

CITY OF LAS VEGAS

NEW MEXICO



MUNICIPAL CHARTER

(As Adopted- March 2, 2010)

COUNTY OF SAN MIGUEL)
STATE OF NEW MEXICO) ss

MUNICIPAL CHARTER
PAGES: 38

I Hereby Certify That This Instrument Was Filed for
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Witness My Hand And Seal Of Office
Melanie Y. Rivera

Deput 211-ICAM County Clerk, San Miguel, NM

1 Charter of the City of Las Vegas, New Mexico

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1 **Charter of the City of Las Vegas, New Mexico**

2 **PREAMBLE**

3 **We, the citizens of the City of Las Vegas, pursuant to the Constitution and laws of the State**
4 **of New Mexico, do hereby enact this Charter for the City of Las Vegas, New Mexico.**

5 **ARTICLE I**

6 **GENERAL PROVISIONS AND POWERS**

7 **Section 1.01. Municipal Corporation; Purposes and Powers.**

8 **Section 1.02. State and Municipal Laws.**

9 **Section 1.03. Rights and Property.**

10 **Section 1.04. Construction.**

11 **Section 1.05. Charter Review and Amendment.**

12 **Section 1.01. Municipal Corporation; Purpose and Powers.**

13 **A. Incorporation.** The municipal corporation now existing and known as the City of Las
14 Vegas shall remain and continue to be a municipal corporation with the same name and
15 boundaries as existed prior to the effective date of this Charter. The boundaries may be
16 extended in a manner as provided by law.

17 **B. Purpose.** The purpose of this Charter is to provide for maximum self-government and
18 the greatest possible exercise of home-rule powers. A liberal construction shall be given
19 to the powers granted by this Charter.

20 **C. Powers.** The City may exercise all legislative powers and perform all functions not
21 expressly denied by general law or charter. Unless otherwise provided in this Charter,
22 the power of the City to legislate is permissive and not mandatory. If the City does not
23 legislate, it may nevertheless act in the manner provided by law. The City shall have all
24 powers possible for a home rule municipality to possess under the New Mexico
25 Constitution and the laws of the State of New Mexico, including all implied powers and
26 all powers necessary to implement all express powers of the City, as if each and every
27 one of the City's implied powers were fully, completely and expressly enumerated in this
28 Charter. The City shall be entitled to exercise any and all powers granted by law or the
29 New Mexico constitution to municipal corporations, except to the extent there may be a
30 conflict between the exercise of the powers and the provisions of this Charter, in which
31 case this Charter shall operate to limit the City's ability to exercise such powers.

32 **D. Acceptance of Powers.** By enacting this Charter pursuant to the provisions of Article X,
33 Section 6 of the New Mexico Constitution, and pursuant to the New Mexico Municipal

1 Charter Act, the City accepts the full and complete home-rule powers granted in the
2 Constitution.

3 **Section 1.02. State and Municipal Laws.**

4 A. All City ordinances, resolutions, codes, orders and regulations which are in force when
5 this Charter becomes fully effective shall remain in full force and effect except to the
6 extent that they are inconsistent with or interfere with the effective operation of this
7 Charter.

8 B. Any provision of the New Mexico Municipal Code or any other state law relating to
9 municipalities shall apply to the City only to the extent that such a state statute is not
10 inconsistent with the provisions of this Charter. To the extent that any state statute
11 relating to municipalities is consistent with the Charter, the City may avail itself of the
12 rights, privileges and powers conferred by such a statute, regardless of whether such a
13 statute vests powers in home rule municipalities, non-home rule municipalities, or both.

14 **Section 1.03. Rights and Property.**

15 A. All rights and property which were vested in the City prior to the effective date of this
16 Charter shall remain so vested under the Charter. No existing right or liability and no
17 pending litigation shall be affected by adoption of this Charter. No action or proceeding,
18 civil or criminal, pending at the time that this Charter takes effect, shall be affected or
19 abated by operation of this Charter.

20 B. All contracts and franchises entered into by the City or for its benefit, prior to the
21 effective date of this Charter, shall remain in full force and effect. Public improvements
22 for which legislative action has been taken under laws, ordinances or resolutions existing
23 at the time this Charter takes effect, may be carried to completion in a manner which is in
24 as full compliance with this Charter as is possible in accordance with the provisions of
25 existing laws, ordinances and resolutions.

26 **Section 1.04. Construction.**

27 A. **Headings.** Section and subsection headings are included for convenience only. Such
28 headings shall not be utilized for the purpose of determining the meaning of the Charter.

29 B. **Terms.** Unless the context otherwise requires, the singular shall include the plural; the
30 plural shall include the singular; male shall include female; female shall include male; the
31 terms "may," "can," and "should" shall be permissive; the terms "must," "shall," and
32 "will" shall be mandatory; the term "and" shall be conjunctive; and the term "or" shall be
33 disjunctive.

34 C. **Severability.** The provisions of this Charter are severable. If any provision of this
35 Charter is held invalid, the other provisions of the Charter shall not be affected thereby.
36 If the application of the Charter or any of its provisions to any person or circumstance is

1 held invalid, the application of the Charter and its provisions to other persons or
2 circumstances shall not be affected thereby.

3 **Section 1.05. Charter Review and Amendment.**

4 **A. Charter Review.** The Governing Body shall appoint a Charter Commission for periodic
5 review of the Charter. The purpose of the review is to evaluate, propose or recommend
6 amendments. Provisions shall be made for a review to occur within five (5) years after
7 the effective date of this Charter, and not less than once every ten (10) years thereafter.
8 The Governing Body shall set the duration of the commission and such other terms and
9 duties as the Governing Body deems advisable, not inconsistent with the provisions
10 herein.

11 **B. Commission Members.** The Charter Commission shall consist of seven (7) members.
12 One (1) member shall be appointed from each council district and shall reside in said
13 district during the period of review. Three (3) members shall be residents of the City,
14 appointed at large, with equal representation among the districts to the greatest extent
15 possible. The Mayor shall appoint six (6) Commission members, including the districted
16 representatives, subject to Council approval. The seventh (7th) member shall be
17 recommended by the Municipal Judge for appointment by the Mayor and approval by the
18 Council. The Commission shall select one of its members to act as chair.

19 **C. Charter Amendments.** Amendments to this Charter may be submitted to the qualified
20 electors by the governing Body or by petition as follows:

- 21 (1) Notice of intent to circulate a petition proposing any amendments to this Charter
22 must be signed by five (5) qualified voters of the City and filed with the city clerk.
- 23 (2) The proposed amendment shall be filed with the city clerk concurrently with the
24 filing of the Notice of Intent.
- 25 (3) The city clerk must approve the form of any petition submitted under this section
26 prior to obtaining any signatures on the petition. The petition must include the
27 complete language of the amendment, the number of signatures required to submit
28 the petition to the Governing Body, the date by which the petition forms must be
29 submitted, and lines for voter names, signatures and registered voting addresses.
30 Only registered voters of the City shall be counted as signatories.
- 31 (4) The number of qualified voters required to sign the petition in order to have the
32 proposed amendment placed on the ballot shall be twenty-five (25) percent of the
33 number of voters who voted at the regular municipal election immediately
34 preceding the filing of the Notice of Intent.
- 35 (5) No petition or any part thereof shall be filed more than sixty (60) days after the
36 approval of the petition by the city clerk.
- 37 (6) If the city clerk determines that the requisite number of signatures of qualified
38 voters exists, the clerk shall certify and present the petition to the Governing Body.
39 If the city clerk determines that the requisite number of signatures of qualified

- 1 voters does not exist, the clerk shall return the petition to the applicants and take no
2 further action.
- 3 (7) Upon certification and presentation of the petition by the city clerk, the Governing
4 Body shall adopt an election resolution. The election shall be scheduled for the
5 next regular municipal election, or as soon as possible thereafter to comply with
6 state election laws.
- 7 (8) At such election, the ballot shall contain the text of the proposed amendment and,
8 below said text, the phrases "FOR AMENDMENT" and "AGAINST
9 AMENDMENT." Multiple amendments shall be listed separately on the ballot for
10 a vote as to each, except to the extent that an amendment seeks to modify or enact
11 multiple sections or subsections that cannot logically be separated. The Governing
12 Body shall determine whether multiple amendments shall be presented separately or
13 together.
- 14 (9) If a majority of the votes cast are against the amendment, it shall be of no effect. If
15 a majority of the votes cast are for the amendment, it shall be adopted and shall
16 become effective thirty (30) days following certification of the election.
- 17 (10) No amendment that has been disapproved shall be submitted to the voters again for
18 a period of one (1) year from the date of the election.

