

CITY OF SANTA FE
CHARTER REVIEW COMMISSION
FINAL REPORT AND RECOMMENDATIONS
TO THE GOVERNING BODY

INTRODUCTION

The Charter Review Commission was created by Ordinance 2005-46 and adopted by the Governing Body on May 11, 2005. Pursuant to Section 10.01 of the Municipal Charter, which requires appointment of a commission at least every ten years, this Commission was appointed pursuant to Resolution 2022-40 (“Resolution”), adopted by the Governing Body on July 27, 2022. The members of the Commission were appointed by the Governing Body and held their first meeting on November 14, 2022. Since that time, the Commission has held twelve meetings. In addition to the regular Commission meetings held twice monthly beginning in January, two subcommittees were appointed to review and evaluate proposals and make recommendations to the entire Commission. The subcommittees met frequently, in conjunction with an appointed member of the City Attorney’s Office, putting in numerous hours between the regular Commission meetings. The Commission received public comment in person, by videoconferencing, in writing and through the Commission’s webpage. In all, the Commission received approximately 50 comments.

In the course of its deliberations, the Commission considered more than fifteen proposals to amend the Charter, including the nine topics sent to the Commission by the Governing Body in the Resolution. Of these, the Commission recommends six substantive amendments to be placed on the ballot for the November election. In this report, the Commission presents a description and, where appropriate, justification for the recommended amendments. There is also a section with four recommendations for Governing Body consideration but not as Charter amendments. Lastly, there is a section with five proposals that the Commission considered but neither recommends them as changes to the Charter nor otherwise for Governing Body consideration.

CHARTER AMENDMENTS RECOMMENDED TO THE GOVERNING BODY

ROLES OF COUNCIL, MAYOR, AND MANAGER: CURRENT ARTICLES 5, 7, 8 OF THE CHARTER

Topic Referred by the Council: The Commission considered these two referrals from the Council together:

- Whether the City's mayor should have a purely executive role rather than both executive and legislative roles and, if so, what new rights and limitations should be adopted along with such a separation of powers.
- Whether the roles of the mayor, councilors, and city manager should be better defined and, if so, how.

Recommendation: Provide for a separation of powers between the executive and legislative branches of City government. Create a new Article V to replace current Articles V—VIII, entitled GOVERNANCE with these sections: The Legislative Branch, The Executive Branch, as follows:

ARTICLE V. GOVERNANCE

Balance and Separation of Powers: City government in Santa Fe shall be defined by this Charter, and specifically by the separated and balanced powers of its branches, legislative and executive.

5.01 The Legislative Branch

THE CITY COUNCIL

5.01 The Legislative Branch, Composition

There shall be a city council composed of elected councilors representing districts as provided herein. The members of the city council shall be known and designated as councilors. The mayor and the councilors when acting together may be referred to as the governing body of the city.

The Legislative Branch, Powers, and Duties

- A. The city council shall serve as the principal policy maker of the city, and shall, as necessary, amend existing policies that are consistent with other provisions of the charter. The council shall consider the-agenda put forth by the mayor and propose amendments to existing policies and propose new policies.

- B. All legislative powers of the city shall be vested in the city council except as otherwise required by law or this charter. The city council shall provide for the exercise of its powers and for the performance of all duties and obligations imposed on the city by law.
- C. The city council shall select from among its members a presiding officer, who may or may not also be the mayor *pro-tempore*.
- D. The city council shall select from among its members a finance committee and may select from among its members other committees to facilitate its work.
- E. The city council may override a mayoral veto by a super-majority of the total possible members voting to do so.
- F. *Mayor pro tempore*.

At the first meeting of the council following a regular city election the mayor shall appoint, subject to the approval of the council, a councilor to serve as mayor *pro tempore* until the next regular city election. The mayor pro tempore shall perform the duties of the mayor in the absence or temporary incapacity of the mayor and continue as a member of the council.

- G. The city council shall by ordinance fix the annual salaries of the municipal judge and councilors and shall review those salaries not less than every four years.
- H. The city council shall by ordinance establish an independent salary review commission whose sole purpose shall be to review and set the mayor's salary. The independent salary review commission shall review the mayor's salary no less than every four years.
- I. The city council shall by ordinance set a policy for reimbursement of the actual and necessary expenses incurred by the mayor, the municipal judge and city councilors.
- J. The city council shall consider and take action throughout the year on the mayor's legislative agenda.

