expenditures for “campaign-related purposes” are those which are traditionally accepted as necessary to promote the election of a candidate to political office. Candidates using OEEC funds must also account for the public nature of the funds, the underlying objectives of the OEEC, and the reasonableness of any Expenditure under the circumstances. In the City of Albuquerque, traditional campaign expenses have included, but are not limited to:
  - i.** Political advertising expenses;
  - ii.** Campaign communications such as signs, bumper stickers, T-shirts, or caps with campaign slogans, etc.;
  - iii.** Campaign events (e.g., invitations, food, tent or hall rental, etc.);
  - iv.** Printing and mailing costs;
  - v.** Campaign staff expenses;
  - vi.** An entry fee for an event organized by a committee, charity, or community organization or an ad in an event publication, as long as the Expenditure benefits the candidate’s campaign;
  - vii.** Candidate’s campaign-related childcare, provided it is not provided by a member of the candidate’s Immediate Family; and
  - viii.** Campaign operational and travel expenses, such as fuel and tolls, websites, office rental, telecommunications, equipment, or office



supplies.

- b. Prohibited Expenditures.** Candidates may not use OEEC funds for personal expenses or for invalid political expenses, as detailed below. This means candidates may not borrow from or use OEEC funds for personal or other non-campaign expenses, even if temporarily and with the intention of repaying the funds.
- i.** Personal expenses are for goods and services that the candidate would otherwise purchase independently of the campaign, including but not limited to:
    - A.** Day-to-day household expenses and supplies;
    - B.** Mortgage, rent, or utility payments for the candidate's personal residence, even if part of the residence is being used by the campaign;
    - C.** Vehicle repair and maintenance;
    - D.** Non-campaign transportation expenses;
    - E.** Clothing, including attire for political functions such as business suits or shoes.
  - ii.** OEEC funds also may not be spent to:
    - A.** Pay a consultant, vendor, or campaign staff for anything other than campaign goods or services;
    - B.** Compensate the candidate for services provided by the candidate;
    - C.** Make Independent Expenditures supporting or opposing any candidate, ballot question, or political committee;
    - D.** Assist in any way the campaign of any candidate other than the candidate for whom the funds were originally designated;
    - E.** Contribute to another candidate, a political committee, a measure finance committee, or a party committee other than in exchange for goods and services;
    - F.** Donate to a charity or community organization, other than in exchange for campaign goods or services;
    - G.** Promote political or social positions or causes other than the candidate's campaign;
    - H.** Make a thank-you gift (including a gift card) to a volunteer or supporter; or
    - I.** Pay any civil or criminal penalties, fines, or forfeitures.
- c. Ballot Questions.** Candidates may state their position with respect to a ballot question in a communication financed with OEEC funds. Candidates may not use OEEC funds for a paid communication that primarily supports or opposes a ballot measure, referendum, or citizen initiative.
- d. Campaign Training.** Candidates may use OEEC funds for tuition or registration costs for campaign or policy issues training.
- e. Car Travel.** OEEC campaigns may reimburse the candidate or campaign workers for their car travel, as long as the person reimbursed has kept a *contemporaneous* travel log. The campaign may make a travel reimbursement up to the number of miles traveled as reported in the log multiplied by the



current standard IRS mileage rate for a business. Campaigns must keep the travel logs for three years, and provide them to the Board of Ethics or City Clerk if requested. Candidates and their spouses/domestic partners may spend any amount of their personal funds for campaign travel without seeking reimbursement. Other individuals may spend up to \$250 of their personal funds to pay for travel without the expenditures qualifying as a Contribution to the campaign.

