

**City of Alvin**  
**Charter Review Commission Report**  
**December 15, 2016**

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## **I. Introduction**

The Alvin City Charter requires a review of the City Charter at least every four years but no more often than every two years. The previous Charter Review Commission met in 2012 and the City Council appointed the current Charter Review Commission on June 16, 2016. The Commission was tasked to review the Charter for:

- adequate legal updates consistent with state and federal law
- the promotion of good government practice
- the creation of better efficiency or effectiveness
- clarification of charter terms
- recommendations to Council about the Commission's conclusions about these issues

The Charter Review Commission consists of seven members which are appointed by the City Council. At the first regularly scheduled Commission meeting, a Chairman, Vice-Chairman, and Secretary were elected. Charter Review Commissioners are: Chairman, Chad Gormly; Vice-Chairman, Jimmy Kitchens; Secretary, Martin Vela; members Santos Garza, Kerry Ulm, Roger Stuksa and Marisol Jimenez. Brenda Smith was initially appointed but later declined to serve.

The staff representative to the Commission was Bobbi Kacz, City Attorney, who provided significant support for every meeting and the entire process. David Olson, also provided support as part of the legal team. The attendance by Junru Roland, CFO/ACM, and Michelle Segovia, City Engineer, at one meeting was very much appreciated by the Commission. The City Clerk's office assisted with preparing the agendas and the minutes of each meeting.

All meetings were posted and were open to the general public. The Commission conducted its initial meeting on July 18, 2016 and the Commission's last meeting was held December 12, 2016. A total of seven meetings were held over the past six (6) months. The Commission reviewed the City Charter multiple times, taking into consideration suggestions that were proposed from the public, City staff, the City Attorney and the Commission itself.

After discussion, the Commission used the following rationale for consideration of changes to the City Charter:

- Is the current City Charter correct?
- Is the current City Charter misleading or vague?
- How does the City Charter and/or item relate to state or federal law?
- Does the item belong in the City Charter or does it unduly restrict the council?
- What are the benefits/drawbacks of the item?

## **II. Public Input**

The Commission requested input from the general public via a press release in the local newspaper. Two responses were received from the general public for consideration by the Commission.

## **III. Recommendations from City staff and Legal counsel**

The Commission requested input from city staff and legal counsel. The City Attorney delivered numerous recommendations from city staff, the City Attorney and David Olson. The Commission discussed over 85 items of interest. In addition, several typographical and/or grammatical errors that would not require a vote were identified and given to the City Attorney for correction.

## **IV. Recommendations from the Commission**

*A note here seems appropriate to inform Council that the 2012 Commission reported a recommendation to Council to consider a total rewrite of the Charter in the future, but choosing not to recommend numerous changes at that time. This Commission took the challenge ‘head on’ and while not suggesting a wholesale rewrite, does recommend numerous changes to the Charter. This Commission recognizes that the Charter was initially written more than 50 years ago, has had numerous piece mill revisions since that time, and many provisions are difficult to understand and are no longer practicable today. While voting on 59 possible changes, the Commission voted affirmatively to recommend 46 changes to the Charter.*

**The Charter Review Commission recommends the following changes to the Alvin City Charter.**

### **1. Commission Recommendation, Revise Article I. – Incorporation, Form of Government, and General Powers, Section 5 – Annexation and disannexation.**

The council may by ordinance unilaterally annex or disannex any land, property or territory upon its own initiative, or upon a petition submitted by a majority of the voters residing within the territory being annexed or disannexed, upon petition by the owners of the property, or upon a petition signed by a majority of the property owners in a platted subdivision. The council may disannex or release extraterritorial jurisdiction when in the best interest of the city. The procedure for the establishment, modification or extension of the city boundaries, and the annexation or disannexation of territory, may not be inconsistent with any applicable requirements and limitations established by state law; ~~provided that absent procedures being established by state law, the action may be taken by ordinance adopted after two public hearings are held at least ten (10), but not more than twenty (20) days after notice of such public hearings are published in a newspaper of general circulation in the city.~~ Upon final passage of an ordinance, fixing, establishing or modifying the boundaries of the city, or

annexing or disannexing any property by any method prescribed herein, the boundaries of the city shall be so extended or modified as provided in such ordinance. Upon an ordinance annexing property into the city, the territory described in the ordinance shall become a part of the city, and the said land and its residents and future residents shall be bound by the acts, ordinances, codes, resolutions and regulations of the city.