The Legislative Branch, City Council Districts

The city shall be divided into four dual-member districts numbered one through four. District boundaries shall be reviewed and revised at least every ten years following the decennial census by an independent citizens' redistricting commission. The governing body shall, by ordinance, establish a procedure for the appointment and deliberations of the commission which will, to the maximum practicable extent, ensure that the commission's decisions will be based exclusively on the following principles in the following order of priority:

- A. Each district shall contain as nearly as possible substantially the same population based upon the most recent federal census.
- B. Districting plans must avoid dilution of minority voting strength.
- C. Communities of interest, including those based upon ethnic and economic factors, shall be preserved within a single district whenever reasonable.
- D. Each district shall be formed of compact, contiguous territories. The total length of all district boundary lines shall be as short as possible.
- E. Districting plans shall compensate for U.S. census undercount of minorities.

Legislative Branch, Conditions of Service

A. Eligibility.

Registered voters who reside in the district shall be eligible to run for the office of councilor from that district.

B. Term of office.

Councilors shall be elected for a term of four years. The terms of office of the two councilors from each district shall be staggered so that one councilor shall be elected from each district at each regular municipal election.

C. Vacancies in office.

The office of a councilor shall become vacant upon the member's death, resignation, termination of residency in the district from which elected, or removal from office in any manner authorized by law or this charter. When such a vacancy occurs, the mayor shall within thirty days appoint a qualified elector from the district in which the vacancy has occurred to serve until the next regular city election, at which time a qualified elector shall be elected to fill the remaining unexpired term, if any. The governing body shall approve or disapprove the mayor's appointment not later than its second regularly scheduled meeting after the appointment.

D. Grounds for removal from office.

A councilor may be removed from office in accordance with applicable state law or this Charter.

5.02 The Executive Branch

THE MAYOR

Powers and Duties of the Mayor

The city shall have a mayor who shall:

- A. Be elected at large by the voters of the city.
- B. Provide the city council, in person or by other means, with mayoral messages on major matters under consideration by the council and be free to amend any of the mayoral messages in light of the council's debate on the matters.
- C. Be the chief executive officer of the city whose position shall be full-time. The mayor shall function as the political leader, public convenor, and head of city government for all purposes, including, but not be limited to:
 - facilitating, as may be possible, cooperation among all stakeholders in government and the private sector to solve the major challenges facing the city, and
 - enlisting the support of the council to add legislative framework as may be necessary.
- D. Earn a salary set by an independent commission as created by ordinance.
- E. Appoint, with the consent of a majority of the total possible membership of city council: the city manager, city attorney, city clerk, and members of advisory commissions, except as otherwise provided in the charter.
- F. Supervise the city manager, city attorney and city clerk.
- G. Have the sole authority to remove the city clerk, the authority to remove the city manager with consent of a majority of the total possible membership of the city council at a regularly scheduled meeting and may remove the city attorney with the consent of six members of the city council.
- H. Shall join the city council as the governing body, with voice and vote, to break tie votes.
- I. Shall sign, veto, or allow to become law without signature, each ordinance adopted by the council. Signature or veto shall be exercised within 30 days of the ordinance adoption.

- J. Cause the ordinances and regulations of the city to be faithfully and constantly obeyed.
- K. Have, within the city limits, the power conferred on the sheriffs of counties to suppress disorders and keep the peace.
- L. Propose programs and policies to city council.
- M. Represent the city in intergovernmental relationships.
- N. Present an annual state of the city message which shall identify among other matters the mayor's legislative agenda for the upcoming year.
- O. Be recognized by the governor for purposes of military law.

Conditions of Service by the Mayor

A. Eligibility.

Registered voters who reside in the city shall be eligible to run for the office of mayor.

B. Term of office.

The mayor shall be elected for a term of four years.

C. Vacancy in office.

The office of mayor shall become vacant upon the mayor's death, resignation, termination of residency in the city, or removal from office in any manner authorized by law or this charter.

When such a vacancy occurs, the mayor pro tempore shall serve as mayor until the next regular city election. If the offices of both the mayor and the mayor pro tempore are vacant, then a councilor shall be elected by the remaining members of the governing body to serve as mayor until a special election can be held.

D. Grounds for removal from office.

A mayor may be removed from office in accordance with applicable state law or this Charter.

THE CITY MANAGER

Appointment.

The city manager shall be appointed by the mayor with the consent of the governing body.

Qualifications.

The city manager should be professionally trained and have the necessary operational and managerial skills to carry out the duties and responsibilities of the city manager. The council shall adopt minimum and preferred demonstrated experience that shall be required for the position.

