



Ordinance Number 2018-04

**An Ordinance Relating to the Promotion of the Ethical Conduct of Public Officials
within Roosevelt County and Addressing Interference by County Commissioners
or Other Elected Officials**

**BE IT ORDAINED BY THE GOVERNING BODY OF ROOSEVELT COUNTY,
WHICH IS THE COUNTY COMMISSION OF THE COUNTY OF ROOSEVELT,
NEW MEXICO**

Section 1. Authority

This ordinance is enacted under the authority of NMSA 1978, §§3-17-1, 4-37-1 and 10-16-11.1, and this ordinance shall be known as the Ethics Ordinance.

Section 2. Declaration of Policy

The proper operation of democratic government requires that elected and appointed officials and employees of local governments be independent, impartial and responsible to the people; that governmental decisions and policy be made in proper channels of the governmental structure; that public office or the pursuit of public office not be used for personal gains; that the public have confidence in the integrity of its government; and that, persons and businesses seeking to contract and contracting with the county abide by the requirements set out herein to prevent conflicts of interest and unfair contracting practices. To assist in attaining these goals, there is an established Ethics Ordinance for all elected and appointed officials, and employees of county government, including members of boards, committees and commissions (hereinafter "public servants"). The purpose of this ordinance is to establish standards of conduct for all public servants, by setting forth those acts or actions which are incompatible with the best interest of the county and by requiring such public servants to disclose personal interest, financial or otherwise, in matters affecting the county. It is the further purpose of this ordinance to protect county employees from undue influence, threats or fear of threat or reprisal with respect to the exercise of their constitutional right to support candidates of their choice. The Ethics Ordinance is in addition to the personnel rules and regulations of Roosevelt County.

This ordinance is promulgated under the county's authority to regulate the conduct of public servants under its control and contractors doing business with the county and prospective contractors. The penalties and remedies are not exclusive, and are complementary to other standards of conduct, including criminal prohibitions, and New Mexico's Governmental Conduct Act, NMSA 1978, § 10-16-1 et seq., which apply to individuals covered by this ordinance. The penalties under the Governmental Conduct Act may be more stringent than this ordinance. Nothing herein shall preempt or prevent law enforcement or other governmental jurisdictions to investigate or pursue penalties for the same course of behavior prohibited under this ordinance.

Section 3. Responsibility of Public Office

Public servants hold office, employment for the benefit of the public. They are bound to uphold the constitution of the United States and the New Mexico Constitution; to observe the highest standards of law in the exercise of the powers and duties of their office; to impartially carry out the laws of the nation, state and county; to discharge faithfully the duties of their office regardless of personal considerations; and to recognize that the public interest must be their prime concern.

Public servants have the common obligation of serving the public. In performing their duties, public servants shall treat the public and each other with respect, concern, and responsiveness, recognizing that their common goal of exceptional public service can only be achieved by working together. Disputes that arise among public servants shall be resolved at the lowest



possible level; keeping in mind that public money spent on resolving these disputes is money not spent on important public needs.

Section 4. Definitions

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- a) **Business:** a corporation, partnership, sole proprietorship, firm, organization or individual carrying on a business;
- b) **Commission:** the Board of County Commissioners
- c) **Contract:** an agreement or transaction having a value of more than one thousand dollars (\$1,000.00) with the County of Roosevelt for:
 - 1. The rendition of services, including professional services; or
 - 2. The furnishing of any material, supplies or equipment; or
 - 3. The construction, alteration or repair of any public building or public work; or
 - 4. The acquisition, sale or lease of any land or building; or
 - 5. A licensing arrangement; or
 - 6. A loan or loan guarantee; or
 - 7. The purchase of financial securities or instruments.
- d) **County Manager** – the person who shall be responsible to the Board of County Commissioners for the efficient administration of all the affairs of the County believing it to be in the best interest of the County to obtain a professional manager to provide for continuity and efficiency in the administration of county affairs the Board of Commissioners has delegated executive responsibilities and powers to the County Manager.
- e) **Domestic partners:** two adults, capable of consent that have chosen to share one another's lives in an intimate and committed relationship of mutual caring, where both persons have a common residence, and neither person is married to someone else or is a member of another domestic partnership with someone else that has not been terminated, dissolved or adjudged a nullity.

The two persons are at least eighteen (18) years of age and not related by blood in a way that would prevent them from being married to each other in this state. A "common residence" means that both domestic partners share a common residence. It is not necessary that the legal right to possess the common residence be in both of their names. Two people have a common residence even if one or both have additional residences. Domestic partners do not cease to have a common residence if one leaves the common residence but intends to return.
- f) **Elected official:** the members of the Board of County Commissioners, Sheriff, Treasurer, Assessor, Clerk and Probate Judge.
- g) **Employee:** all persons filling an allocated position of County employment, including appointees of a Commission, the Board of County Commissioners, or any other elected official.
- h) **Employment:** rendering of services for compensation in the form of salary as an employee.
- i) **Family member:** an individual's spouse, parents, children or siblings, by consanguinity or affinity and includes an individual's domestic partner.
- j) **Financial Services:** as defined in the County's Investment and Deposit Policy, and pursuant to State law.
- k) **Financial interest or substantial financial interest:** an interest held by an individual or the individual's family that is:
 - 1. An ownership interest in business or property greater than twenty (20) percent; or
 - 2. Any employment or prospective employment for which negotiations have already begun.
- l) **Gift:** any money, property, real property, personal property, service, license, permit, contract, authorization, loan, travel, entertainment, food, hospitality, gratuity, or any promise of these, or anything of value that is received or given without equivalent consideration or compensation. For purposes of this ordinance, "gift" does not include:
 - 1. Opportunities, benefits, and services that are available on the same conditions as for the general public;
 - 2. Anything for which the elected or appointed official, employee, or his or her spouse, or family members pays the market value;