19

1 **ARTICLE II**

2 **GOVERNING BODY**

3 **Section 2.01. Corporate Authority.**

4 **Section 2.02. Powers and Duties.**

5 **Section 2.03. Qualifications and Election of Councilors.**

6 **Section 2.04. Council Redistricting.**

7 **Section 2.05. Vacancy in Office.**

8 **Section 2.06. Compensation.**

9 **Section 2.07. Governing Body Procedures.**

10 **Section 2.08. Ordinances.**

11 **Section 2.01. Corporate Authority.**

12 A. The City shall be governed by the mayor-council form of government together with
13 appointment of a city manager, as provided by state law, and except as otherwise
14 provided in this Charter.

15 B. The corporate authority of the City shall be vested in the Governing Body, which shall
16 consist of four (4) City Councilors, elected by district and comprising, collectively, the
17 City Council, and a Mayor, who shall be the presiding officer of the Governing Body.

18 **Section 2.02. Powers and Duties.**

19 A. All legislative powers of the City shall be vested in the Governing Body, except as
20 otherwise required by law or this Charter.

21 B. All corporate power resides with the Governing body as a whole, and no individual
22 member, except as otherwise provided herein, shall direct the activities of the city
23 manager, appointed employees, or other employees.

24 C. The Governing Body shall be the judge of the qualifications of its members, and of the
25 grounds for removal from office, consistent with state law provisions regarding
26 qualifications and removal.

27 D. The Governing Body may conduct such investigations as it deems appropriate into the
28 affairs of the city, or the conduct of any City department, office, agency, board, or
29 activity.

30 **Section 2.03. Qualifications and Election of Councilors.**

- 1 A. Councilors shall be qualified electors of, and registered to vote in, the districts in which
2 they reside and shall have established actual residency within said districts no later than
3 ninety (90) days prior to the date of declaration of candidacy for the election in which
4 they are running.
- 5 B. One (1) Councilor shall be elected by the qualified electors in each of the City council
6 districts. Elected Councilors and candidates shall physically reside within the districts
7 they represent.
- 8 C. Councilors. shall each be elected for terms of four (4) years, with two districts electing
9 Councilors in each general municipal election, thereby allowing for staggered Council
10 terms. At the general municipal election of March, 2012, two (2) Councilors shall be
11 elected for the two (2) positions whose terms expire at that election. The remaining two
12 (2) Councilors shall continue to serve until the expiration of their terms and the election
13 of Councilors in the March, 2014 regular election. Thenceforth, in each general
14 municipal election, two districts shall elect Councilors.
- 15 D. Each councilor, unless otherwise removed as provided for herein, shall remain in office
16 until that person's successor is elected and has taken office.
- 17 E. The council districts existing as of the effective date of this Charter shall remain in effect
18 until modified as provided by law or by the terms of this Charter.

19 Section 2.04. Council Redistricting.

- 20 A. The Governing Body shall be responsible for modifying the districts as necessary. After
21 each Federal Census, the Governing Body shall appoint a committee composed of an
22 equal number of representatives from each district, none of which shall be elective city
23 officers, to review and make recommendations to the Governing body concerning the
24 four Council Districts to be reapportioned. Any recommended changes shall comply
25 with constitutional principles governing voting rights, population and similar related
26 concerns as determined by judicial decision from time to time. The Governing Body
27 shall employ a consultant with redistricting experience to work with the committee. The
28 district boundaries may be altered as necessary to incorporate areas which are annexed
29 into the City. Redistricting shall be done by block and no redistricting shall be done that
30 breaks a block.
- 31 B. The Governing Body shall complete its redistricting work so that new election districts
32 are utilized at the first regular municipal election following the completion of the
33 decennial census, provided that sufficient time exists to comply with the election
34 provisions of this Charter and of state law.
- 35 C. In the event that annexation occurs that increases the voter population of a district more
36 than twenty-five (25) percent, and the time prior to the next Federal Census exceeds three
37 (3) years, the Governing Body shall follow the appointment procedure identified herein,
38 appoint a redistricting committee, and order a new redistricting to balance the voter
39 populations.

1 D. The redistricting provisions herein shall not be construed so as to create a vacancy in the
2 office of a City Councilor. All incumbent City Councilors shall be entitled to serve out
3 their terms, even if redistricting causes a City Councilor to reside outside the district
4 which that City Councilor was elected to represent.

5 **Section 2.05. Vacancy in Office.**

6 A. The office of a Councilor shall become vacant upon the Councilor's death, resignation,
7 removal from office, forfeiture of office, termination of residence in the district from
8 which elected or for any other reason as authorized by this Charter or the laws of the
9 State of New Mexico.

10 B. A Councilor shall be deemed to have automatically forfeited and resigned from office if
11 the Councilor lacks, loses or otherwise fails to possess, during the entire term of office,
12 the qualifications for the office prescribed by this Charter or the laws or Constitution of
13 the State of New Mexico.

14 C. The Mayor, with approval of the Council, shall within fifteen (15) days of the vacancy
15 appoint a qualified elector from the district to fill the vacancy and who will serve until the
16 next regular municipal election. If the office is not filled within forty-five (45) days of
17 the vacancy, a special election shall be called to fill the vacancy for the remaining term of
18 office.

19 D. If the Councilor's term of office has not expired at the next regular municipal election
20 following the vacancy, than a special election for the remaining term of office of the
21 Councilor shall be held concurrently with the next regular municipal election, or as soon
22 thereafter as legally possible.

23 E. At such a special election, only qualified electors residing in the City Council district of
24 the vacancy shall be entitled to vote. The person elected shall serve the remaining
25 unexpired term of office.

26 **Section 2.06. Compensation.**

27 Annual compensation for the Mayor shall be ten thousand dollars (\$10,000.00) and for each
28 Councilor ten thousand dollars (\$10,000.00), payable in monthly installments. Benefits may
29 be provided by the Council as provided for by state law. An elected official who is a retired
30 member of the New Mexico Public Employee Retirement Association (PERA) shall be
31 subject to the statutes and rules of PERA, as may be amended from time to time, governing
32 contributions to the official's PERA retirement account by the City and by the elected
33 official.

34
35 **Section 2.07. Governing Body Procedures.**

1 **A. Organizational Meeting.** The Governing Body, at the first meeting following a
2 municipal election, shall convene for the purpose of organizing, reviewing the mission
3 and vision statement, reviewing the top ten priorities of the previously elected Governing
4 Body, and confirming the appointment of the city manager and the appointed officers.

5 **B. Meetings.** The Governing Body shall meet regularly at least twice in every month at
6 such times and places as it may prescribe by ordinance. Special meetings may be held on
7 the call of the mayor or of three (3) or more members of the Council. Notice of meetings
8 shall be given as provided in a resolution to be adopted by the Governing Body each year
9 pursuant to the New Mexico Open Meetings Act. Except as provided by the New
10 Mexico Open Meetings Act, all meetings of a quorum of the Governing Body shall be
11 open to the public.

12 **C. Rules and Minutes.** The Governing Body shall determine its own rules and order of
13 business and shall cause minutes to be kept of its proceedings.

14 **D. Roll Call Votes.** Voting on resolutions and ordinances shall be by roll call and the votes
15 of each member shall be recorded in the minutes.

16 **E. Voting.** All actions and decisions of the Governing Body shall be by a simple majority
17 of the members present, except as follows:

18 (1) Ordinances and resolutions, which shall be enacted by affirmative vote of a
19 majority of all of the members of the Governing Body; and

20 (2) Any other matter required under this Charter or the Constitution or laws of the State
21 of New Mexico to be enacted by a vote other than a majority of the members
22 present.