Powers and duties.

The city manager shall:

- A. Be the chief operations officer of the city.
- B. Have the power to hire and fire all city employees, except for the city attorney and city clerk.
- C. Work with city personnel and timely prepare an annual budget and proposed spending priority for review and approval by the finance committee and the city council.
- D. Provide for a program of public communication on behalf of the city, informing the public of the on-going work of departments, including city-owned enterprises, their successes, and outstanding challenges as well as the public's interaction with the departments.
- E. Have such other powers as are provided for in city ordinances and state law.

Removal

The city manager may be suspended or removed:

- A. By the mayor with consent of a majority of the total possible membership of city council at a regularly scheduled meeting, or
- B. by a vote of six councilors at a regularly scheduled meeting.

5.03 THE MUNICIPAL COURT

A. Establishment.

There shall be a municipal court for the city, which shall be presided over by a full-time municipal judge. The governing body may by ordinance authorize the election of additional municipal judges.

B. Jurisdiction.

The municipal court shall have all jurisdiction provided under state law and city ordinances.

C. Eligibility.

Registered voters who reside in the city and are licensed members of the New Mexico Bar shall be eligible to run for the office of municipal judge.

D. Term of office.

The municipal judge shall be elected for a four-year term.

E. Vacancy in office.

The office of a municipal judge shall become vacant upon the judge's death, resignation, termination of residency in the city or membership in the New Mexico Bar, or removal from office in any manner authorized by law. In case of such vacancy, the mayor with the consent of the governing body shall within thirty days appoint a person who meets the eligibility requirements for the office of municipal judge to serve until the end of the unexpired term of that municipal judge.

F. Grounds for removal from office.

The municipal judge may be removed from office in accordance with applicable state law.

G. Salary.

The governing body shall review and set salary for the municipal judge at least every four years.

COMMENTARY:

Our recommendation features the following:

- The sections of the current charter have been reordered to conform to the recognizable governance structure of branches: legislative, executive.
- The Article begins with a declarative statement that the branches both balance and separate the powers of government.
- The mayor is not a member of the council except as noted in Powers and Duties 5.02(H) but has the opportunity to make or send statements declaring positions on the major

legislative matters that the council has under consideration, as determined by the mayor.

- One of the duties proposed for the mayor (5.02(B)), calls for leadership on “major matters”. The Charter should not define “major” because that definition is not a constitutional issue, it is exactly the political issue for which the mayor is expressly elected by the people. We elect one mayor rather than another candidate in large part because one appears to the electors to grasp the “major” determinants of the city’s future with greater comprehension, insight, and appreciation than another. The proposal also calls for “mayoral messages”. (5.02(B)) They are advisory and reveal the mayor’s position on the issue under consideration. The messages are not meant to be legislative, so in no sense are they to be adopted or rejected in or of themselves.
- Another of the mayoral duties is to break tie votes on the council 5.02(H). How might that actually occur in practical terms? There are several means:
 - The council or its presiding officer might on certain occasions anticipate a tie and ask the mayor to attend at least for that agenda item.
 - The councilors who vote in the affirmative, may be ready to move to reconsider so as to allow one or more of them to change the vote exactly to avoid a tied outcome.
 - The matter may be automatically tabled, or tabled by vote, to be brought off the table so as to include the mayor’s tie-breaking vote, either for or against.
- The deliberations on the distinct roles of the mayor and the manager were informed by several passages in the Model City Charter, 9th edition (MCC9), such as:

*“The mayor is a comprehensive leader who draws on the features of the council-manager form of government to make it even more effective. The mayor is a community leader who interacts extensively with the public. The mayor strives to create a shared vision for the city with the support of the entire council. **The facilitative mayor helps to assure that there is extensive and positive communication between the council and the manager. The mayor also focuses on communicating with the public and ensuring that their views are being incorporated in the decision made by the council and the priorities being pursued by staff.** (emphasis added.) The leadership role of the mayor is supported by direct election. Candidates speak to the full population about citywide issues and the proposals they are advancing, and residents are able to indicate which candidate and proposals they support.” P 7.*

The theory, here, is that both the Mayor and the City Manager are officers whose roles supply overview and a detail-view of the city’s work. MCC9 observes persuasively (*) that the reason to have both is that a Mayor who leads the city and manages it is a mayor who is either overextended or who defaults on behalf of the public’s need. So,

we have two officers, but each has a separate, cooperative, leadership task within the Executive Branch of government.