3. Any (i) contribution that is lawfully made and reported in accordance with the election ordinance, or (ii) activities associated with a fundraising event in support of a political organization or candidate, unless otherwise prohibited by this ordinance;
 4. An award, plaque, certificate, or similar personalized item given in recognition of the official's public, civic, charitable, or professional service;
 5. An honorary membership in a service or fraternal organization presented merely as a courtesy by such organization;
 6. The use of a public facility or public property made available by a governmental agency for a public purpose;
 7. Gifts provided directly or indirectly by a state, regional or national organization whose primary purpose is the promotion of the exchange of ideas between governmental officials or employees or to provide for the professional development or training of such governmental officials or employees;
 8. Any gift accepted on behalf of and to be used by the County for the costs of attending public meetings or conferences where elected or appointed officials or employees are attending as part of their official duties, including local events and the costs of travel and related expenses associated with attending such events outside of the County;
 9. Any gift given by a family member for personal reasons; and
 10. Food or beverage with a value under twenty-five dollars (\$25.00) per person.
- m) Official act:** an official decision, recommendation, approval, disapproval or other action that involves the use of discretionary authority.
- n) Person:** any individual, corporation, partnership, joint venture, association or business organization.
- o) Political activity:**
1. Preparing for, organizing or participating in any political meeting, political rally, political demonstration or other political event;
 2. Soliciting contributions on behalf of a political candidate or political party including, but not limited to, the purchase of, selling, distributing, or receiving payments for tickets for any political fundraiser, political meeting or other political event;
 3. Soliciting, planning the solicitation of, or preparing any document or report regarding anything of value intended as a political contribution;
 4. Soliciting votes on behalf of a candidate for elective office or a political organization;
 5. Initiating for circulation, preparing, circulating, reviewing or filing any petition on behalf of a candidate for elective office;
 6. Preparing or reviewing responses to candidate questionnaires in connection with a campaign for elective office or for or against any referendum question;
 7. Campaigning for any elective office;
 8. Managing or working on a campaign for elective office; or
 9. Preparation or design of any campaign materials or any form of media for a candidate for elective office.
- p) Privileged or confidential information:** any written or oral material, or electronic data or media related to County government which had not become part of the body of public information and which is designated by statute, rule, court decision, lawful order, ordinance, resolution or custom as privileged, confidential or exempt from disclosure pursuant to the New Mexico Inspection of Public Records Act.
- q) Public servant:** elected or appointed officials, employees of Roosevelt County as those terms are defined herein.
- r) Restricted donor:** any person or entity who:
1. Is seeking official action (i) by an elected or appointed official, or (ii) in the case of an employee by the employee or by an elected or appointed official, a County department or an employee's supervisor. Such official actions shall include, but are not limited to, the decisions regarding legislation, employment decisions, contract approval, approval of permits or development plans or any other action or decision that is discretionary with an elected or appointed official or employee;
 2. Does business with or seeks to do business (i) with the Commission, the County, an elected or appointed official, or (ii) in the case of an employee, with an employee or his/her department, elected office or an employee's supervisor;
 3. Conducts activities regulated (i) by an elected or appointed official or (ii) in the case of an employee, with the employee or his/her department or the employee's supervisor.
- s) Standards:** the conduct required by the Ethics Ordinance.

Section 5. County Manager – Powers, duties and responsibilities

The County Manager shall be responsible to the Board of County Commission for the efficient administration of all of the affairs of the County. He/she shall have the power and it shall be his/her duty to:

- a) Carry out the directives and policies of the Commission as its administrative assistant and enforce all orders, resolutions, ordinances and regulations of the Commission and exercise all executive authority;
- b) Select, appoint, direct the work of, discipline or remove, all subordinate of the County, subject to the terms of the personnel ordinance or;
- c) To exercise control over all departments in the County government;
- d) Report annually to the Commission and to the citizens of the County of Roosevelt, the work of the previous year, recommendations for action or programs for improvement of the County, and the welfare of the residents;
- e) Prepare and submit the annual budget and capital programs to the Commission and executes the budget and capital programs in accordance with the appropriations and ordinances enacted by the commission;
- f) Ensure that all ordinances, resolutions and orders of the Commission and all the laws of the State which are subject to enforcement by the County Manager, or by staff who are delegated authority by the County Manager, are faithfully executed;
- g) Carries into execution such other powers or duties as required by the Commission, this Code, and NMSA 1978 §4-38-19.

