

**RECOMMENDATIONS ON TOPICS REFERRED TO THE
SANTA FE CHARTER COMMISSION
AND ITS GOVERNANCE SUB-COMMITTEE
BY THE CITY COUNCIL, 2023**

The council referrals are listed here with the original letter designations for easy and consistent reference. The topics that have been added by action of the Commission are enumerated within the final Council topic (J) as sequential numbers within Council referral J (J.1, J.2, etc.)

MCC9== - National Civic League's Model City Charter, 9th Edition,

Recommended Charter Amendments

**REFERRALS D & F
ROLES OF COUNCIL, MAYOR, AND MANAGER
SANTA FE CHARTER COMMISSION
BY THE CITY COUNCIL, 2023**

Action: Reorganize articles that specify separation of powers; combine certain duties; add certain duties.

Recommendation: a new Article V to replace current Articles V—VIII, entitled GOVERNANCE with three sections: The Legislative Branch, The Executive Branch, and Municipal Court.

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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 ~~governing body,~~ ~~exclusive of the mayor~~ 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 ~~governing body~~ 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 ~~legislative~~ 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 ~~governing body,~~ except as otherwise required by law or this charter. The city council ~~governing body~~ 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 $\frac{3}{4}$ vote to do so.

E. 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.

F. The city council ~~governing body~~ shall by ordinance fix the annual salaries of the municipal judge and councilors and shall review those salaries not less than every four years.

G. The city council ~~governing body~~ 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.

H. The city council ~~governing body~~ shall by ordinance set a policy for reimbursement of the actual and necessary expenses incurred by the mayor, the municipal judge and city councilors.

I. The ~~governing body~~ 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. ~~have a vote on all matters that come before the governing body;~~
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 those any of the mayoral messages in light of the council's debate on such 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 and public problem solver 'facilitator in chief' throughout the city, 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 an initial~~ 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: ~~governing body~~ the city manager, city attorney, city clerk, and members of advisory commissions;

F. ~~exercise administrative control and supervision over~~ supervise the city manager, city attorney and city clerk;

G. have the sole authority to remove the ~~city manager, city attorney and city clerk without council approval;~~ 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 a 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 ~~the governing body~~;
- 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 as head of the city government for all ceremonial purposes;~~
and
- P. 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 ~~administrative~~ 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 city council ~~the governing body~~;
- 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; And
- E. have such other powers as are provided for in city ordinances and state law.

Removal. [~~Effective March 12, 2018~~]

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:

- We reorder sections of the current charter to conform to the recognizable governance structure of three branches: legislative, executive, and judicial.
- We begin 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 (H) but has the opportunity to make or send statements declaring positions themselves on the major legislative matters that the council has under consideration, as determined by the mayor.
- One of the duties proposed for the mayor (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.
- Another of the mayoral duties is to break tie votes in the council (H). How might that actually occur in practical terms? It occurs to us that 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.
- Our deliberations on the distinct roles of mayor and manager were informed by several passages in 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 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 for her or him. 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 our 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 it becomes unclear if the difference of opinion occurs between the mayor and the council. Cities have cured the matter by requiring that the mayor both hire and fire with the consent of the council. Heretofore, in Santa Fe, council consent has been required 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 (C) 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.

REFERRAL J.2
CHARTER SECTION ON FINANCE
SANTA FE CHARTER COMMISSION
BY THE COMMISSION

Action: Include a “Financial Management” section in the Santa Fe Charter.

Recommendation: add the following:

FINANCIAL MANAGEMENT – Section ____

Section ____ Submission of Budget and Budget Message.

The city manager shall submit to the finance committee of the council, and other committees as the council’s adopted ordinances provide, and thence to the city council, a budget for the ensuing fiscal year and an accompanying message.

Section ____ Budget Message.

Consistent with the form required in NM 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 NM 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 ~~city council~~ 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 NM law for public notice.

(b) Adoption. The city council by resolution shall adopt the capital program with or without amendment after the public hearing and ~~on or before the day of the month of the current fiscal year.~~ 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.

**REFERRAL J.5
SIGNATURE THRESHOLDS
FOR INITIATIVES, REFERENDA AND RECALL
SANTA FE CHARTER COMMISSION**

Action: recommend reducing the initiative and referendum signature thresholds only.