() "It is difficult to find candidates for mayors who are equally adept at providing both political and administrative leadership... [It] is important for the mayor to devote a substantial amount of time to interacting with the public, making it difficult to devote sufficient attention to policy development, administration, and management. So-called "strong" mayors may actually be overextended mayors." (MCC9, p. 71)*

- MCC9 also informed the discussion of the role of the city attorney as experienced by a range of cities. The city attorney is to be the sole legal representative of city units and enterprises on matters of compliance as well as litigation and discharging disputes. Therefore, if the city attorney is both hired and fired by the mayor and if a difference of opinion occurs between the mayor and the council, it is often alleged that the city attorney has a natural preference for the opinion of the mayor. Cities have cured the matter by requiring that the mayor both hire and fire with the consent of the council, thereby institutionalizing the fact that the city attorney works for both equally. The current Charter requires council consent only on the occasion of hiring.

(MCC9, pp. 31- 33, esp. 33.a. Note also: it is entirely the city's option as to whether this role is exercised by the Mayor or the Manager on behalf of the executive branch. The pattern in Santa Fe has been to assign this responsibility to the Mayor and we see no reason to change it.)

- We added an explicit duty under Powers and Duties of the manager (D) to raise the level of emphasis that the public may expect the city to communicate more fully both its successes and its challenges, and that the importance of this matter is constitutional in nature.

CHARTER SECTION ON FINANCE: NEW PROPOSED SECTION TO THE CHARTER

Topic Raised by the Commission: Whether the Charter should address additional financial management matters.

Recommendation: add the following: **"Financial management" section in the Santa Fe Charter.**

FINANCIAL MANAGEMENT – Section ____
PROPOSED NEW SECTION TO THE CITY CHARTER

Section ____ Submission of Budget and Budget Message.

The city manager shall submit to the city council, a budget for the ensuing fiscal year and an accompanying message.

Section ____ Budget Message.

Consistent with the form required in New Mexico law, the city manager’s message shall explain the budget both in fiscal terms and in terms of the work programs, linking those programs to organizational goals and community priorities. It shall outline the proposed financial policies of the city for the ensuing fiscal year and the impact of those policies on future years. It shall describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the city’s debt position, including factors affecting the ability to raise resources through debt issues, and include such other material as the city manager deems desirable. The council shall provide in ordinance the budget summaries that will facilitate its work.

Section ____ . Budget.

The budget shall provide a financial plan of all city funds and activities for the ensuing fiscal year and, except as required by law or this charter, shall be in such form as the city manager deems desirable or the city council may require for effective management and an understanding of the relationship between the budget and the city’s strategic goals. The budget shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the anticipated tax revenues, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

- (1) The proposed goals and expenditures for current operations during the ensuing fiscal year, detailed for each fund by department or by other organization unit, and program, purpose or activity, method of financing such expenditures, and methods to measure outcomes and performance related to the goals;
- (2) Proposed longer-term goals and capital expenditures during the ensuing fiscal year, detailed for each fund by department or by other organization unit when

practical, the proposed method of financing each such capital expenditure, and methods to measure outcomes and performance related to the goals; and

(3) The proposed goals, anticipated income and expense, profit and loss for the ensuing year for each utility or other enterprise fund or internal service fund operated by the city, and methods to measure outcomes and performance related to the goals. For any fund, the total of proposed expenditures shall not exceed the total of appropriated funds.

Section ____ . City Council Action on Budget.

(a) **Notice and Hearing.** The city manager shall publish the general summary of the budget and a notice stating:

(1) The times and places where copies of the message and budget are available for inspection by the public, and

(2) The time and place, not less than two weeks after such publication, for a public hearing(s) on the budget.

(b) **Amendment Before Adoption.** After the public hearing, the city council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for an estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than total estimated income.

(c) **Adoption.** The city council shall adopt the budget on or before the city's budget is due to the state. If it fails to adopt the budget by this date, the budget proposed by the city manager shall go into effect.

(d) **"Publish" defined.** As used in this article, the term "publish" means to print in the form of publication recognized in New Mexico law for government entities, plus any electronic media that the council deems accessible to the public.

Section ____ . Administration and Fiduciary Oversight of the Budget.

The governing body shall provide by ordinance the procedures for administration and fiduciary oversight of the budget.

Section ____ . City Council Action on Capital Program.

(a) **Notice and Hearing.** The city manager shall publish the general summary of the capital program consistent with the requirements in New Mexico law for public notice.