Section 6. Standards of conduct

- a) General ethical standards of public service.
 1. Public servants shall treat their position as a public trust, with a fiduciary duty to use the powers and resources of public office only to advance the public interest and not to obtain personal benefits or pursue private interests.
 2. Public servants shall conduct themselves in a manner that justifies the confidence placed in them by the people, at all times maintaining the integrity and discharging ethically the high responsibilities of public service.
 3. Full disclosure of real or potential conflicts of interest shall be a guiding principle for determining appropriate conduct. At all times, reasonable efforts shall be made to avoid undue influence and abuse of office in public service.
 4. No public servant may request or receive, and no person may offer any money, thing of value or promise thereof, other than any County pay received, that is conditioned upon or given in exchange for promised performance of an official act.
 5. All elected and appointed officials and employees are expected to discharge their just financial obligations, especially those such as Federal, state or local taxes. Elected and appointed officials and employees are also expected to honor all other valid debts, including personal commercial debts, Government contractor-issued credit card debts, and claims based on court judgments, including Federally insured student loans and tax delinquencies, and to make and adhere to arrangements for settlement of debts.
 6. Elected officials and employees shall treat each other with the utmost respect, decorum, and fairness at all times, including during public discourse of conflicting views.
 7. The Chairperson of the Commission shall ensure that members of the public treat elected officials and employees with respect at all times, including during public discourse of conflicting views.
 8. Elected officials and employees recognize that the Commission operates as a body politic and corporate and that one elected official, employee, or agent cannot bind the County without specific delegation of authority by the Board. (NMSA § 4-38-1)
- b) Improper influence. No public servant shall make, participate in making or in any way attempt to use his or her position to influence any County governmental decision or action in which he knows, he or she has reason to know, or should know that he or she has any substantial interest. No Commissioner shall make, participate in making or in any way attempt to use his or her position to influence any hiring decision or other

decision regarding employment for any County employee; except for appointee of the Commissioners, which is the County Manager. The prohibition does not prohibit:

1. A County Commissioner from being listed as a reference for an applicant seeking employment with the County; or
2. A County Commissioner from participating in and making comments during any concurrence process related to the selection of the human resources director; or
3. A County Commissioner raising his or her concerns regarding the performance or conduct of a department director with the County Manager, or stating his or her satisfaction, dissatisfaction, compliment, criticism or concern regarding the actions of a department director privately; or
4. A County Commissioner notifying the County Manager or County Attorney, in a confidential communication, of allegations of poor employee performance or employee misconduct and requesting appropriate investigation and action if found by the County Manager to be warranted.

c) Commissioner interference.

1. It is the intention of this section that the Commission shall act in all matters as a body, and it is against the spirit of this ordinance for any of its members to seek to influence the official acts of the County Manager, or any employee under the jurisdiction of the County Manager, or to interfere in any way with the performance of employees under the jurisdiction of the County Manager in the performance of their duties.
2. No individual Commissioner shall order or direct the appointment of any person, except as specifically authorized by State law or county ordinance, to employment or removal there from by the County Manager or department head.
3. No individual Commissioner shall give orders or directives to any subordinates of the County Manager.
4. The Board of County Commissioners employs a County Manager to handle the day-to-day business and general management of the County. All County Elected Officials and employees shall follow the established chain of command; however, it is recognized that for informational purposes only, dialogue between employees and Board members may be necessary.

Notwithstanding this need, there shall not be any ex parte communications from employees to the Commission or individual Commissioners. The Commission shall encourage the development, implementation, and enforcement of responsible policies and procedures for efficient operation by the County management staff. (NMSA § 4-38-19)

5. The Commissioner who serves as the Board's Chairperson has certain duties and authority distinct from the other Commissioners. These are: to open all meetings of the Commission, call the members to order, announce all business on the agenda and put same to a vote when required to maintain/enforce order and decorum among members of the Commission; to sign documents on behalf of the Commission; to administer oaths to any person concerning any matter submitted to the Commission or connected with its powers and duties; and to sign all orders on the County Treasury and County documents, as authorized by a majority of the Commission. (NMSA §4-38-11) unless specifically delegated to the Chairperson of the Commission, the Chairperson has no more authority than any other member.
6. Commissioners shall deal with employees under the jurisdiction of the County Manager solely through the County Manager except:
 - a. For matters related to a direct request from a Commissioner by a constituent related to an issue related to that Commissioner's district (e.g. repair of pothole or road maintenance need within the Commissioner's district. In the event of this situation the Commissioner may directly contact an employee under the jurisdiction of the County Manager to request assistance for the constituent. However, the Commissioner shall not direct the means, manner or method for resolving the dispute or demand resolution within a set timeframe). The Commissioner shall inform the County Manager if the corrective action is not satisfactory;
 - b. In connection with an investigation being conducted by the Commission and the Commissioner contacting an employee under the jurisdiction of the County Manager, and has been delegated by a majority vote of the Commission to head the investigation;