23 **F. Quorum.** Three members of the Governing Body shall constitute a quorum, provided,
24 that if two or more vacancies exist on the Governing Body, then a quorum shall be a
25 majority of the members of the Governing Body excluding the vacant offices. A number
26 less than a quorum may, for the purpose of obtaining a quorum, compel the attendance of
27 absent members in the manner and subject to the penalties prescribed by the rules of the
28 Governing Body.

29 **Section 2.08. Ordinances.**

30 **A.** In addition to ordinances which are required by the laws of the State of New Mexico or
31 by specific provision of this Charter, the following matters shall be undertaken by
32 ordinance of the Governing Body:

33 (1) Provide for a fine or other penalty, or establish a rule or regulation for violation of
34 which a fine or other penalty is imposed;

35 (2) Levy taxes;

36 (3) Grant, renew or extend a franchise;

37 (4) Authorize the borrowing of money;

38 (5) Establish or change the rate charged for public utilities; and

39 (6) Amend or repeal any ordinance previously adopted.

- 1 **B. The Governing Body may adopt any standard code of technical regulations by reference**
2 **thereto in an adopting ordinance.**
- 3 **C. All actions of the governing Body, other than those required to be accomplished by**
4 **ordinance may be undertaken by resolution or by motion.**
- 5 **D. The Governing Body shall adopt by ordinance the procedures for introduction and**
6 **adoption of ordinances.**
- 7 **E. Except as otherwise provided in this Charter, every adopted ordinance shall become**
8 **effective five (5) days after publication of the ordinance following its adoption, or at such**
9 **later date specified therein.**
- 10 **F. The Governing Body shall have the authority to provide procedures for adoption of**
11 **emergency ordinances to meet a public emergency affecting life, health, property or the**
12 **public peace, provided, that emergency ordinances shall not levy taxes, grant, renew or**
13 **extend a franchise, or regulate the rates charged by any public utility.**
- 14 **G. The City Clerk shall authenticate by signing, and shall record in full in a properly indexed**
15 **book kept for that purpose, all ordinances and resolutions adopted by the Governing**
16 **Body.**
- 17 **H. The Governing Body shall provide for the preparation of a general codification of this**
18 **Charter and all general City ordinances.**

19

1 **ARTICLE III**

2 **MAYOR**

3 **Section 3.01. Qualification and Election.**

4 **Section 3.02. Powers and Duties.**

5 **Section 3.03. Mayor Pro Tempore.**

6 **Section 3.04. Vacancy in Office.**

7 **Section 3.01. Qualification and Election.**

8 The Mayor shall be a qualified elector residing within the City and registered to vote within the
9 City no later than ninety (90) days prior to the election, shall be elected at-large within the City,
10 and shall serve a four (4)-year term commencing with the general municipal election of March,
11 2012. The Mayor, unless otherwise removed as provided herein, shall remain in office until his
12 or her successor is elected and has taken office.

13 **Section 3.02. Powers and Duties.**

14 **A. The mayor shall be a member of the Governing Body entitled to cast a vote only in the**
15 **event of a tie among the city councilors, except as otherwise provided herein.**

16 **B. The Mayor shall:**

17 **(1) Preside at meetings of the Governing Body;**

18 **(2) Be the chief executive officer of the City and shall exercise all executive powers of**
19 **the city as established by state law, except to the extent that such authority is**
20 **delegated to the city manager, subject to governing body oversight, as provided in**
21 **Article V herein;**

22 **(3) Appoint and remove, subject to approval of the Council, the city manager, city**
23 **attorney, city clerk, chief of police and members of boards, commissions and**
24 **advisory committees, all as provided more specifically herein;**

25 **(4) Represent the City in intergovernmental relationships, unless otherwise provided in**
26 **the document creating a given intergovernmental relationship;**

27 **(5) Present an annual State-of-the-City report to the community; and**

28 **(6) Perform other duties and exercise such other powers as specified in this Charter, the**
29 **City's ordinances and resolutions, or by the Governing Body.**

30 **C. The Mayor shall be recognized as head of the City government for ceremonial purposes,**
31 **for purposes of responding to civil emergencies, and by the Governor for purposes of**
32 **military law.**

33 **Section 3.03. Mayor Pro Tempore.**

- 1 **A. The Council shall elect from its membership a Mayor Pro Tempore to assume the role of**
2 **Mayor during the temporary absence or disability of the Mayor. The Mayor shall be**
3 **authorized to vote in the event of a tie. The Mayor Pro Tempore shall serve a one (1)**
4 **year term.**
- 5 **B. During service in the absence of the Mayor, the Mayor Pro Tempore shall retain his**
6 **voting rights as a Councilor, shall not exercise his voting rights as a tie-breaker in the**
7 **capacity as Mayor, and shall retain the right to make or second motions.**

8 Section 3.04. Vacancy in Office.

- 9 **A. The office of Mayor shall become vacant upon the Mayor's death, resignation, removal**
10 **from office, termination of residence in the city or for any other reason as authorized by**
11 **this Charter or the laws of the State of New Mexico.**
- 12 **B. If the date on which the vacancy occurs is within one (1) year of the expiration of the**
13 **Mayor's term, the Council shall appoint from among its membership a person to serve**
14 **the remainder of the term and the Council seat shall be vacant, to be filled as provided in**
15 **Article II herein. If the office is not filled within forty-five (45) days of the vacancy, a**
16 **special election shall be called to fill the vacancy for the remaining term of office.**
- 17 **C. If the date on which the vacancy occurs is one (1) year or more from the expiration of the**
18 **Mayor's term, the position shall be filled for the remainder of the unexpired term by a**
19 **special election. During the interim between the date the office is vacated and the date of**
20 **the special election, the Mayor's position shall be filled by the Mayor Pro Tempore. The**
21 **Mayor Pro Tempore shall temporarily cease to be a Councilor and the seat on the council**
22 **shall remain unfilled until a Mayor is elected and qualified and the Councilor shall**
23 **resume his seat on the council, or it shall otherwise be filled as provided in Article II**
24 **herein if vacant.**

25

1 **ARTICLE IV**

2 **MUNICIPAL COURT**

3 **Section 4.01. Creation, Power and Duties.**

4 **Section 4.02. Qualifications.**

5 **Section 4.03. Term of Office and Compensation**

6 **Section 4.04. Removal.**

7 **Section 4.05. Temporary Absence and Vacancy in Office.**

8

9 **Section 4.01. Creation, Power and Duties.**

10 **A.** Following the adoption of this Charter there shall be one (1) municipal judge.

11 **B.** The municipal judge:

12 (1) Shall constitute the judicial branch of the City government;

13 (2) Shall be entitled to exercise all of the powers and duties of office as are authorized
14 by the Constitution and laws of the State of New Mexico;

15 (3) Shall have jurisdiction over all offenses and complaints under the ordinances of the
16 City; and

17 (4) May issue subpoenas, warrants and punishment for contempt.

18

19 **Section 4.02. Qualifications.**

20 The municipal judge shall:

21 **A.** Be a qualified elector of the City of Las Vegas, reside within the city limits, and be
22 a registered voter within the city limits no later than ninety (90) days prior to the
23 election.

24 **B.** Possess all of the aforementioned qualifications during the municipal judge's entire
25 term of office.

26

27 **Section 4.03. Term of Office and Compensation.**

28 The term of Office of the Municipal Judge shall be for a period of four (4) years,
29 commencing with the regular municipal election of 2014. The municipal judge shall remain in
30 office until the municipal judge's successor is elected and has taken office. The salary of the
31 municipal judge shall be established by ordinance.

32

33 **Section 4.04. Removal.**

34 The municipal judge may be removed from office as provided under the laws of the State of
35 **New Mexico.**

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Section 4.05. Temporary Absence and Vacancy in Office.

- A. Recusal of judge. In the event that the Municipal Judge recuses himself from presiding over any given case, or is excused by order of the district court, he shall notify the mayor, who shall appoint an alternate judge to preside over said case. The appointment shall not require Council approval.

- B. Temporary absence. In the event of temporary absence of the Municipal Judge, other than by recusal, the mayor shall appoint a qualified person to act as temporary or alternate Municipal Judge, subject to confirmation by the Governing Body.