- (1) The times and places where copies of the general summary of the capital program are available for inspection by the public, and
- (2) The time and place, not less than two weeks after such publication, for a public hearing(s) on the general summary of the capital program.

(b) Adoption. The city council by resolution shall adopt the capital program with or without amendment after the public hearing and before the capital program is due to the state.

Section ___ Independent Audit.

The city council shall provide for an independent annual audit of all city accounts and may provide for more frequent audits as it deems necessary. The council shall by ordinance update its financial processes and accounting systems, and prioritize budgetary resources to staff its financial services so as to facilitate timely completion of audits.

Section __ Additional provisions

Investments

The city shall follow the laws and policies of the State of New Mexico regarding investment of public funds.

Procurement

The governing body shall, by ordinance, adopt a fair and equitable procurement code for the city.

Independent audit committee

The governing body shall, by ordinance, adopt an independent audit committee for the city.

SIGNATURE THRESHOLDS FOR INITIATIVES, REFERENDA AND RECALL: CURRENT SECTIONS 3.01, 3.02, 3.03 OF THE CITY CHARTER

Topics Proposed by the Public:

- Whether the Charter's requirements for the public rights of referendum and initiative should be modified.
- Whether the Charter's requirements for recall should be modified.

Recommendation: Reduce the signature requirements for referenda and initiatives to 15% from 33.3%; keep the recall signature requirement at 33.3% but clarify the Charter language. Note the proposed deletions and additions to the Charter in the text below.

3.01. Referendum

E. Number of signatures. A referendum petition shall be deemed sufficient if signed by qualified electors in an amount equal to fifteen percent or more of the number of voters who voted in the most recent election that included the election of the office of mayor, including at least ten percent of the number of voters in each council district who voted in the most recent election that included the election of the office of mayor. The city clerk shall determine the number of voters who voted in the most recent election that included the election of the office of mayor both city-wide and per district.

3.02. Initiatives

F. Number of signatures. An initiative petition shall be deemed sufficient if signed by qualified electors in an amount equal to fifteen percent or more of the number of voters who voted in the most recent election that included the election of the office of mayor, including at least ten percent of the number of voters in each council district who voted in the most recent election that included the election of the office of mayor. The city clerk shall determine the number of voters who voted in the most recent election that included the election of the office of mayor both city-wide and per district.

3.03. Recall.

G. Number of signatures.

[1] For mayor. A recall petition shall be deemed sufficient if signed by qualified electors in an amount equal to thirty-three and one third percent or more of the number of voters who voted in the most recent election that included the election of the office of mayor, including at least fifteen percent of the number of voters in each council district who voted in the most recent election that included the election of the office of mayor. The city clerk shall determine the number of voters who voted in the most recent election that included the election of the office of mayor both city-wide and per district.

[2] For councilor. A recall petition shall be deemed sufficient if signed by qualified electors in an amount equal to thirty-three and one third percent or more of the number of voters who voted in the most recent election that included the election of the office of mayor in the district from which the councilor was elected. -The city clerk shall determine the number of voters who voted

in the most recent election that included the election of the office of mayor in the district from which the councilor was elected.

COMMENTARY:

On Initiatives and Referenda

Having access to initiative and referendum rights allows voters to own the ballot's provisions upon which they may vote, in cases where their representatives are not responsive in prioritizing specific voter priorities or have acted despite the voters and their priorities.

The National Civic League's Model City Charter, 9th Edition states that the percentage of signatures required for voters to be able to put a Ballot Initiative or a Referendum on the ballot "should not be too easy nor too burdensome". The document recommends the signature requirement for Initiatives and Referenda to be equal in number to at least 5% to 10% of the total number of registered voters who voted in the last regular election. The City of Albuquerque's signature requirement for initiatives and referenda is 20%, whereas the City of Las Cruces' is 15%. A study of initiative and referenda signature requirement thresholds shows a range most commonly occurring between 2% and 15%.*

The Commission recommends changing the signature requirement threshold for initiatives and referenda from 33.3% to 15%. We also recommend keeping the signature requirement threshold per district at 10%.

*http://www.iandrinstute.org/docs/A_Comparison_of_Statewide_landR_Processes.pdf

On Recalls

The Model City Charter report recommends the signature requirement threshold be higher for recalls than for initiatives or referenda. When an elected official is not responsive to the voters and their priorities, the voters do have a recourse to address this issue, and that is electing a different representative the next time that representative is up for re-election. Therefore, the Commission does not recommend changing the signature requirement threshold for recalls.