- c. In connection with the procurement of goods or services only when the Commissioner has been appointed by a majority vote of the Commission to serve on the selection committee;
 - d. In connection with the hiring process of the County Manager;
 - e. For routine requests for information and inquiries where staff is asked for information that is readily available to the general public on a regular basis;
 - f. For non-routine requests for readily available information where staff is asked to gather readily available information that may not be routinely requested by the general public (e.g. How many miles of County Maintain Roadways are in the unincorporated area of the County?);
 - g. Non-routine requests requiring special effort where staff is required to compile information that is not readily available or easily retrievable and/or that requests staff to express an opinion (legal or otherwise). These requests should ordinarily be directed to the County Manager or County Attorney, as appropriate. However, circumstances may dictate the need to contact staff directly to handle the requests and in such case the request shall be submitted by email and a copy sent to the County Manager and County Attorney. The County Manager shall be responsible for distributing such requests to his/her staff for follow-up. Responses to such requests shall be copied to all members of the Commission and shall include the name of the member of the board making the request;
 - h. Any request made by a Commissioner to the County Attorney through an attorney-client communication shall not be subject to the procedure listed in subpart (g) above;
7. Commissioners shall not direct the work of employees of the County except through policy that is established by ordinances and resolutions adopted by the Board of County Commissioners. It is the responsibility solely of the County Manager to assign and direct the work of County employees. It is recognized that only the County Manager; and, at times, the County Attorney, report directly to the Commission.
 8. Any County employee or Elected Official who has information that a Commissioner has, or may have, violated a provision of this ordinance, shall report the violation to the chair of the Board of Review who shall process the complaint pursuant to the procedures listed below and the rules and regulations of the Board of Review.
 9. No individual Commissioner shall speak publicly on behalf of the County without prior Commission authorization.
 10. No individual Commissioner shall seek to bind the County to any contract or commitment without prior Commission authorization.
 11. Commissioners shall adhere to the appropriate chain of command in investigating employee or citizen complaints.
 12. Strictly uphold the requirements of any closed executive session, and respect the privileged nature of all communications that occur in any closed executive session.
- d) Prohibited bidding and contracting.**
1. No public servant shall accept a bid or proposal from a person who directly participated in the preparation of the specification, qualifications or evaluation criteria on which the specific competitive bid or proposal was based.
 2. No public servant shall attempt to influence the process or outcome of a competitive bid, proposal or request for a proposal, unless formally or specifically appointed to participate in the bid or proposal process; or by virtue of their job duties has the authority to advise or take action on a specific bid or proposal.
 3. No elected or appointed official or employee shall enter into contracts or obtain financial interests with a person or business that are, or are attempting to have business with the County.
 4. No public servant who participated, directly or indirectly in a County procurement process shall seek employment, be an employee, or receive any financial consideration from a person or business contracting or seeking to contract with the County.
 5. No public servant shall enter into contracts with, or take any action favorably affecting, any person or business that is represented in the matter by a person who



has been an elected or appointed official or employee of the County within the preceding year.

6. No person or business who is doing business with the County or seeking to do business with the County shall attempt to influence the outcome of a bid process by contacting any public servant about a bid or proposal process. However, contacting the Certified Procurement Officer is permissible as part of the bid or proposal process. Persons or businesses doing business or seeking to do business with the County shall be required to comply with the provisions of this Ethics Ordinance as they apply to their interactions with the County and any violation of the Ethics Ordinance requirements are hereby found to be a breach of a County contract they hold and shall be grounds for rejection of any bid or proposal.
- e) Receiving and soliciting gifts.
1. Restrictions. No public servant shall intentionally solicit or accept a gift or gifts with a market value greater than one-hundred dollars (\$100.00) from any restricted donor within a calendar year. No public servant shall intentionally solicit or accept a gift or gifts in violation of any federal or state statute or regulation, or any County ordinance, rule or regulation. This ban applies to and includes family members of the elected or appointed official, employee. No restricted donor shall intentionally offer or make a gift that violates this restriction. Any public servant who accepts a gift subject to the conditions of this section shall not allow receipt of the gift to influence in any way the execution or integrity of their official actions or decisions.
 2. Disclosure. All gifts accepted by a public servant from a restricted donor, regardless of their value, shall be reported on an annual basis to the County Manager on a form approved by the Board of Review and in compliance with any requirements imposed by the County Clerk's office for the filing of reports. The report shall include the market value of the gift, the name of the person(s) providing the gift, and the date the gift was received. Gifts of food and refreshments may be reported in estimated value if above twenty-five dollars (\$25.00) in market value.
- f) County-owned property. No public servant shall engage in or permit the unauthorized use of County-owned property for any political activity or in violation of any County policy.
- g) Use or disclosure of privileged or confidential information. No public servant shall use or disclose privileged or confidential information gained in the course of or by reasons of his or her position or employment, other than; (i) in the performance of his or her official duties; (ii) as may be required by law; or (iii) as permitted by this Ethics Ordinance.
- h) Conflicts of interest.
1. Official act for personal financial interest.
 - a. It is unlawful for public servant to take an official act for the primary purpose of directly enhancing or improving their financial interest or financial position.
 - b. A public servant shall be disqualified from engaging in any official act directly affecting their or their family members' substantial financial interest.
 - c. No elected or appointed official during the term for which elected or appointed employee during the period of their service shall acquire a substantial financial interest when they believe or should have reason to believe that the new substantial financial interest will be directly affected by the officer's or employee's official act.
 2. No public servant shall make, or participate in making, any County governmental decisions with respect to any matter in which the public servant or their family member has any substantial financial interest.
 3. Any employee who has a conflict of interest as described in subsections (1) and (2) above shall advise his or her supervisor of the conflict or potential conflict in writing. The immediate supervisor may ask for guidance on the nature of the potential conflict from the County Manager or County Attorney, if it is determined there is a conflict the supervisor shall either:
 - a. Assign the matter to another employee; or
 - b. Require the employee to eliminate the substantial interest giving rise to the conflict and only thereafter shall the employee continue to participate in the matter.