- f. **Food.** Candidates may spend reasonable amounts of OEEC funds on food for campaign events or to feed volunteers while they are working, but must account for the public nature of OEEC funding. Candidates may not use OEEC funds to purchase food consumed *only* by the candidate and/or members of the candidate's Immediate Family. Generally, reasonable amounts for food should not exceed \$25 per person per event. If candidates wish to spend greater amounts per person for food, the City Clerk recommends the candidate contact the City Clerk for guidance.
- g. **Lodging.** Candidates may use OEEC funds to pay reasonable lodging expenses other than for the candidate's primary residence or the residence of the candidate's Immediate Family, if necessary for campaign purposes, but the lodging expenses may not exceed fair market value. OEEC candidates may use personal funds for lodging, provided that they are not reimbursed by others.
- h. **Office Supplies.** Candidates may spend OEEC funds for office supplies they reasonably anticipate will be only used for campaign purposes. OEEC funds may not be spent for office supplies to be used for constituent communications or for other expenses associated with service as a public official. The Board of Ethics may require candidates to repay their campaign for any office supplies with a value of \$500 or more that were not used for campaign purposes or were minimally used for campaign purposes
- i. **Post-Election Notes and Parties.** Candidates may set aside seed money to spend on post-election parties, post-election thank you notes, or post-election advertising to thank supporters or voters. Candidates may also use personal funds for these purposes. Any seed money remaining at the end of the campaign and not spent on the aforementioned activities must be disposed of in accordance with Article XIII, Section 4 (f).
- j. **Property and Equipment.** Goods purchased with OEEC funds for \$50 or more that could be converted to personal use after the campaign (e.g., computers, cell phones) must be sold in an arms-length transaction and the proceeds returned to the Fund no later than 45 days after the final report for the campaign. If the campaign sells the property or equipment to the candidate or a member of the candidate's Immediate Family or campaign staff, the campaign must receive at least 75% of the original purchase price paid by the campaign. Candidates are welcome to lease electronic and other equipment. Proof of the sale must be provided to the City Clerk within 45 days following the final report. If an item is not sold, the City Clerk shall notify the Board of Ethics.
- k. **Salary and Compensation.** Candidates may use OEEC funds to pay for campaign-related services by staff or consultants, provided that compensation is made at fair market value and sufficient records are maintained to show the

services rendered. Documentation must include a description of the labor performed by the staff member or consultant, and an itemization of any goods or services purchased from other vendors including date, vendor, and amount. In any documentation that provides for the sale of goods or service to or by a campaign, a sale for nominal consideration is presumed to be a donation.

#### **4. Paying Campaign Funds to Family Members:**

##### **a. Disclosing a Payment to a Member of the Candidate's Family or Household**

If a candidate uses OEEC funds to pay or reimburse a member of the candidate's "Immediate Family" (defined above), a member of the candidate's household, or a business or nonprofit entity affiliated with a member of the candidate's Immediate Family, the candidate must disclose the family or household relationship (e.g., "spouse," "domestic partner," "brother," "roommate," or "business owned by daughter") in the campaign finance report.

##### **b. Additional Restrictions for OEEC Candidates**

- i.** A candidate may not pay OEEC funds to:
  - A.** The candidate or a sole proprietorship owned by the candidate;
  - B.** A member of the candidate's Immediate Family or household (except in the case of childcare as allowed in Part D);
  - C.** A business entity in which the candidate or a member of the candidate's Immediate Family or household holds a significant proprietary or financial interest; or
  - D.** A nonprofit entity in which the candidate or a member of the candidate's Immediate Family or household is a director, officer, executive director or equivalent, or chief financial officer or equivalent.
- ii.** There are two narrow exceptions to this prohibition:
  - A. Permitted Payments to the Candidate and Household Members:** A candidate may use OEEC funds to pay a member of the candidate's Immediate Family or household, a business entity in which the candidate or a member of the candidate's Immediate Family or household holds a significant proprietary or financial interest, or a nonprofit entity in which the candidate or a member of the candidate's Immediate Family or household is a director, officer, executive director or chief financial officer only if the Expenditure is made:
    - B.** For a legitimate campaign-related purpose; to an individual or business that provides the goods or services being purchased in the normal course of their occupation or business, and in an amount that is reasonable and at fair market value and other factors the Board of Ethics may choose to consider; and
    - C.** The candidate provides documentary evidence that the Expenditure qualifies for the exception at the time the Expenditure is reported or when the City Clerk or Board of Ethics requests such evidence, whichever is sooner. This evidence must consist of documentation that the payee is currently employed by or engaged in a business that provides the goods or services provided; justification for the amount of

the Expenditure, including the usual price paid by other clients; and an explanation of why the Expenditure is campaign-related. Occasional or sporadic employment on political campaigns (e.g., field work, public relations, or organizing volunteers) will be insufficient to demonstrate a normal course of business.