The Commission recommends keeping the signature requirement threshold for recalls at 33.3%, as well as keeping the signature requirement threshold per district at 15%.

DUE PROCESS WHEN FUNCTIONING IN QUASI-JUDICIAL FORM: PROPOSED NEW SECTION TO THE CITY CHARTER

Topic Proposed by the Public: Whether the City shall commit to assuring that all quasi-judicial proceedings shall adhere to the concepts of due process of law and fundamental fairness, as applied to both applicants and members of the community.

Recommendation: Include the following text as a new section in the Santa Fe Charter:

Recognizing the importance to the Santa Fe community of procedural due process of law and fairness in proceedings addressing land use and other matters that require City decision-makers to act in a quasi-judicial manner, the City shall adopt procedural rules that ensure that all quasi-judicial proceedings conducted by the Governing Body and City commissions and boards adhere to established principles of procedural due process of law and fundamental fairness and apply these principles in an impartial manner to applicants and members of the community who participate in those proceedings.

CHARTER REVIEW: AMEND SECTION 10.01 TO THE CITY CHARTER

Topic Raised by the Commission: Improve Charter Commission proceedings.

Recommendation: Amend Section 10.01 to the following.

10.01. Charter review.

A charter review commission shall be appointed as needed, but not less frequently than every ten years. The charter review commission shall consist of nine members; each city councilor shall select one member of the Commission and the Mayor shall select the ninth member. The selected commissioners shall elect one of their members to be the chair and a second one of their members to be the vice-chair of the commission. The commission, once selected, shall serve for a one-year term. The commission shall be selected as set forth above no less than 15 months before the election at which any proposed amendments are to be presented to the voters. The City shall create and fund a budget adequate for the commission to perform its functions. The city shall staff the commission with a designated city attorney and no fewer than two staffers to perform research and drafting functions for the commission. The city shall advertise the creation of the commission and its function, setting up a separate page on the City's web page for the submission of proposed amendments from the public. The City shall hold no less than two meetings in each of the four city council districts after the commission is selected for the purpose of taking input from the public. The commission shall report its recommended amendments to the Charter to the governing body on or before the first week of June prior to the election when any such amendments are to be considered. Any recommendation put forth by the commission, unless prohibited by law, shall be given to the voters at the next election, unless the Governing Body does not approve it by a vote of no less than six members of the Governing Body.

HUMAN AND CIVIL RIGHTS: AMEND SECTION 2.02 TO THE CITY CHARTER

Topic Referred by the Council: Whether the Human and Civil Rights policy statement should be more specific with regards to breadth of required protections and/or the manner in which such rights should be protected.

Recommendation: Amend Section 2.02 to the following language:

Section 2.02 Human and Civil Rights: The human and civil rights of the residents of Santa Fe are inviolate and shall not be diminished or otherwise infringed. Thus, no city ordinance, resolution or policy shall be enacted or adopted, nor shall any action be condoned which discriminates on the basis of ethnicity, race, age, religion, creed, color, national origin, ancestry, sex, gender, sexual orientation, physical or mental disability, medical condition or citizenship status. No ordinance enacted or policy adopted protecting or enhancing these rights shall be subject to the right of referendum or initiative. The governing body shall preserve, protect and promote human rights and human dignity, and shall, through all of its activities, including but not limited to employment, awarding of contracts, housing accommodation, and the provision of city services, prohibit such discrimination. To effect these ends, the governing body may enact ordinances and shall establish an Office of Equity and Inclusion with jurisdiction, authority, and staff sufficient to effectively administer these policies in coordination with the Human Rights Commission. The Human Rights Commission shall have five commissioners, each serving a two-year term, except two commissioners drawn by lot who shall initially serve a one-year term, in order that every two years either two or three commissioners will be appointed to the commission. One commissioner from each council district shall be appointed by the consensus of the two councilors from that district, and one commissioner shall be appointed by the Mayor. Each commissioner shall be limited to two, two-year terms. The commissioners once appointed shall elect a chair and a vice chair from their number.

COMMENTARY:

CASE STATEMENT FOR A CITY HUMAN RIGHTS COMMISSION

Across the United States current efforts by groups of individuals and by state legislatures to limit human and civil rights is occurring. Individual municipalities in some instances are also passing ordinances affecting these rights. Administrations come and go and along with them different priorities for the protection of human and civil rights. Further, offices are formed, funded and later dismantled, often owing to administrative priorities.