- c. It shall not be considered a violation of this Ethics Ordinance where an employee timely discloses his or her potential conflict of interest and complies with the direction of his or her supervisor.
 4. Any public servant, while acting in a quasi-judicial, legislative or adjudicative role, shall disclose the potential conflict of interest and shall disqualify themselves from participating in any official act, including any substantive discussion or vote. Any elected or appointed official may ask guidance on potential conflicts of interests from the County Attorney.
 5. Interest in County business.
 - a. No public servant shall have any substantial financial interest in his or her own name, or in the name of any other, in any contract, work or business of the County or in the sale of any article, whenever the expense, price or consideration of the contract, work, business or sale is paid with funds belonging to or administered by the County. Compensation for property taken pursuant to the County's eminent domain power shall not constitute a substantial interest within the meaning of this section if sold pursuant to a process of competitive bidding following public notice. No public servant shall have a substantial financial interest in the purchase of any property that; (i) belongs to the County; or (ii) is sold for taxes or assessment; or (iii) is sold by virtue of legal process at the suit of the County.
 - b. For purposes of subsection (a), "substantial financial interest" shall not include the interest of the spouse of a public servant which interest is related to the independent occupation, profession or employment of the spouse.
 - c. The County shall not enter into a contract with a public servant or with their family or with a business in which they or their family has a substantial interest unless the public servant has disclosed through public notice to the County Clerk their substantial interest and unless the contract is awarded pursuant to a competitive process; provided that this section does not apply to salary for the elected office or employee compensation by the county. A person negotiating or executing a contract on behalf of the County shall exercise due diligence to ensure compliance with the provisions of this section.
 - i) Political activity.
 1. No public servant shall compel, coerce or intimidate any elected or appointed official, or employee to make, or refrain from making, any political contribution. No public servant shall directly solicit any political contribution from County employees or immediate family of County employees. Nothing in this subsection shall be construed to prevent any public servant from voluntarily making a contribution or receiving a voluntary contribution.
 2. No elected or appointed official shall accept any campaign contribution in excess of twenty-six hundred dollars (\$2,600.00), per primary, general or special election, from any restricted donor or in violation of any federal or state statute or regulation, or any County ordinance, rule or regulation. This ban applies to and includes immediate family members of the restricted donor. No restricted donor shall offer or make a contribution that violates this ordinance. No elected or appointed official shall accept a campaign contribution from an individual or group of individuals when the elected or appointed official knows, or has reason to believe, that the original source of the campaign contribution was a restricted donor.
 3. No employee with contract management authority or property management authority shall serve as a paid political consultant or as a member of the political fundraising committee of any elected or appointed official or candidate for federal, state, city or County office.
 4. No employee shall be permitted to serve as a paid campaign consultant, paid campaign treasurer or paid campaign manager for a candidate for federal, state, city or county office. No employee shall be permitted to receive more than \$250.00 in reimbursement from any political campaign or political candidate, in any 12-month period.
 5. County employees shall not perform any political activity while at work and during any compensated time, other than annual leave, personal leave, holidays or other time off. Public servants shall not use any County property or resources for any political activity for the benefit of any campaign for elective office or any political organization.