Recommendation: Note deletions and additions in 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 ~~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 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. ~~voters for mayor in each council district in the last mayoral election.~~ 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. ~~actual voters at the last mayoral election.~~

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 ~~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 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 ~~actual voters in the last mayoral election, including at least ten percent of the actual voters for mayor in each council district in the last mayoral election.~~ 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. ~~actual voters at the last mayoral election.~~

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 ~~actual voters at the last mayoral election, including at least fifteen percent of the actual voters for mayor from each council district.~~ 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. ~~actual voters for mayor in each 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. ~~actual voters at the last mayoral election 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. ~~actual voters in the district at the last mayoral election.~~

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%.*

We recommend 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.iandr.institute.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, we do not recommend changing the signature requirement threshold for recalls.

We recommend keeping the signature requirement threshold for recalls at 33.3%, as well as keeping the signature requirement threshold per district at 15%.

Recommended non-Charter Actions
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REFERRAL E
FULL-TIME COUNCILORS
SANTA FE CHARTER COMMISSION
BY THE CITY COUNCIL, 2023

Action: add staff but keep part-time councilors

Recommendation: add one staff person assigned to each councilor. The council has the authority to re-classify unfilled positions. Within the confines of city government and the ability to utilize vacant positions, the city may find adequate resources to meet this need.

We do not presently recommend changing Santa Fe’s councilors to full-time. This action does not require a charter amendment.

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.

**REFERRAL J.1
BOARDS AND COMMISSIONS SUNSET
SANTA FE CHARTER COMMISSION
BY THE COMMISSION**

Action: evaluate city boards and commissions.

Recommendation: That the council determine whether city boards and commissions, not required by law, are functioning and productive.

Commentary:

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.

**REFERRAL FROM PUBLIC COMMENT
DUE PROCESS WHEN FUNCTIONING IN QUASI-JUDICIAL FORM
SANTA FE CHARTER COMMISSION
BY THE COMMISSION**

Action: refer with request to incorporate content to Chapter 14 revision

Recommendation: That the council instruct the process currently under way to revise Chapter 14 of the city code to evaluate and potentially incorporate language that allows equity of input between the public and the applicant(s).

Commentary:

The Commission was asked to recommend relevant language as Charter amendment. Our view is that the request constituted compliance with law but

proposed to do so at the constitutional level of authority. There may be useful ways to ensure such compliance as the city devises policy and procedure. That would be the proper location for such remedy. For reference, the correspondent who appealed to the Commission sent the following proposed text:

“Recognizing the importance of due process of law and fairness in matters that require quasi-judicial hearings the City of Santa Fe and all its Governing Body, Boards, Commissions, and Committees shall commit to assuring that all quasi-judicial proceedings shall adhere to the concepts of due process of law and fundamental fairness, and apply these concepts in an impartial manner to both applicants and members of the community that may be affected by the outcome of such proceedings.” (Correspondence from Mr. AdamJohnson, Old Santa Fe, [Date])

Our Recommendations Regarding the Remaining Referrals

REFERRALS A & B NUMBER OF DISTRICTS AND COUNCILORS SANTA FE CHARTER COMMISSION BY THE CITY COUNCIL, 2023

Action: refer the current configuration of 4 dual member districts to the 2030 Charter review and adjust the sequence of Charter and Redistricting Commissions.

Recommendation:

- **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.

REFERRAL C
AT-LARGE COUNCIL MEMBER
SANTA FE CHARTER COMMISSION
BY THE CITY COUNCIL, 2023

Action: apply the legal restriction against this item.

Recommendation: that the council does not forward this item unless the Legislature acts to allow it.

Commentary:

Case law in NM would not allow at-large membership.
(*Casuse v. City of Gallup*, 1987-NMSC-112, P 8.)

At present, the council approaches the maximum number of members allowed by NM 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.

REFERRAL G
COUNCILORS WHO LOSE MAYORAL ELECTION
SANTA FE CHARTER COMMISSION
BY THE CITY COUNCIL, 2023

Action: rely on the will of the voters

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

Commentary:

We do not find that a need to resign to protect against post-election acrimony on the council has been demonstrated. We trust 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.

**REFERRAL H
TERM LIMITS
SANTA FE CHARTER COMMISSION
BY THE CITY COUNCIL, 2023**

Action: apply the legal restriction against this item.

Recommendation: that the council does not forward this item unless the Legislature acts to allow it.

Commentary:

The proposal should not be considered for a Charter amendment until/unless the NM Constitution is amended to allow it.

(New Mexico Constitution Article 7, Section 2.)