- C. Vacancy in Office.
 - (1) In the event the Municipal Judge dies, resigns, is no longer qualified to serve, or is removed from office, the Governing Body shall declare the office vacant.
 - (2) Within thirty (30) days of the vacancy, the Mayor shall appoint a qualified successor to fill the vacancy, subject to approval of the Council. The temporary Municipal Judge shall perform the functions of the office pending appointment and confirmation of a successor Municipal Judge.
 - (3) If the term of office will expire at the next regular Municipal Election, the person appointed to the office shall serve until said election.
 - (4) If the term of office will not expire at the next regular municipal election, a special election shall be held concurrently with the next regular municipal election, or as soon thereafter as possible, to fill the remaining unexpired term of office.

1 ARTICLE V

2 OFFICERS, DIRECTORS AND EMPLOYEES

3 Section 5.01. City Manager—Appointment and General Provisions.

4 Section 5.02. City Manager—Removal.

5 Section 5.03. City Manager—Powers and Duties.

6 Section 5.04. City Attorney.

7 Section 5.05. City Clerk.

8 Section 5.06. Chief of Police.

9 Section 5.07. Departments.

10 Section 5.08. Personnel System.

11 Section 5.01. City Manager—Appointment and General Provisions.

- 12 A. The city manager shall be appointed by the Mayor, subject to Council approval. The
- 13 Governing Body shall enter into a contract with the City Manager which shall establish,
- 14 among other matters, compensation, benefits, duties and responsibilities.
- 15 B. The city manager shall be appointed solely on the basis of executive and administrative
- 16 qualifications, and shall establish residency in San Miguel County within ninety (90)
- 17 days of acceptance of the appointment.
- 18 C. The city manager, if not already certified by the International City Managers Association
- 19 (ICMA), shall be working to achieve certification while in the employ of the city. All
- 20 applicants shall be in the process of obtaining ICMA certification or shall be a corporate
- 21 member when hired.
- 22 D. The City Manager shall designate other employees of the City to perform the functions of
- 23 the office during any absence of thirty (30) days or less. The Mayor shall appoint,
- 24 subject to Council approval, an acting City Manager for any absence exceeding thirty
- 25 (30) days.

26 Section 5.02. City Manager; Removal.

27 The City Manager serves at the pleasure of the Governing Body, and may be suspended or
28 removed without cause at any time by the Mayor, subject to approval of the Council, or by the
29 Governing Body by a majority of all members of the Governing Body.

30 Section 5.03. City Manager—Powers and Duties.

1 The City Manager shall be the chief administrative officer of the City in charge of day-to-day
2 administrative affairs of the City, shall appoint the department directors, shall direct and
3 supervise City employees, and shall perform such other functions as may be established pursuant
4 to this Charter, by the Governing Body, or by state law.

5 **Section 5.04. City Attorney.**

- 6 **A. There shall be a city attorney who shall serve as chief legal advisor to the Governing**
7 **Body, city manager and all city departments, offices and agencies, shall represent the**
8 **City in legal proceedings, and shall perform any other duties prescribed by state law, by**
9 **this Charter or by ordinance. The Governing Body shall enter into a contract with the**
10 **city attorney which shall establish, among other matters, compensation, benefits, duties**
11 **and responsibilities. The City may contract for such other specialized legal services from**
12 **outside legal counsel as it deems appropriate.**
- 13 **B. The city attorney shall be an attorney in good standing, qualified in the field of municipal**
14 **law, licensed to practice law in the State of New Mexico, and shall establish residence in**
15 **San Miguel County within ninety (90) days of acceptance of appointment.**
- 16 **C. The Mayor shall appoint the city attorney, subject to Council approval.**
- 17 **D. The Governing Body shall enter into a contract with the city attorney which shall**
18 **establish, among other matters, compensation, benefits, duties and responsibilities.**
- 19 **E. The city attorney, whether contractual or employee, serves at the pleasure of the**
20 **Governing Body and may be suspended or removed without cause at any time by the**
21 **Mayor, subject to approval of the Council, or by a majority of all members of the**
22 **Governing Body.**

23 **Section 5.05. City Clerk.**

- 24 **A. There shall be a city clerk who shall serve as clerk to the Governing Body.**
- 25 **B. The city clerk shall give notice of Governing Body meetings to its members and the**
26 **public, keep the minutes of its proceedings, keep the official records of the City, cause**
27 **appropriate public notices to be given, and perform such other duties as are assigned by**
28 **this Charter, by the Governing Body or by law.**
- 29 **C. The Mayor shall appoint the City Clerk, subject to Council approval. The Governing**
30 **Body shall enter into a contract with the city clerk which shall establish, among other**
31 **matters, compensation, benefits, duties and responsibilities. The City Clerk shall establish**
32 **residence in San Miguel County within ninety (90) days of acceptance of appointment.**
- 33 **D. The City Clerk serves at the pleasure of the Governing Body, and may be suspended or**
34 **removed without cause at any time by the Mayor, subject to approval of the Council, or**
35 **by the Governing Body by a majority of all members of the Governing Body.**
- 36 **E. The city clerk, if not already certified, must work toward being certified by the Institute**
37 **of Municipal Clerks and have achieved or be working to achieve a certification as a**
38 **Certified Municipal Clerk or attain that certification while in the employ of the city.**

1 **Section 5.06. Chief of Police.**

2 **A. There shall be a Chief of Police.**

3 **B. The Mayor shall appoint the Chief of Police, subject to Council approval. The Governing**
4 **Body shall enter into a contract with the chief of police which shall establish, among**
5 **other matters, compensation, benefits, duties and responsibilities. The Chief of Police**
6 **shall establish residence in San Miguel County within ninety (90) days of acceptance of**
7 **appointment.**

8 **C. The Chief of Police serves at the pleasure of the Governing Body, and may be suspended**
9 **or removed without cause at any time by the Mayor, subject to approval of the Council,**
10 **or by the Governing Body by a majority of all members of the Governing Body.**

11
12 **Section 5.07. Departments.**

13 **A. Subject to approval of the Governing Body, the city manager shall establish such**
14 **departments as are necessary for efficient administration of the City.**

15 **B. Each department shall be under the supervision of a department director, subject to the**
16 **direction and supervision of the city manager.**

17 **C. The city manager shall appoint department directors, subject to approval by the**
18 **Governing Body.**

19 **D. Department directors are at-will employees who may be suspended or removed by the**
20 **city manager, subject to approval by the Governing Body.**

21 **E. The city manager may serve as a department director, provided that the manager shall not**
22 **serve as either city clerk or finance director.**

23 **Section 5.08. Personnel System.**

24 **A. The Governing Body shall adopt a personnel ordinance which is consistent with this**
25 **Charter establishing the personnel policies, rules and procedures of the City. All**
26 **appointments and promotions of City employees, other than department directors and**
27 **those employees who are by this Charter or by ordinance designated as at will employees,**
28 **shall be made solely on the basis of merit and fitness in accordance with the personnel**
29 **ordinance to be adopted by the Governing Body.**

30 **B. The personnel ordinance shall:**

31 **(1) Establish a merit system governing personnel policies necessary for the effective**
32 **administration of the employees of the City departments, offices and agencies,**
33 **including but not limited to classification and pay plans, examinations, force**
34 **reduction, discipline, termination, removals, working conditions, provisional and**
35 **exempt appointments, in-service training, grievances and relationships with**
36 **employee organizations;**

37 **(2) Be consistent with all mandatory federal and state requirements; and**

- 1 **(3) Authorize department directors or any other administrative officer of the City,**
2 **subject to the city manager's direction, approval, and supervision and subject to all**
3 **applicable personnel regulations, to exercise the power to hire, fire and discipline**
4 **subordinates in that officer's department, office or agency.**
- 5 **C. Neither the mayor nor any city councilor shall in any manner control or demand the**
6 **appointment, discipline, or removal of any City employee who is a merit employee of the**
7 **City; and such matters shall be left in the hands of the city manager and the city**
8 **manager's subordinates, except to the extent that the City personnel ordinance .may**
9 **authorize appeals to the Governing Body.**
- 10

ARTICLE VI

BOARDS, COMMISSIONS AND ADVISORY COMMITTEES

Section 6.01. General Provisions Governing Boards and Commissions.

Section 6.02. Permanent Boards and Commissions.