6. At no time shall any public servant solicit or require any employee to perform any political activity; (i) as part of the employee's County duties; (ii) as a condition of County employment; or (iii) during any time off that is compensated by the County (such as annual leave, personal leave or holidays).
 7. At no time shall any public servant; (i) threaten to deny a promotion or pay increase to a County employee who does or does not vote for certain candidates; (ii) require an employee to contribute a percentage of the employee's pay to a political fund; (iii) influence a subordinate employee to purchase a ticket to a political fundraising dinner or similar event; or, (iv) advise an employee to take part in political activity or similar activities.
 8. No County employee shall be directly or indirectly coerced or attempt to coerce another County employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for a political purpose;
 9. A County employee shall not be awarded any additional compensation or employment benefit in the form of a salary adjustment, promotion, or continued employment in consideration for the employee's participation in any political activity.
 10. Nothing in this section prohibits activities that are otherwise appropriate for a County employee to engage in as a part of his official County employment duties or activities that are undertaken by an employee on a voluntary basis as permitted by law.
- j) Honoraria.** No public servant may request or receive an honorarium for a speech or service rendered that relates to the performance of public duties. For the purposes of this section, "honorarium" means payment of money, or any other thing of value in excess of one hundred dollars (\$100.00), but does not include reasonable reimbursement for meals, lodging or actual travel expenses incurred in making the speech or rendering the service, or payment or compensation for services rendered in the normal course of a private business pursuit.
- k) Outside Employment.** An employee shall strictly comply with the Roosevelt County Personnel Ordinance, Section 6E, Conflict of Outside Employment before assuming any employment outside of the work performed for Roosevelt County.
- l) Prohibited employment.** It is unlawful for an employee who is participating directly or indirectly in the contracting process to become or to be, an employee or contractor for any person or business contracting with the County.
- m) Prohibited sales.**
1. An elected or appointed official or employee shall not sell, offer to sell, coerce the sale of or be a party to a transaction to sell goods, services, construction or items of tangible personal property directly or indirectly through their family or a business in which the elected or appointed official or employee has a substantial interest, to an employee supervised by the elected or appointed official or employee. An elected or appointed official or employee shall not receive a commission or shall not profit from the sale or a transaction to sell goods, services, construction or items of tangible personal property to an employee supervised by the elected or appointed official or employee. The provisions of this subsection shall not apply if the supervised employee initiates the sale. It is not a violation of this subsection if an elected or appointed official or employee, in good faith, is not aware that the employee to whom the goods, services, construction or items of tangible personal property are being sold is under their supervision.
 2. An elected or appointed official or employee shall not sell, offer to sell, coerce the sale of or be a party to a transaction to sell goods, services, construction or items of tangible personal property, directly or indirectly through their family or a business in which the public officer or employee has a substantial interest, to a person over whom the elected or appointed official or employee has regulatory authority.
 3. An elected or appointed official or employee shall not receive a commission or profit from the sale or a transaction to sell goods, services, construction or items of tangible personal property to a person over whom they have regulatory authority.
 4. An elected or appointed official or employee shall not accept from a person over whom they have regulatory authority an offer of employment or an offer of a contract in which the elected or appointed official or employee provides goods, services, construction, items of tangible personal property or other things of value to the person over whom they have regulatory authority.



- n) Prohibited contributions; financial service contractors.
 - 1. A business that contracts with the County to provide financial services involving the investment of public money or issuance of bonds for public projects shall not knowingly contribute anything of value to an elected or appointed official or employee of the County who has authority over the investment of public money or issuance of bonds, the revenue of which is used for public projects.
 - 2. An elected or appointed official or employee of the County that has authority over the investment of public money or issuance of bonds, the revenue of which is used for public projects, shall not knowingly accept a contribution of anything of value from a business that contracts with the County to provide financial services involving the investment of public money or issuance of bonds for public projects.
 - 3. For the purposes of this section:
 - a. "Anything of value" means any gift as prohibited by the Ethics Ordinance.
 - b. "Contribution" means a donation or transfer to a recipient for the personal use of the recipient, without commensurate consideration.
- o) Contracts involving former elected or appointed officials and employees.
 - 1. The County shall not enter into a contract with, or take any action favorably affecting, any person or business that is:
 - a. Represented personally in the matter by a person who has been an elected or appointed official or employee of the County within the preceding year if the value of the contract or action is in excess of \$1,000.00 and the contract is a direct result of an official act by the elected or appointed official or employee; or
 - b. Assisted in the transaction by a former elected or appointed official or employee of the County whose official act, while in County employment, directly resulted in the County's making that contract or taking that action; or
 - c. A former public officer or employee shall not represent a person in the person's dealings with the County on a matter in which the former public officer or employee participated personally and substantially while a public officer or employee.
 - 2. For a period of one year after leaving County service or employment, a former elected or appointed official or employee shall not represent for pay a person before the County.

Section 7. – Elected Officials Duties.

- a) The County Assessor, Clerk, Sheriff, and Treasurer shall advise the Board of County Commissions through the County Manager on all matters concerning their respective offices, to include suggestions and recommendations for more efficient administration of County finances, government, or other functions. Cooperation between the various elected officials in the exercise of their respective official duties shall be in the goal, and in the event one or several elected officials fail or neglect to cooperate in exercising their respective duties, to the detriment of efficiency in County government, mediation will be sought.
- b) Elected Officials, Department heads, managers, and supervisors in all County offices shall build and maintain a culture of compliance with laws and rules by:
- c) Leading by following the County professionalism expectations and leadership models, using their behavior as a model for all employees.
- d) Encouraging employees to bring forth questions and concerns relating to the operation of the County government without fear of retaliation.
- e) Ensuring that all employees' complete training and needed updates related to their work and compliance.
- f) Applying appropriate and consistent disciplinary action in accordance with the most current Personnel Policy Ordinance.



Section 8. - Ethics Board.