**D. Reimbursements.** Reimbursements, including travel reimbursements, made in accordance with the City Clerk and Board of Ethics rules and guidelines are exempt from this restriction. However, the candidate must disclose the family or household relationship when reporting the reimbursement as described above. If an OEEC candidate or a family or household member uses personal funds or a personal credit card to pay a vendor for campaign goods or services, the candidate must reimburse the individual with OEEC funds.

5. **Payment of Funds to City:** Participating Candidates shall return all funds that are unspent or unencumbered as of the date of the Regular Local Election to the City Clerk for deposit into the Fund. The date of the Regular Local Election is the last day that candidates may spend or encumber funds. Candidates shall return the remaining funds within two (2) weeks of Election Day. The final campaign disclosure report filed by a Participating Candidate shall show the amount of unspent Seed Money and any unspent distributions from the Fund as well as the amounts refunded by the candidate to the City Clerk. OEEC § 8(C).
6. **Runoff Elections:** Participating Candidates who are part of a Runoff Election remain Participating Candidates as described herein.
  - a. Candidates involved in a runoff election are not exempt from returning funds pursuant to OEEC Section 8(C). Runoff candidates shall return and report funds as required and shall receive payment from the Fund pursuant to the OEEC for runoff elections within three working days after certification of the local election.
  - b. Within three (3) working days after a runoff election, Participating Candidates shall pay to the City Clerk all revenue provided for the runoff election from the Fund not encumbered or spent.
  - c. **Final Campaign Disclosure Report:** The final campaign disclosure report filed by the Participating Candidate after the runoff election shall show the amount of all unspent and unencumbered Seed Money and revenue from the Fund and shall disclose all refund payments made to the City Clerk required by the OEEC and these Regulations.
  - d. **Spending Limits:** In the event of a runoff election, the aggregate Contributions for In-Kind Contributions shall be based on the spending limit for the runoff election. Spending limits for the runoff election shall be based on the amount of Fund revenue provided by the City Clerk to Participating Candidates for the runoff election. OEEC Section 15)).
  - e. **Runoff Election Funds:** Participating Candidates may opt out of public funding if they are involved in a runoff election. If a candidate desires to opt out of a

runoff they must give the Clerk written notice of their decision to opt out within one (1) working day of certification of the election.

- f. **Runoff Election Reports:** The reporting requirements for Participating Candidates in a runoff election include filing campaign Disclosure Reports as follows:
- i. beginning on the first Monday following the regular election, by 5:00 p.m. on every Monday before the runoff election candidates shall file a report of all Expenditures made and Contributions received on or before the previous Friday and not previously reported;
  - ii. beginning on the Friday before the run-off election, any Contribution or pledge to contribute that is for five hundred dollars (\$500) or more shall be reported to the City Clerk in a supplemental report on a prescribed form within twenty-four hours of receipt; and
  - iii. by 5:00 p.m. on the thirtieth day after a run-off election, a final report of all Expenditures made and Contributions not previously reported.
7. **Unopposed Participating Candidates:** An Unopposed Participating Candidate is a Participating Candidate who has been certified as a candidate by the City Clerk pursuant to NMSA 1978, Section 3-8-27 and who has no opponent who has been certified as a candidate on the ballot pursuant to NMSA 1978, Section 3-8-27(H) and who has no write-in opponent who has been certified as a write-in candidate pursuant NMSA 1978, Section 3-8-27(L); or a certified candidate whose certified opponents and certified write-in opponents withdrew their candidacy pursuant to NMSA 1978, Section 3-8-27.
- a. **Notice and Payment:** At the time a Participating Candidate becomes an Unopposed Participating Candidate, the City Clerk shall give such candidate written notice that he or she is unopposed. Within three (3) working of days of the date of the notice, the Unopposed Participating Candidate shall return all funds he or she has received from the Fund, minus any legitimate Expenditures made prior to notice that the candidate is unopposed. These Expenditures include any encumbrances that were incurred prior to notice.
  - b. **Accounting:** The Unopposed Participating Candidate shall submit a detailed accounting of all Expenditures made or Expenditures for which the candidate is contractually obligated through the day the Participating Candidate becomes unopposed, specifying outstanding obligations. The accounting is due concurrent with the second campaign finance disclosure report required pursuant to the EC. Unopposed Participating Candidates shall provide supplemental accountings at the time each subsequent campaign finance disclosure report is due, with a final accounting due no later than the date the final campaign financing disclosure report is due. Such accounting shall include any credits or refunds to which the Participating Candidate may be entitled. The refund shall include all funds not yet spent by the Participating Candidate less amounts that the Participating Candidate is contractually obligated to pay. Unopposed Participating Candidates shall pay the received credits and refunds for cancelled orders or contracts for goods and services within three (3) working days of

