

THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

ORDINANCE NO. 2011-9

AN ORDINANCE ENACTING AMENDMENTS TO ORDINANCE NO. 2010-12 (THE SANTA FE COUNTY CODE OF CONDUCT), AMENDING DEFINITIONS, AMENDING DISCLOSURES TO REQUIRE AFFIRMATIVE DISCLOSURES OF CONFLICTS RESULTING IN RECUSAL OR OTHERWISE, INCREASING THE COUNTY ETHICS BOARD TO FIVE MEMBERS, INCLUDING AN ADDITIONAL PENALTY OF REMOVAL FROM OFFICE, AND REPEALING INCONSISTENT LANGUAGE

BE IT ENACTED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY, NEW MEXICO, THE FOLLOWING AMENDMENTS TO ORDINANCE NO. 2010-12 ("CODE OF CONDUCT"):

Section One. Definitions. Section Four of Ordinance No. 2010-12 shall be and hereby is amended with the following additional definition:

"S. **"Contract"** means an agreement between two or more parties, whether express or arising by operation of law;"

Section Two. Definitions. Subsection Four (K) (Definition: "Family") of Ordinance No. 2010-12 shall be and hereby is repealed and the following additional definition substituted:

"K. **"Family"** means an individual's spouse, domestic partner, parent, child, sibling and like in-laws, by consanguinity or affinity, and persons, related or unrelated, living within the household;"

Section Three. Definitions. A new subsection Four (S) (Definition: "Immediate Family") of Ordinance No. 2010-12 shall be and hereby is enacted:

"S. **"Immediate Family"** means a spouse, domestic partner, child of a sibling, a parent, a grandparent, a grandchild, like in-laws, and like step-relationships."

Section Four. Definitions. Subsection Four(R) (Definition: "Volunteer") of Ordinance No. 2010-12 shall be and hereby is amended, as follows:

"Volunteer" means a person who provides services without being paid and without expectation of payment, and includes a volunteer firefighter or emergency responder (notwithstanding receipt of reimbursement for expenses pursuant to the volunteer recruitment and retention incentive program), a volunteer member of the Sheriff's reserve, any other volunteer who is not supervised or monitored by a County employee or Elected Official, a volunteer who has the authority to make

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decisions that affect County business, or a volunteer who has the ability to purchase goods or services with County resources.

Section Five. Conflicts of Interest, Disclosure. Subsection 10(A) ("Conflicts of Interest, Disclosure") of Ordinance No. 2010-12 shall be and hereby is amended, as follows:

"A. Elected Officials, Appointed Officials, Employees or Volunteers shall strictly avoid transactions and relationships that create a Conflict of Interest. Where a Conflict of Interest is unavoidable, the Elected Official, Appointed Official, Employee or Volunteer has an affirmative duty to disclose the Conflict of Interest and has an affirmative duty to subordinate the conflicting interest to the public interest."

Section Six. Prohibited Use of Campaign Funds. Subsection 20(C) ("Prohibited Use of Campaign Funds, payments to a member of the candidate's Immediate Family") of Ordinance No. 2010-12 shall be and hereby is amended, as follows:

"C. Campaign funds shall not be paid to a member of the Immediate Family of the candidate as an employee or for goods or services provided to the campaign unless the amounts paid do not exceed the fair market value of the goods or services provided."

Section Seven. County Ethics Board. Subsection 24(A) of Ordinance No. 2010-12 shall be and hereby is amended, as follows:

"A. There shall be created a Santa Fe County Ethics Board that shall consist of five members who shall be appointed by the Board of Commissioners. At least one citizen member shall be appointed; the citizen member shall not be affiliated with County government in any capacity, including, but not limited to, employment (including employment for which the salary is in any way funded by or through the County), appointment, election, or serving as a volunteer. The members of the County Ethics Board may not hold elected public office or office with any political party within the County. Each member shall serve a two year term, subject to reappointment thereafter."