Section 6.03. Board of Adjustment and Planning and Zoning Commission.

Section 6.04. Design Review Board.

Section 6.05. Police Advisory Commission.

Section 6.06. Lodgers Tax Board.

Section 6.07. Campaign and Ethics Board.

Section 6.08. Advisory Committees.

Section 6.01. General Provisions Governing Boards and Commissions.

A. Creation. In addition to those permanent boards and commissions established by this Charter, the Governing Body may, by ordinance, establish such boards and commissions of duration greater than one (1) year with such powers, purpose, scope and authority as is deemed appropriate by the Governing Body.

B. Appointment. Except as otherwise provided in this Charter, the Mayor shall appoint all members of boards and commissions, subject to approval by the Council.

C. Residency and District Representation. Regular members of boards and commissions shall be residents of the City except as otherwise provided herein. Each board and commission shall have one (1) member appointed from each Council district. Should the member move out of the district during his term, the member shall be automatically removed from office and the position shall be considered vacant. Other members of the board or commission may be appointed at-large from within the city limits, provided, that the Governing Body shall endeavor to achieve equal representation among districts. Non-residents may be considered for the at-large positions if so provided by ordinance. The Mayor shall appoint a replacement member to any board or commission within twenty (20) days of notification to the Governing Body of a vacancy.

D. Terms. Terms of office for regular members of boards and commissions shall be four (4) years, staggered as provided herein. At the first meeting of each board and commission following the effective date of this Charter, each such body shall determine by lot which of its members shall serve for two (2) years and which shall serve for four (4) years, with

1 the two categories achieving equal numbers as nearly as possible. Thereafter, the Mayor
2 shall make appointments every two (2) years, subject to Council approval as provided
3 herein, for the positions whose terms have expired.

4 **E. Effect of Re-Districting.** No vacancy in the office of any member of any board or
5 commission shall be caused by redistricting of City Council election districts. All
6 members of a board or commission shall be entitled to serve out their terms, unless
7 otherwise removed pursuant to the terms of this Charter, even if redistricting causes the
8 number of members to exceed the proportional-representation limitations of this Charter.

9 **F. Ex-Officio Members.** No member of the Governing Body, nor any appointed official or
10 employee, shall serve on any board or commission except as a non-voting ex-officio
11 member. The Governing Body may provide for such ex-officio members by ordinance as
12 it deems appropriate.

13 **C. Removal.** Except as otherwise provided by ordinance, regular members of boards and
14 commissions serve at the pleasure of the Governing Body and may be removed by the
15 Mayor with approval of the Council, or by a majority of all of the members of the
16 Council. A board or commission may recommend to the Governing Body that it remove
17 a member of that board or commission upon the occurrence of three (3) unexcused
18 absences.

19 **H. Quorum and Open Meetings.** A quorum of any board or commission shall be a simple
20 majority of all appointed members. Each board and commission shall annually adopt a
21 resolution requiring compliance with the provisions of the New Mexico Open Meetings
22 Act.

23 **I. Report to Council.** Each board and commission shall annually prepare and deliver a
24 report of its activities and recommendations at a meeting of the Governing Body.

25 **Section 6.02. Permanent Boards and Commissions.**

26 The boards and commissions specified herein are established as permanent boards and
27 commissions of the City.

28 **Section 6.03. Board of Adjustment and Planning and Zoning Commission.**

29 **A. Membership.**

30 The Board of Adjustment and Planning and Zoning commission shall consist of seven (7)
31 members.

32 **B. Powers and Duties.**

33 The Board of Adjustment and Planning and Zoning commission shall exercise such
34 powers and

1 **Duties as are delegated to it by ordinance in furtherance of the Governing Body's**
2 **exercise of its planning, platting and zoning authority pursuant to state law.**

3 **Section 6.04. Design Review Board.**

4 **A. Membership.**

5 **The Design Review Board shall consist of seven (7) members.**

6 **B. Powers and Duties.**

7 **The Governing Body shall establish by ordinance the powers and duties of the Design**
8 **Review Board.**

9 **Section 6.05. Police Advisory Commission.**

10 **A. Membership.**

11 **The Police Advisory Commission shall consist of five (5) members.**

12 **B. Powers and Duties.**

13 **The Governing Body shall establish by ordinance the powers and duties of the**
14 **Commission, which shall act in an advisory capacity to the Governing Body regarding**
15 **police policies and procedures, complaints regarding police activity that have been**
16 **received by the City, and such other matters as the Governing Body may determine.**

17 **Section 6.06. Lodgers Tax Board.**

18 **A. Membership. The Lodgers Tax Board shall consist of five (5) members. Two (2) of the**
19 **members shall be owners or operators of lodging establishments subject to the City's**
20 **occupancy tax; two (2) of the members shall be owners or operators of industries located**
21 **within the City that primarily provide services or products to tourists; and one (1)**
22 **member shall be a resident of the City and represent the general public. This provision**
23 **shall supersede the provision of section 6.01(C) regarding district representation to the**
24 **extent necessary to procure the required membership.**

25 **B. Powers and Duties. The Governing Body shall establish by ordinance the powers and**
26 **duties of the Lodgers Tax Board.**

27 **Section 6.07. Campaign and Ethics Board.**

28 **A. Membership. The Campaign and Ethics Board shall consist of six (6) members who**
29 **shall be selected as follows: the Council shall appoint three (3) members; the Mayor**
30 **shall appoint one (1) member; the Municipal Judge shall appoint one (1) member; and the**
31 **five (5) members so appointed shall appoint a sixth member. The appointment of a**
32 **Board member by one appointing authority shall not be subject to approval or**
33 **disapproval by the other appointing authorities. This provision shall supersede the**

1 provision of section 6.01(C) regarding district representation to the extent necessary to
2 procure the required membership.

3 **B. Powers and Duties.**

4 (1) The Board shall have the power to investigate complaints of violations of the Code
5 of Ethics and the Election Code ("Codes") and to render advisory opinions to
6 persons subject to the Codes .

7 (2) The Board shall establish rules of procedure for its proceedings consistent with the
8 New Mexico Open Meetings Act and with considerations of due process.

9 **Section 6.08. Advisory Committees.**

10 The Governing Body may establish advisory committees of duration less than one (1)
11 year as it deems appropriate. The ordinance, resolution or motion establishing any such
12 committee shall provide for the manner of appointment, the powers, purpose, scope and
13 authority of the committee, the termination of the committee, and such other matters as
14 deemed relevant by the Governing Body.

15

1 **ARTICLE VII**

2 **FINANCIAL PROCEDURES**

3 **Section 7.01. Fiscal Year.**

4 **Section 7.02. Preparation and Submission of Budget.**

5 **Section 7.03. Budget a Public Record.**

6 **Section 7.01 Fiscal Year.**

7 A. The fiscal year of the City shall begin on the first (1st) day of July and end on the last day
8 (30th) of June of the next succeeding calendar year. Such fiscal year shall also constitute
9 the budget and accounting year. As used in this charter, the term budget year shall mean
10 the fiscal year for which any particular budget is adopted and in which it is administered.

11 B. The Finance Director shall function as the city treasurer unless another person is
12 designated by the Governing Body.

13 **Section 7.02 Preparation And Submission of Budget.**

14 The city manager in consultation with the Finance Director shall prepare a recommended
15 budget at least forty (40) days prior to the beginning of each budget year, in accordance with
16 rules and regulations established by the New Mexico Department of Finance and as such rules
17 may be amended from time to time, and shall submit the budget to the Governing Body with an
18 explanatory budget message.