receipt.

- c. **Fundraising After Return of Funds:** Once all unencumbered funds have been returned to the Fund, an Unopposed Participating Candidate ceases to be a Participating Candidate, and is not subject to the contribution and Expenditure limits applicable to Participating Candidates.

**8. Liquidation of Property and Equipment.** Property and equipment not exclusive to use in a campaign (e.g., computers and associated equipment, etc.) and has been purchased with OEEC funds loses its campaign-related purpose following the election. Such property and equipment purchased for \$50 or more must be liquidated in an arms-length transaction, and the proceeds reimbursed to the OEEC Fund as unspent fund revenue in accordance with Article XVI, Section 8(C) of the City Charter. Candidates may not return unsold property or equipment to the City Clerk.

- a. The liquidation of campaign property and equipment may be done by sale to another person or purchase by the candidate.
- b. Liquidation must be at the fair market value of the property or equipment at the time of disposition.
- c. If the campaign sells the property or equipment to the candidate or a member of the candidate's Immediate Family or campaign staff, the campaign must receive at least 75% of the original purchase price.

## **PART E: WITHDRAWAL OF PARTICIPATION**

- 1. Applicant Candidates:** An Applicant Candidate may withdraw as an Applicant Candidate by filing a written withdrawal of their Declaration of Intent on the form approved by the City Clerk. Withdrawal as an Applicant Candidate must occur prior to the deadline for submitting the Application for Certification as a Participating Candidate. At the time the statement of withdrawal is submitted, the Applicant Candidate shall report all Qualifying Contributions, In-Kind Contributions, and Seed Money received by the Applicant Candidate to date. Withdrawing Applicant Candidates shall submit all Qualifying Contributions, used and unused Books, and all unspent Seed Money to the City Clerk. Withdrawing Applicant Candidates shall also file all reports necessary for the returned money. Applicant Candidates who withdraw or do not qualify as a Participating Candidate are not subject to spending limits as outlined in the OEEC if they continue as a non-Participating Candidate.
- 2. Participating Candidates:** A Participating Candidate may withdraw their participation as a publicly financed candidate up to thirty (30) days after being certified as a Participating Candidate by filing the statement of withdrawal with the City Clerk on the approved form. Withdrawn Participating Candidates may continue their campaign as a non-Participating Candidate or withdraw from a race completely as stated in OEEC Section 12 (D), (E), and (G). All money received from the Fund and corresponding reports are due to the City Clerk when the withdrawal is filed.
- 3. Participating Candidates who do not qualify as Candidates:** A Participating

Candidate who does not qualify as a candidate pursuant to NMSA 1978, Section 3-8-27 G shall deliver to the City Clerk the funds as outlined in OEEC Section 12(F) within five (5) days from the date of notice they have not qualified as candidates. All money received from the Fund and corresponding reports are due to the City Clerk when the withdrawal is filed.

- 4. **Use of refunded money:** The City Clerk will not redistribute funds returned to the Open and Ethical Elections Fund pursuant to this Part to other Participating Candidates in the present election cycle for the Regular Local Election. However, the City Clerk may use the returned funds to correct a distribution reduction caused by OEEC Section 14(B).

Approved:

  
\_\_\_\_\_  
Sarita Nair, Chief Administrative Officer

10/2/20  
Date

Recommended:

  
\_\_\_\_\_  
Ethan Watson, City Clerk

9/2/20  
Date