- a) There shall be a Roosevelt County Ethics Board (hereinafter "Ethics Board" and/or Board of Review) which shall consist of five members, and five alternates who shall be appointed by the Board of County Commissioners, with each Commissioner appointing one member, and one alternate from his or her commission district. The citizen members 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 or election. The members of the Ethics Board may not hold elected public office or office with any political party within the County. Terms of office of citizens shall be two years, subject to reappointment thereafter. An incumbent member shall serve the full term unless he/she resigns or is removed for cause under the terms of this section. When a vacancy occurs due to the expiration of the term of a member, that incumbent member shall serve until re-appointed or replaced under the terms of this section. Vacancies filled by appointment during the term of a member shall be for the unexpired term only. If the Commissioner fails to make a recommendation within 60 days after the vacancy occurs, the Commission shall appoint an individual to fill that vacancy as soon as possible. On such occasions, the appointee(s) of the board shall reside within the commission district that has the vacancy,
- b) The Ethics Board shall elect its own chair and vice-chair subject to the rules and procedures adopted by the Ethics Board. The Ethics Board shall sit as a quasi-judicial body when it acts upon complaints submitted to it by the County Manager, (unless the complaint has been filed against the Manager, which in such instance the complaint shall be referred by the County Attorney). The alternate members shall be called upon by the chair when a hearing is set and a member of the board is unavailable. Any member whom misses three consecutive meetings, unexcused by the chair, shall be deemed to have resigned from the board and may be replaced by the presently serving Commissioner. Members may attend non-quasi-judicial hearings by phone.
- c) The jurisdiction of the Ethics Board is limited to acting within the scope of matters covered by this ordinance.
- d) The Ethics Board shall adopt rules of procedure for conducting due process hearings with the help of the County Attorney. The rules of procedure shall be consistent with the rules for conducting administrative hearings in the State of New Mexico.
- e) The Ethics Board shall have the power to issue administrative subpoenas compelling the attendance of witnesses at hearings and the production of documents, and the authority to seek enforcement of those subpoenas by the Ninth Judicial District Court.
- f) If the Ethics Board finds that an unclassified employee violated this ordinance, the Ethics Board, upon a majority vote of a quorum of the board, shall forward its written findings of fact and conclusions of law to the County Manager for appropriate action. If the complaint involves the County Manager or County Attorney the board shall refer the violation and written findings of fact and conclusions of law to the Commission.
- g) If the Ethics Board finds, upon a majority vote of a quorum of the board, that an elected or appointed official has violated this Ethics Ordinance, the Ethics Board may impose any of the following penalties after the entry of written findings of fact and conclusions of law:
1. A civil fine not to exceed \$300.00 or amount currently allowed by law; or
 2. Proceedings or penalties pursuant to the County Personnel Ordinance, where appropriate;
 3. A written finding of censure; and
 4. When an elected or appointed official has committed an act that the board believes could be grounds for removal from office, refer their decision to the district attorney or attorney general.
- h) Limitations on complaints:
1. Complaints filed more than one year after a violation of this ordinance is alleged to have occurred shall be dismissed as untimely;
 2. All complaints submitted shall be resolved, determined, or dismissed by the Ethics Board within 90 days from the submission of the complaint. If the complaint is not resolved within 90 days, the complaint shall be dismissed, unless delayed by order of the Ethics Board upon a showing of good cause; and
 3. Complaints regarding elected officials that are running for an elected office cannot be filed from sixty days prior to the primary election until the date of the primary



election and cannot be filed from sixty days prior to the general election until the date of the general election.

- i) All penalties contained herein are non-exclusive, and do not foreclose other remedies available by law. The County reserves the right to refer any conduct, whether covered by the Ethics Ordinance or not, to any agency or law enforcement agency with competent jurisdiction for criminal or civil prosecution.
- j) Ethics Board. Additional duties and authority:
In addition to acting on complaints and conducting due process hearings, the Ethics Board may also:
 - 1. Recommend amendments to the Ethics Ordinance to the Commission;
 - 2. Provide advisory opinions regarding the applicability or interpretation of any provision of this Ethics Ordinance upon the request of any contractor or public servant. It shall be a complete defense to any complaint where a contractor or public servant asked the Ethics Board for an advisory opinion prior to taking any action prohibited by this ordinance, and complied with the advice of the Ethics Board.
 - 3. The Ethics Board shall meet at least once per year, and more often when necessary, to hear cases, act on reports, issue advisory opinions, discuss policy, and/or approve the annual report. The Ethics Board shall provide the Commission with an annual report stating the number of complaints that were submitted alleging a violation of the ethics ordinance, the number of complaints submitted to the Ethics Board and a summary of the status of each complaint to include the date of the complaint date for the case to be heard, and date for possible final action. The annual status report must be approved by the Ethics Board and made available to the public on the County's website.

Section 9. - Reporting violations of the Ethics Ordinance.

- a) Any person who has reason to believe the Ethics Ordinance has been violated may report the suspected violation in the following manner:
 - 1. By submitting to the County Attorney, a sworn and signed complaint alleging facts which, if true, would constitute a violation of the ordinance. The sworn complaint must identify the specific section(s) of the ordinance allegedly violated and the facts that support such a violation. The complaint must include the complainant's name and contact information. The mailing address, contact information and direct e-mail link to the County Attorney posted on the County's website.
 - 2. Upon receipt of the sworn complaint, the County Attorney shall refer it to the chair of the Ethics Board within three business days.
 - 3. The chair may schedule a preliminary hearing for the Board of Review to determine whether the allegations in the complaint, if taken as true, would constitute a violation of the Ethics Ordinance, and the complaint is properly heard by the Ethics Board. In the event that a complaint involves either a de minimis violation, a matter previously decided by the board, or a matter that has been cured or resolved subsequent to the filing of the complaint, the board, pursuant to rules adopted for this purpose, may dispose of a complaint in a summary fashion either before or after conducting a preliminary hearing. Classified County employees are governed by the policies and procedures of Roosevelt County. Complaints alleging a violation by a classified County employee shall be referred by the County Attorney office immediately upon receipt directly to the County Manager or County Attorney for disposition as an employee disciplinary matter.
 - 4. If necessary, the County Attorney shall also refer the complaint to the district attorney, attorney general, or appropriate law enforcement agency to review the matter for potential criminal conduct.
 - 5. The Ethics Board shall issue a preliminary order that:
 - a. Dismisses the complaint if it does not state a claim under the ordinance, or if it is not properly heard by the Ethics Board and refers the complaint to the County Attorney for handling outside of the ordinance; or
 - b. Holds the case in abeyance while the case is reviewed for potential criminal conduct; or
 - c. Determines that the complaint states a factual claim; schedules the case for an evidentiary hearing and establishes a prehearing schedule; or