19 **Section 7.03 Budget A Public Record**

20 A. The budget, budget message and all supporting schedules shall be public records in the
21 office of the city clerk open to public inspection. Upon final adoption, the budget shall
22 be in effect for the budget year. A copy of the budget, as finally adopted, shall be
23 certified by the city clerk. Sufficient copies of the certified budget shall be made
24 available in the finance office and city clerk office for the use of all city offices,
25 departments, or agencies, and for the use of interested persons and civic organizations.
26 Once approved by the Governing Body and the Department of Finance, the Budget shall
27 be posted on the city website.
28

1 **ARTICLE VIII**

2 **ELECTIONS, INITIATIVE, REFERENDUM AND RECALL**

3 **Section 8.01. City Elections.**

4 **Section 8.02. Initiative.**

5 **Section 8.03. Referendum.**

6 **Section 8.04. Recall.**

7 **Section 8.01. City Elections.**

- 8 A. The New Mexico Municipal election Code shall apply to and govern elections of the City
9 of Las Vegas, except to the extent that the Municipal Election Code is inconsistent with
10 the provisions of this Charter, in which case the Charter shall govern.
- 11 B. The regular municipal election shall be held on the first Tuesday in March of each even-
12 numbered year.
- 13 C. Qualified voters are as follows:
14 (1) All registered voters resident in the City shall be qualified to vote for Mayor and
15 Municipal Judge.
16 (2) All registered voters resident in a district shall be qualified to vote for Councilor
17 from that district.
18 (3) In order to qualify, voters must be duly registered with the county clerk's office not
19 later than thirty (30) days prior to the election.
- 20 D. Candidates for all municipal elective offices shall run for office without any political
21 party designation, and no references to any slate of candidates shall be made on any
22 ballots.
- 23 E. All voting systems used in municipal elections beginning in March, 2012, shall use a
24 paper ballot on which the voter physically or electronically marks the voter's choices on
25 the ballot itself. Privacy booths must be provided at all polling places.
- 26 F. The election of all municipal elective offices shall be by a simple majority, defined as
27 fifty percent (50%) plus one (1), of the votes cast for the particular office in question.
28 The Governing Body shall by ordinance determine the procedure for breaking tie votes.
- 29 G. In the event that no candidate receives a majority of the votes cast for that office, a
30 subsequent run-off election shall be held between the two candidates receiving the
31 highest number of votes. The subsequent run-off election shall be held within 45 (forty
32 five) days after certification of the results of the election.

1 **H.** The City Clerk shall maintain a pool of election workers available to assist in the proper
2 conduct of elections, and shall establish guidelines, approved by the Governing Body, for
3 determining the number of necessary workers, compensation, and other such matters
4 relevant to the conduct of the election. The Governing Body, upon approval of the
5 guidelines, shall provide all necessary resources to the clerk, but shall not otherwise
6 participate in the selection of election workers. Not more than fifty (50) percent of the
7 workers shall work in consecutive elections. City employees shall not serve as paid
8 election workers. All election workers shall attend training sessions conducted by the
9 City or County Clerk.

10 **I.** For the conduct of City elections, for the prevention of fraud in such elections, and for
11 such other purposes as may be determined by the Governing Body, the Governing Body
12 shall adopt ordinances consistent with this Charter not later than September 30, 2011.
13 Such ordinances shall include, but not be limited to, and in addition to election
14 procedures, policies concerning campaign practices, candidate expenses, contribution
15 reports , and campaign ethics.

16 **Section 8.02. Initiative.**

17 **A.** The power of Initiative is hereby reserved by the voters of the City.

18 **B.** Except as otherwise provided herein, the provisions of the New Mexico Municipal
19 Election Code and Section 3-1-5, N.M.S.A. (1978), relating to petitions, as they currently
20 exist or may hereafter be amended or superseded, shall govern the exercise of the powers
21 of Initiative.

22 **C.** The following provisions shall govern the right of Initiative:

23 (1) The qualified electors of the City shall have the power to propose ordinances to the
24 Governing Body.

25 (2) The power of initiative shall not extend to : the budget; the capital program; any
26 ordinance relating to appropriation of money; the levy of taxes, unless a referendum
27 is specifically authorized by state law; salaries of City officers or employees;
28 ordinances authorizing bonds or other obligations where such ordinance, bonds or
29 other obligations previously have been approved at a City election; or any other
30 ordinance authorizing or otherwise relating to any city bonds or other obligations
31 then outstanding.

- 1 (3) Initiative shall commence by the filing of a petition with the city clerk which
2 complies with the following requirements:
- 3 (a) The form of the proposed petition shall be submitted to the city clerk prior to its
4 circulation in the City for signature. If a particular proposed petition is not
5 submitted to the city clerk prior to circulation, or if such a proposed petition is
6 not approved as to form by the city clerk, then the city clerk shall not accept that
7 initiative petition for filing.
- 8 (b) The city clerk shall indicate in writing on a proposed petition that it is approved
9 as to form if:
- 10 (i) the petition contains a heading which states that the petition is for the
11 purpose of initiative;
- 12 (ii) the heading sets forth in full the text of the proposed ordinance;
- 13 (iii) the petition contains a place for the person signing the petition to write the
14 date, name (printed), address, and signature; and
- 15 (iv) the petition contains a statement that any person knowingly providing, or
16 causing to be provided, any false information on a petition, forging a
17 signature or signing a petition when that person knows he or she is not a
18 qualified elector in the City of Las Vegas, is guilty of a fourth degree
19 felony.
- 20 (c) The signed petition shall be filed with the city clerk not more than sixty
21 consecutive days following the date upon which the city clerk approved the
22 petition as to form.
- 23 (d) The petition shall be signed by not less than twenty-five (25) percent of the
24 number of voters of the City of Las Vegas who voted at the regular municipal
25 election immediately preceding the submission of the proposed petition to the
26 city clerk.
- 27 (4) The Governing Body shall select a qualified attorney to review and render an
28 opinion as to legality and form of any proposed ordinance before it is submitted to
29 the Governing Body for consideration.
- 30 (5) Upon the filing of an initiative petition which has been previously approved as to
31 form, the city clerk shall verify the initiative petition pursuant to Section 3-1-5
32 NMSA 1978, and the city clerk and Governing Body shall perform the duties
33 otherwise required in Section 3-1-5 NMSA 1978, except to the extent that such
34 provisions are inconsistent with this section of the Charter.
- 35 (6) Upon the filing of an initiative petition which has been certified as complying with
36 the requirements of this subsection, the initiated ordinance shall be proposed to the
37 Governing Body for enactment within thirty (30) days of the date of filing the
38 petition.
- 39 (7) If the Governing Body fails to act, acts adversely, or amends any legally proposed
40 ordinance, then the Governing Body must enact an election resolution calling for a

1 special election, pursuant to the special election calendar and procedures of the New
2 Mexico Municipal Election Code, for the purpose of submitting the initiated
3 ordinance to the electorate. If the Governing Body fails to enact an election
4 resolution, interested persons shall have recourse to the District Court. If the
5 interested persons prevail, they shall be entitled to reasonable court costs and
6 reasonable attorney fees.

7 (8) The ballot shall contain the initiated ordinance and the initiated ordinance as
8 amended, if the Governing Body amends the initiated ordinance. After each version
9 of the initiated ordinance there shall be printed the words: "FOR" and "AGAINST"
10 with spaces for crosses after each word.

11 (9) The measure receiving a majority of the votes cast in its favor is adopted. If each
12 measure receives a majority of the votes cast in its favor, the measure receiving the
13 greatest number of votes cast in its favor is adopted.

14
15 **Section 8.03 Referendum.**

16 **A.** The power of Referendum is hereby reserved by the voters of the City.

17 **B.** Except as otherwise provided herein, the provisions of the New Mexico Municipal
18 Election Code and Section 3-1-5, N.M.S.A. (1978), relating to petitions, as they currently
19 exist or may hereafter be amended or superseded, shall govern the exercise of the powers
20 of Referendum.

21 **C.** The following provisions shall govern the right of Referendum:

22 (1) The qualified electors of the City shall have the power to require reconsideration by
23 the Governing Body of any adopted ordinance, except as prohibited by law or this
24 Charter.

25 (2) The power of referendum shall not extend to: the budget; the capital program; any
26 ordinance relating to appropriation of money; the levy of taxes unless a referendum
27 is specifically authorized by state law; salaries of City officers or employees; zone
28 map amendments; ordinances authorizing bonds or other obligations, where such
29 ordinances, bonds or other obligations previously have been approved at a City
30 election or are revenue bonds; or any other ordinance authorizing or otherwise
31 relating to any city bonds or other obligations then outstanding.

32 (3) Referendum shall be commenced by the filing of a petition with the city clerk
33 which complies with the following requirements:

34 (a) The form of the proposed petition shall be submitted to the city clerk prior to its
35 circulation in the City for signature. If a particular proposed petition is not
36 submitted to the city clerk prior to circulation, or if such a proposed petition is
37 not approved as to form by the city clerk, then the city clerk shall not accept that
38 referendum petition for filing.