We believe that to avoid changes in administrations and in administrative priorities, creation of a City based Human Rights Commission makes sense and is called for. With that, a city administrative office that examines City actions and operations through an equity lens is of paramount importance in our changing society. It is impossible to predict the racial and ethnic diversity yet to be realized in Santa Fe's future. Also impossible to predict is the impact food, housing and city services availability will have on the residents in neighborhoods throughout Santa Fe.

In anticipation of these changes due to time and city growth, an equity foundation must be laid. A mandate for a Human Rights Commission within the City of Santa Fe Charter, is therefore necessary. Further, to bring such a statement before the voting public of Santa Fe gives our citizens the opportunity to declare that a strong commitment to equity exists.

The work of municipalities such as Seattle, WA and Portland, OR offer their assessments and reflections of learned experiences. It is this sub-committees' hope that resources are tapped by an Office of Inclusion, Diversity, Equity and Access (IDEA) or any future office with a different acronym to augment ideas.

The development of an equity checklist for different departments as project decisions are made is one method the city of Seattle, Washington uses that could be reviewed and refined if necessary for the City of Santa Fe.

As noted by Kent Keel, President of the Association of Washington Cities, in its report entitled: "Equity Resource Guide", a copy of which is attached as Appendix 1:

While many may say that racism or lack of equity isn't an issue in their communities, I challenge us all to go a little deeper. Unfortunately, we all share a history where racism has played a role in government's policy decisions. But we are not bound by that history, and we shouldn't fear it. Instead, we can embrace our role as city leaders by facing these challenges and uncomfortable conversations. We can work to ensure that all of our community members, especially those who may feel disenfranchised and underrepresented, know that we hear their voices and are committed to working on their behalf.

And as noted in Portland, Oregon's report entitled "Racial Equity Strategy Guide", a copy of which is attached as Appendix 2:

"EQUITY is when everyone has access to the opportunities necessary to satisfy their essential needs, advance their wellbeing and achieve their full potential. We have a shared fate as individuals within a community and communities within society. All communities need the ability to shape their own present and future. Equity is both the means to healthy communities and an end that benefits all."

– The Portland Plan (adopted by City Council April 2012)
and,

Equity is Portland's key to increasing economic and social opportunity. Through expanding and coordinating how the City practices the value of equity, Portland can realize its potential as both an economic leader and thriving community.

Creating opportunity and achievement for all is essential for the city's future growth and prosperity. By initially focusing on racial equity, we can address Portland's most persistent disparities while developing a permanent shift towards fairer practice and institutions that benefit all.

We are all aware of some of the issues occurring within our community. We have seen protests, which continue to this day; we have seen criminal activity initiated by some in the name redressing historic wrongs; we know of the need for affordable housing in our City; we know of

the need for better means of addressing hunger in our City. These circumstances and others tell us that more needs to be done. A City Human Rights Commission representative of the interests of all of our community, is a strategic place to being to systemically solve these issues.

Several publications, attached as Appendices, identify how other communities have and are tackling these issues. They are attached as:

Appendix 1 - Association of Washington Cities, "Equity Resource Guide"

Appendix 2 - Portland, Oregon, "Racial Equity Strategy Guide"

Appendix 3 - The Nonprofit Association of Oregon, "Equity and Inclusion Lens Guide"

Appendix 4 - ICMA Research Report, Governing for Equity: Implementing an Equity Lens for Local Governments"

Appendix 5 - GARE-Racial Equity Toolkit

ITEMS RECOMMENDED TO BE CONSIDERED BY THE GOVERNING BODY, BUT NOT AS CHANGES TO THE CITY CHARTER

FOOD AND AGRICULTURE

Topic Raised by the Commission: Whether the issue of food availability and local food production should be addressed in the Charter.

Recommendation: The Charter Review Commission recommends that the Governing Body refer the following language to the Human Rights Commission, if formed, or to the appropriate city-appointed body.

Having sufficient and nutritious food readily available to the people of Santa Fe is a key component of the sustainability of our community. It is an essential element of good health at every age, including our school-aged children and our elders, who often do not have sufficient readily available nutritious food. We consider it a basic human right that our citizens have nutritious food readily available and do not experience significant or prolonged hunger. Working to ensure that all Santa Feans are well fed and not experiencing prolonged hunger or lack of nutritious food, our City government should undertake efforts to ensure that our community has adequate food resources made available in a sustainable manner that promotes the local production of food and the wise and conservation-minded use of water and City land.