- d. Finds that the allegations require an independent investigation before an evidentiary hearing is held, and sends the case to the County Manager, (unless the complaint has been filed against the Manager, which in such instance the complaint shall be referred to the County Attorney) with specific instructions on what investigation the board determines to be necessary.

Section 10 - Right of appeal

Any decision of the Ethics Board finding a violation of this ordinance, with respect to an elected or appointed official may be appealed to the Ninth Judicial District Court pursuant to §39.3.1.1, NMSA. Any decision regarding an employee shall be covered by the terms of the Roosevelt Personnel Ordinance.

Section 11. - Nonretaliation.

The Commission does not tolerate retaliation against any person who has reported a violation of this ordinance or of other County ordinances or state laws when made in good faith. This nonretaliation provision applies whether the complaint is ultimately determined to be well founded or unfounded. All County personnel and elected or appointed officials are specifically prohibited from taking any adverse employment action or other retaliatory action against anyone in retaliation for reporting a good faith claim of violation. Anyone who feels that they have been retaliated against in violation of this policy should submit a sworn complaint to the Ethics Board setting forth the claim of retaliation.

A complainant's report of facts may be regarded as being covered by the Whistleblower Protection Act, NMSA 1978, 10-16(c)-1, et seq., and the County shall not retaliate against a complainant for filing a complaint. However, in regard to County employees, merely filing a complaint shall not provide immunity, or protection from County actions related to the complainant's own misconduct, poor job performance, a reduction in work force or other legitimate business purpose. The County reserves the right to act in the public interest in balancing the rights of complainant to bring forward charges of misconduct while maintaining orderly and efficient operations of County government.

If the Ethics Board finds that a complaint for violation of the ordinance submitted by an employee is without merit and was made with an intent to harm, harass or intimidate the subject of the complaint, it shall refer the complaint to the County Manager for review for proposed disciplinary action.

For complaints of violations not covered by the ordinance found to be without merit, the County Manager and the County Attorney may determine if a complaint was made with the intent to harm, harass or intimidate the subject and may take disciplinary action, or other appropriate action.

Section 12. – Implementation and Training on the Ethics Ordinance

Training and implementation of the Ordinance includes advising all County Elected Officials, employees at least annually of the Governmental Conduct Act and this Code of Ethics Ordinance, along with the following:

- A. The County Manager shall ensure that each newly elected official and employee is given a copy of the Ethics Ordinance.
- B. All public servants shall attend training which shall be provided by the County for a minimum of two (2) hours of ethics continuing education and training bi-annually.
- C. Within thirty (30) days after this general Code of Ethics is adopted, it shall be given to each County employee and elected official; and, reviewed with all elected officials and department heads. Within the next thirty (30) days after receiving the Code of Ethics, each elected official and department head shall have a meeting with their employees to discuss the provisions of the same. All new public officers and employees of the County shall review the Code of Ethics at the time of entering service; and, prior to or at the time of being hired, each employee shall review Section 5, 6, 7, and 8 and all subparts.



Section 13. – Penalties

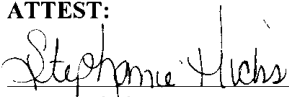
A person who violates this Ordinance is guilty of a misdemeanor and is subject to one or more of the following:

- 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; and
- D. Proceedings and penalties pursuant to the Roosevelt County Personnel Ordinance, where appropriate.

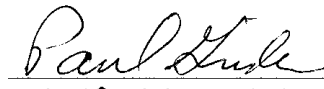
ADOPTED BY THE GOVERNING BODY OF ROOSEVELT COUNTY THIS 18th DAY OF DECEMBER, 2018.

**BOARD OF COUNTY COMMISSIONERS
ROOSEVELT COUNTY, NEW MEXICO**

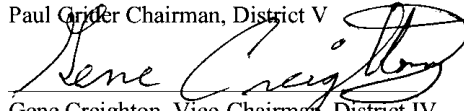
ATTEST:




County Clerk



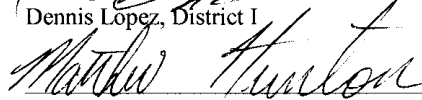
Paul Grider Chairman, District V



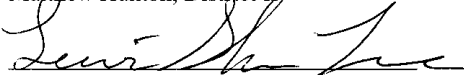
Gene Creighton, Vice-Chairman, District IV



Dennis Lopez, District I



Matthew Hunton, District II



Lewis "Shane" Lee, District III