39 (b) The city clerk shall indicate in writing on a proposed petition that it is approved
40 as to form if:

- 1 (i) the petition contains a heading which states that the petition is for the
2 purpose of referendum;
- 3 (ii) the heading sets forth in full the title of the ordinance which is the subject
4 of the referendum, the ordinance number, if any, and a brief description of
5 the ordinance;
- 6 (iii) the petition contains a place for the person signing the petition to write the
7 date, name (printed), address, and signature; and
- 8 (iv) the petition contains a statement that any person knowingly providing, or
9 causing to be provided, any false information on a petition, forging a
10 signature or signing a petition when that person knows he or she is not a
11 qualified elector in the City of Las Vegas, is guilty of a fourth degree
12 felony.
- 13 (c) The signed petition shall be filed with the city clerk not more than sixty
14 consecutive days following the date at which the Governing Body voted to
15 approve the ordinance.
- 16 (d) The petition shall be signed by not less than twenty-five (25) percent of the
17 number of voters of the City of Las Vegas who voted at the regular municipal
18 election immediately preceding the submission of the proposed petition to the
19 city clerk.
- 20 (4) Upon the filing of a referendum petition which has been previously approved as
21 to form, the city clerk shall verify the referendum petition pursuant to Section 3-1-
22 5 NMSA 1978, and the city clerk and Governing Body shall perform the duties
23 otherwise required in Section 3-1-5 NMSA 1978, except to the extent that such
24 provisions are inconsistent with this section of the Charter. The Governing Body
25 shall select a qualified attorney to review and render an opinion as to legality and
26 form before it is submitted to the Governing Body for consideration.
- 27 (5) Upon the filing of a referendum petition, which has been certified as complying
28 with the requirements of this subsection, the ordinance in question shall be
29 presented to the Governing Body for the purpose of determining whether the
30 Governing Body will repeal the ordinance. If the Governing Body fails to repeal
31 the ordinance in question, then the Governing Body shall enact an election
32 resolution calling for a special election, pursuant to the special election calendar
33 and procedures of the New Mexico Municipal Election Code, for the purpose of
34 submitting the ordinance to the electorate.
- 35 (6) The ballot shall contain the text of the ordinance or resolution. Below the text
36 shall be the words: "FOR" and "AGAINST" with spaces for crosses after each
37 word.
- 38 (7) If a majority of the votes cast are in favor of the ordinance, then it shall take effect
39 immediately. If a majority of the votes cast are against the ordinance, it shall not
40 take effect.

- 1 (8) If an ordinance eligible for referendum is an emergency measure, it shall go into
2 effect immediately; but it shall be subject to repeal by a majority vote at a
3 referendum election.
- 4 (9) Any ordinance subject to referendum other than an emergency ordinance shall
5 become effective as provided in Article II herein. Upon certification that a
6 referendum petition regarding such an ordinance complies with the provisions of
7 this subsection, such *an* ordinance shall be suspended until it is repealed by the
8 Governing Body, rejected at an election, or approved at an election.

9 **Section 8.04. Recall.**

- 10 A. The power of recall is hereby reserved by the voters of the City.
- 11 B. Except as otherwise provided herein, the provisions of the New Mexico Municipal
12 Election Code and Section 3-1-5 NMSA 1978, relating to petitions, as they currently exist
13 or may hereafter be amended or superseded, shall govern the exercise of the power of
14 recall under this Charter.
- 15 C. The mayor and all city councilors are subject to recall.
- 16 D. The following provisions shall govern the right of recall:
- 17 (1) A written notice of intent to file a petition of recall must be submitted to the city
18 clerk and must contain a minimum of twenty five (25) signatures with printed
19 names and addresses of qualified electors residing in the particular council district,
20 or within the city limits for the office of Mayor.
- 21 (2) Recall shall commence by the filing of a petition with the city clerk, which complies
22 with the following requirements:
- 23 (a) The form of the proposed petition shall be submitted to the city clerk prior to its
24 circulation in the city for signature. If a particular proposed petition is not
25 submitted to the city clerk prior to circulation, or if such a proposed petition is
26 not approved as to form by the city clerk, than the city clerk shall not accept that
27 recall petition for filing. If the Governing Body member sought to be recalled is
28 a city councilor, then the proposed petition for recall may only be filed by
29 qualified electors of that particular ward.
- 30 (b) The city clerk shall indicate in writing on a proposed petition that it is approved
31 as to form if:
- 32 (i) The petition contains a heading which states that the petition is for the
33 purpose of recall;
- 34 (ii) The heading sets forth the name of the governing Body member who is the
35 subject of the recall;
- 36 (iii) The petition heading contains a clear and concise statement specifying the
37 reason for the recall;
- 38 (iv) The petition contains a place for the person signing the petition to write
39 the date, name (printed), address, and signature;

- 1 (v) The petition contains a statement that any person knowingly providing, or
2 causing to be provided, any false information on a petition, forging a
3 signature or signing a petition when that person knows he or she is not a
4 qualified elector in the city of Las Vegas is guilty of a fourth degree
5 felony; and
- 6 (vi) Each page of the petition for signatures contains the requirements as
7 specified in subsections (i) through (v) in the heading.
- 8 (c) The signed petition shall be filed with the city clerk not more than sixty (60)
9 consecutive days following the date upon which the city clerk approved the
10 petition as to form.
- 11 (d) In the case of the mayor, the petition shall be signed by a number equal to or
12 more than twenty-five (25) percent of the number of voters who voted at the
13 regular municipal election immediately preceding the filing of the Notice of
14 Intent.
- 15 (e) In the case of a city councilor, the petition shall be signed by a number equal to
16 or more than twenty-five (25) percent of the number of voters who voted within
17 the councilor's district at the regular municipal election immediately preceding
18 the filing of the Notice of Intent
- 19 (3) Upon the filing of a recall petition which has been previously approved as to form,
20 the city clerk shall verify the recall petition, pursuant to section 3-1-5, N.M.S.A.
21 (1978), and the city clerk and Governing body shall perform the duties otherwise
22 required in section 3-1-5, N.M.S.A. (1978), except to the extent that such provisions
23 are inconsistent with this section of the Charter.
- 24 (4) Upon the filing of a recall petition which has been certified as complying with the
25 requirements of this section, the governing Body shall enact an election resolution
26 calling for a special election.
- 27 (5) If the Governing body member sought to be recalled is a city councilor, then the
28 special recall election shall be held only in the election district represented by that
29 city councilor. Only those qualified electors residing in the same council district as
30 the councilor sought to be recalled shall be eligible to vote.
- 31 (6) At any recall election, the official holding office shall be recalled only if:
- 32 (a) A majority of the votes cast at the recall election are in favor of recalling the
33 official; and
- 34 (b) This majority equals or exceeds the number of votes the official received when
35 elected.
- 36 (7) If an official is recalled, he or she shall not be eligible to seek that office through
37 election or appointment until the term has expired.
- 38 (8) If a recall election results in a failure to secure the votes necessary to recall, the
39 official who is the subject of the recall election shall not again be subject to recall

1 **until after the expiration of six (6) months from the time at which the first recall**
2 **election was held, and in no event more than two (2) times total in a term.**

3

ARTICLE IX

CONFLICT OF INTEREST, ETHICS

Section 9.01. Conflict of Interest.

Section 9.02 Holding Other Office.

Section 9.03. Political Activity.

Section 9.01. Conflict of Interest.

A. Definitions. The following definitions shall be applicable when the defined terms are used in this section.

- (1) "Board, Commission or committee Member" means any voting member of a City board, commission, committee or similar appointed body.
- (2) "Business" means a corporation, partnership, sole proprietorship, firm, organization, or individual carrying on a business.
- (3) "City employee" means the city manager, appointed officers, department directors, and any other person who is not an elected official of the City and who receives compensation in the form of a salary from the City.
- (4) "Controlling interest" means an interest which is greater than twenty (20) percent.
- (5) "Contract" means an agreement to purchase or obtain services, construction or items of personal property with a value of five hundred dollars (\$500.00) or more, but shall not include a contract of employment with the City.
- (6) "Employment" means rendering of services for compensation in the form of salary as an employee.
- (7) "Financial interest" means an interest held by a person, that person's spouse or domestic partner, or minor children, which is:
 - (a) Any ownership interest in a business; or
 - (b) Any employment or prospective employment for which negotiations have already begun.
- (8) "Official act" means an official decision, recommendation, approval, disapproval or other action which involves the use of discretionary authority.