FULL-TIME COUNCILORS

Topic Referred by the Council: Whether the councilors should be full-time.

Recommendation: Add staff but keep part-time councilors. This action does not require a charter amendment.

Add one staff person assigned to each councilor. Within the confines of city government and the ability to utilize vacant positions, the city may find adequate resources to meet this need. The staff shall provide research and legislative assistance but shall not provide campaign assistance. We do not presently recommend changing Santa Fe's councilors to full-time.

Commentary: Full-time councilors may be warranted when the city population, through annexation or influx, reaches 100,000. Current trends suggest that that may occur in the 2030-2040 decade.

BOARDS AND COMMISSIONS SUNSET

Topic Raised by the Commission: Whether the Charter should dictate the City's Board and Commission organization.

Recommendation: Evaluate city boards and commissions. The Commission recommends that the council determine whether city boards and commissions, not required by law, are functioning and productive.

The Council should determine on-going relevance or effectiveness of boards and commissions unless required by law, and that they be terminated or reauthorized accordingly. This is not properly a Charter topic.

OPEN MEETINGS ACT

Topic Proposed by the Public: Whether all bodies of city government, including those established as advisory in nature, such as committees, commissions, special committees, task forces, etc., should comply with the State's Open Meeting Act.

Recommendation: The Governing Body should consider this as a potential legislative change.

Commentary: All City boards and commissions should follow and comply with the Open Meetings Act unless public participation is increased by holding the meeting virtually.

ITEMS CONSIDERED BY THE CHARTER REVIEW COMMISSION BUT NOT RECOMMENDED FOR CHANGE

NUMBER OF DISTRICTS AND COUNCILORS

Topic Referred by the Council: We considered two referrals together.

- The appropriate number of city council districts.
- The appropriate number of city councilors per district.

Recommendation: Refer the current configuration of 4 dual member districts to the 2030 Charter review and adjust the sequence of Charter and Redistricting Commissions, as follows:

- That the number of districts and councilors be referred to the 2030 Charter Commission as soon as the 2030 census is completed, and
- The next Charter Commission should be convened prior to convening the next Redistricting Commission.

Commentary: The benefits of adding a district and reducing the number of councilors do not outweigh the disruption that these changes would make at this time.

The sequence of Charter and then Redistricting commissions' work is preferred. One recommended possibility would be to spend the census year with a full year of charter review with ample public engagement from beginning to end of that year. The census report and the charter report would then both be available to the redistricting process.

AT-LARGE COUNCIL MEMBER

Topic Referred by the Council: Whether the City should have an "at large" council member.

Recommendation: To apply the legal restriction against this item.

Commentary: Case law in New Mexico does not allow at-large membership. (*Casuse v. City of Gallup*, 1987-NMSC-112, P 8.) Presently, the council approaches the maximum number of members allowed by New Mexico law. An at-large member would only serve to relieve the necessity of all members to act on behalf of the city as a whole as well as to represent their own district.

COUNCILORS WHO LOSE MAYORAL ELECTION

Topic Raised by the Council: Whether a city councilor who has lost a campaign for mayor [should be permitted to] remain in office after the inauguration of a new mayor.

Recommendation: The proposal to remove councilors who lose a mayoral election from service on the council is found to be unnecessary.

Commentary: The Commission did not find that a need to resign to protect against post-election acrimony on the council has been demonstrated. The Commission trusts the voters to express their preferences for councilors at the polls and that that is sufficient incentive for councilors to act in the interests of their constituents.

VOTING AGE

Topic Raised by the Commission: Whether the Charter should allow voting beginning at age 16 in municipal elections.

Recommendation: No change is recommended to the voting age. Developments at the state level should be monitored.

TERM LIMITS

Topic Raised by the Council: Whether, if an amendment to the New Mexico Constitution allowing term limits for city officials were approved, the City's Charter should include such a limitation.

Recommendation: Apply the legal restriction against this item and that the council does not forward this item in the future unless the Legislature acts to allow it.

Commentary: The proposal should not be considered for a Charter amendment until/unless the New Mexico Constitution is amended to allow it. (New Mexico Constitution Article 7, Section 2.)

CONCLUSION

All of the members of the Commission are grateful to the Governing Board for the opportunity they have been given to serve on this important advisory body. The Commissioners hope the Governing Body will give due consideration to their recommendations, all of which are the product of extensive reflection and discussion, despite the short period of time given for our work.

May 8, 2023

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