Section Eight. County Ethics Board. Section 24 of Ordinance No. 2010-12 shall be and hereby is amended with the addition of the following subsections L, M and N:

"L. A member of the Ethics Board may be removed by the Board of County Commissioners for just cause;

"M. A vacancy on the Board shall be filled in the same manner as the initial appointment and the appointment shall continue for the remainder of the unexpired term of the departing Board member.

"N. Members of the Board shall not receive any salary or compensation for services."

Section Nine. Ex Parte Communications, Recusal. Subsection 27 of Ordinance No. 2010-12 shall be amended as follows:

"B. RECUSAL.

"1. An Elected Official or Appointed Official shall recuse himself or herself in any pending administrative adjudicatory matter in which the official is unable to make a fair and impartial decision or in which there is a reasonable doubt about whether the official can make a fair and impartial decision, including:

"a. when the official has a personal bias or prejudice concerning a party or its representative or has prejudged a disputed evidentiary fact. For the purposes of this paragraph, "personal bias or prejudice" means a predisposition toward a person based on a previous or ongoing relationship, including a professional, personal, familial or other intimate relationship, that renders the official unable to exercise his or her functions impartially;

"b. when the official or anyone living in the official's household has a pecuniary or Financial Interest in the outcome of the proceeding;

"c. when, during previous employment, the official served as an attorney, adviser, consultant or witness in the matter in controversy; or

"d. when the official announced how he or she would rule on the adjudicatory proceeding or a factual issue in the adjudicatory proceeding.

"2. The Elected Official or Appointed Official recusing himself or herself shall disclose the specific reason for a recusal contemporaneous with the recusal.

"3. An Elected Official or Appointed Official shall not be required to recuse himself or herself in any pending administrative adjudicatory matter merely because the official possesses and discusses general viewpoints on public policy that an application may raise. Similarly, an Elected Official shall not be required to recuse himself or herself in any pending administrative adjudicatory matter merely because the Elected Official made representations during a political campaign on viewpoints on public policy that an application may raise.

"4. If, prior to the hearing, an Elected Official or Appointed Official fails to recuse himself or herself when it appears that grounds exist, a party shall promptly notify the Elected Official or Appointed Official of the grounds for recusal. If Elected Official or Appointed Official declines to recuse

himself or herself upon request of a party, the official shall provide a full explanation in support of his refusal to recuse himself or herself.

"5. If, during the hearing, an Elected Official or Appointed Official fails to recuse himself or herself when it appears that grounds exist, a party shall promptly notify the Chair of the grounds for recusal. If the Elected Official or Appointed Official declines to recuse himself or herself, the Chair may entertain a motion to excuse the official from further participation in the matter. If the motion is successful, the official shall be excused from further participation in the matter."

Section Ten. Section 29 of Ordinance No. 2010-12 shall be and hereby is amended with an additional subparagraph 29(E), as follows:

"SECTION 29. PENALTIES.

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

"A. a fine of up to three hundred dollars (\$300.00) for each separate violation of this Ordinance;

"B. a public reprimand;

"C. a recommendation to the District Attorney that the violation be pursued in criminal or other proceedings;

"D. proceedings and penalties pursuant to the Santa Fe County Personnel Handbook, where appropriate; and

"E. a recommendation to the District Attorney that proceedings to remove the person from elected office be commenced pursuant to NMSA 1978, § 10-4-1 *et seq.* (1909, as amended)."

**THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY**

By: _____

Virginia Vigil, Chair

ATTEST:

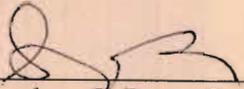
Valerie Espinoza

Santa Fe County
Clerk 4



Valerie Espinoza, Clerk

Approved as to form:



Stephen C. Ross, County Attorney



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COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

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I Hereby Certify That This Instrument Was Filed for
Record On The 9TH Day Of November, 2011 at 03:29:14 PM
And Was Duly Recorded as Instrument # **1650759**
Of The Records Of Santa Fe County

Deputy  _____
Witness By Hand And Seal Of Office
Valerie Espinoza
County Clerk, Santa Fe, NM