B. Disclosure and Voting. In addition to any other applicable provision of law, the provisions of this section shall govern disclosure and voting by the Mayor and City Councilors as follows:

- (1) The Mayor or any Councilor who has a financial interest (including property ownership) in the outcome of any policy, decision, or determination before the Governing Body, shall disclose to the other members of the Governing Body the nature of the financial interest, and the disclosure shall be recorded by the Clerk as part of the minutes of the meeting at which the disclosure is made.

1 (2) Disclosure of financial interest or possible interest on any issue coming before the
2 Governing body shall not disqualify a member of the Governing Body from voting
3 on the issue, unless:

4 (a) A majority of the remaining members of the Governing Body determine that the
5 member who discloses his financial interest or possible interest should not in
6 propriety vote on the issue; or

7 (b) The member having a financial interest or possible interest in the issue
8 voluntarily disqualifies himself .

9 **C. Disqualification.** All City employees and board, commission and committee members
10 shall disqualify themselves from participating in any official act directly affecting a
11 business in which that employee or board, commission or committee member has a
12 financial interest (including property ownership). The Governing Body may grant an
13 exception from the requirements of this subsection by action in which it sets forth the
14 reasons for its action.

15 **D. Gifts.** No city elected or appointed official, employee, or board, commission or
16 committee member shall request, receive or accept a gift or loan, or request, receive or
17 accept a gift on behalf of any other person, if:

18 (1) It tends to influence the official, employee, or board, commission or committee
19 member in the discharge of any official act, or if the donor's financial interest
20 would tend to be affected b the official action; or

21 (2) The official, employee or board, commission or committee member has, within the
22 prior two years, engaged in any official act directly affecting the donor or lender; or

23 (3) A reasonable person would conclude that the gift would tend to influence or was
24 intended to influence the official's action; or

25 (4) The official, employee, or board, commission or committee member knows the
26 donor or lender will be directly affected by a future official act of the official,
27 employee, or board, commission or committee member.

28 The prohibitions expressed herein shall not apply to bona fide gifts of a personal nature,
29 such as Christmas, birthday gifts and the like, provided that none of the above factors is
30 present.

31 **E. Gifts—Exceptions.** The prohibitions specified herein shall not apply to:

32 (1) An occasional non-pecuniary gift, insignificant in value;

33 (2) An award publicly presented in recognition of public service;

34 (3) A commercially reasonable loan made in the ordinary course of business by an
35 institution authorized by the laws of the state to engage in the business of making
36 loans; or

37 **F. Contracts.** The City shall not enter into any contract for goods or services with any city
38 elected official or city employee, with any former City elected official or City employee
39 who was a City elected official or City employee during the immediate prior twelve
40 months, or with the spouse or domestic partner of any of the above, or with a business in

1 which such current or former city elected official or employee has a controlling interest,
2 unless:

3 (1) The existence of any controlling interest is disclosed; and

4 (2) The contract is entered into after public notice and competitive bidding or
5 competitive sealed proposals in which price is a factor.

6 **G. Enforcement.** The Governing Body shall adopt ordinances and provide for fines
7 necessary to implement the provisions of this Article. Enforcement shall be delegated to
8 the Campaign and Ethics Board.

9 **Section 9.02 Holding Other Office.**

10 **A.** Except as authorized by state law, no elected officer of the City shall hold any other
11 elected public office during the term for which the member was elected. Any such state
12 law authorization shall be specific, and is not to be implied by silence. Upon swearing in
13 and assumption of any such other office, the elected officer shall be deemed to have
14 forfeited the City office.

15 **B.** No elected officer of the city shall hold any other city office or be employed by the city
16 during the term for which the member was elected.

17 **C.** No former Mayor or Councilor shall be employed by the City until one (1) year after the
18 expiration of the term for which the member was elected.

19 **D.** Nothing in this section shall be construed to prohibit the Governing Body from selecting
20 any current or former Mayor or Councilor to represent the City before any other
21 governmental entity.

22 **Section 9.03. Political Activity.**

23 **A.** No person shall engage in fund raising or campaigning in City offices regarding any
24 ballot measure at a city election.

25 **B.** No person shall be disciplined or dismissed from City employment for failure or refusal
26 to pay or promise to pay any assessment, subscription or contribution to any political
27 group, organization or campaign for municipal office, provided, that nothing herein shall
28 prohibit or limit voluntary contributions to municipal election campaigns.

29 **C.** Any city employee who becomes a candidate for municipal elective office of the city of
30 Las Vegas shall, upon filing a declaration of candidacy, take a leave of absence without
31 pay, use accrued vacation time, or both, not later than thirty (30) days prior to the date of
32 the municipal election. The City shall grant any such requested leave of absence.

33 **D.** No employee of the city shall engage in any campaigning, fundraising or other political
34 activity involving any municipal election while on duty.

35 **E.** The Governing body shall adopt an ordinance providing for implementation and
36 enforcement of this section.

1 **ARTICLE X**

2 **TRANSITIONAL PROVISIONS**

3
4 **Section 10.01. Effective Date.**

5 **Section 10.02. Officers and Employees.**

6 **Section 10.03. Saving of Consolidation and Repeal of Existing Charter.**

7 **Section 10.01. Effective Date.** This Charter shall take effect for all purposes on the second
8 Monday following the regular municipal election in March, 2012.

9 **Section 10.02. Officers and Employees.**

10 **A. Rights and Privileges Preserved.** Except as otherwise specifically provided herein,
11 nothing in this Charter shall affect or impair the rights or privileges of persons who are
12 appointed City officers or employees at the time of its effective date. Upon the effective
13 date of this Charter, all appointed officers and employees of the City shall remain in
14 office until removed as provided for or as authorized in this Charter.

15 **B. Personnel System.** Any person who is a merit employee of the City at the time this
16 Charter becomes effective shall remain in the same legal status as existed prior to the
17 effective date of the Charter, and shall remain subject to the City personnel system.

18 **Section 10.03. Saving of Consolidation and Repeal of Existing Charter.**

19 **A. Saving of Consolidation.** The City of Las Vegas has heretofore adopted a Consolidation
20 and Charter, dated March, 1970, and amended from time to time. The Consolidation
21 portion of that document, designated as "First Part" and providing for the consolidation
22 of the Town of Las Vegas and the City of Las Vegas is reaffirmed and adopted by this
23 Charter except to the extent of any inconsistency, in which case the provisions of this
24 Charter shall prevail.

25 **B. Repeal of Existing Charter.** The City Charter portion of the aforesaid document,
26 designated as "Second Part" and providing for municipal Charter for the City, is hereby
27 repealed except to the extent, if any, that said Charter ratifies, affirms, authorizes or
28 otherwise establishes the consolidation of the Town of Las Vegas and the City of Las
29 Vegas. Any such ratification, affirmation, authorization or establishment is expressly
30 saved and incorporated herein for all purposes and is newly ratified by enactment of this
31 Charter.

32

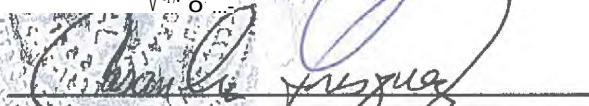
This Charter shall become effective on March 19th , 2012.

The Charter of the City of Las Vegas was adopted by the Voters of the City of Las Vegas, New Mexico, at a Special Municipal Election Held on March 2nd . 2010.



Mayor of the City of Las Vegas
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City Clerk of the City of Las Vegas

(SEAL)

Home Rule Charter Commission
Alex Aragon
Kim Delgado
Steve Gonzales
Leith Johnson
Jose Leroy Martinez
Matt C. Martinez
Lucy Moya
Joseph "Joey" Herrera
Lydia Gonzales
Mel Root
Commission Clerk: Gloria M. Medina