**Rationale:** There is no reason to have additional restrictive procedural requirements for annexation. If for some reason, annexation procedures were removed from State law, then the City should follow generally acceptable standards for annexation. The deleted language is excessive language, not needed for annexing property, with or without applicable State law.

## **2. Commission Recommendation, Revise Article II. – The Council, Section I – Governing body.**

(a) The governing body of the city shall be a city council composed of seven (7) councilmembers and a mayor, each elected for a term of three years. The council districts shall be designated as Districts A, B, C, D and E and At-Large Positions 1 and 2. The mayor and councilmembers for At-Large Positions 1 and 2 shall be elected from the city at-large. Councilmembers for Districts A, B, C, D and E shall each be elected by vote of the qualified voters residing within a corresponding lettered single member district established by ordinance. The terms of the mayor and councilmembers shall be staggered three year terms, ~~and the transition to three year terms shall be as provided in Sec. 3.~~ No mayor or councilmember may serve more than three (3) terms of office (inclusive of unexpired terms) nor shall the tenure of office exceed nine (9) years.

**Rationale:** This language is irrelevant due to the 2006 term transition being completed.

## **3. Commission Recommendation, Revise Article II. – The Council, Section 2 – Qualifications.**

On the day prior to the date of the scheduled election to be held for such office, the mayor and councilmembers shall: (i) be at least eighteen years of age; (ii) be citizens of the United States; (iii) be qualified voters of the city; (iv) have been residents of the State of Texas for at least twelve consecutive months; (v) have been residents of the city and the district for which they seek election, or an area having been annexed into the city and/or the district, for at least six consecutive months; ~~(vi) not be delinquent on any indebtedness to the city;~~ and (vii) meet all other qualifications for eligibility set forth in the Texas Election Code. No city employee shall be eligible to file for election as a member of the council; and no candidate for mayor or council shall hold any other elective public office, or any paid ~~appointive~~ office of the city. ~~If the mayor or any councilmember becomes delinquent in any indebtedness, to the city, the city finance director shall inform the city clerk who shall then inform the delinquent mayor or councilmember, within seventy two hours of receiving such notice. If the indebtedness is not paid by the close of regular business hours on the date of the second regular council meeting after notice is given by the city clerk, the council shall cause the matter to be placed on the agenda and shall declare the office then held by the delinquent mayor or councilmember to be~~

~~vacant. Further, The mayor or councilmember must resign before filing for any other public office, other than the position then held as mayor or councilmember, unless the election for such other office is scheduled to be held after the expiration of his/her term of office.~~

**Rationale:** Indebtedness to the City as a disqualification is subject to legal challenge.

#### 4. Commission Recommendation, Revise Article II. – The Council, Section 3 – Transition.

~~The mayor or councilmember in office when this charter is adopted shall serve the remainder of their respective term of office. At the general election in 2007, councilmembers for Districts B and C shall be elected from single member districts and a councilmember for At-Large Position 1 shall be elected at large; and each shall serve a two (2) year term. At the general election in 2008, a mayor shall be elected at large and a councilmember for District E shall be elected from a single member district; and each shall serve a three year term. At the general election in 2008, councilmembers for Districts D and A shall be elected from single member districts and a councilmember for At-Large Position 2 shall be elected at large; and each shall serve a two year term. After the 2008 general election, the mayor and councilmembers shall be elected to three year terms as their respective terms of office expire.~~

**Rationale:** This language is irrelevant due to the 2006 term transition being completed.

#### 5. Commission Recommendation, Revise Article II. – The Council, Section 4 – Vacancies in office.

The office of mayor or councilmember shall become vacant upon the death, resignation, ~~or~~ removal from office ~~or for other disqualification to hold such office of the incumbent~~. Any vacancy or vacancies, whether in the office of mayor or councilmember, shall be filled by special election called for such purpose; ~~provided however, a vacancy occurring for the office of mayor or a councilmember that has an unexpired term of 12 months or less may be filled by appointment by council. If council elects, or is otherwise required by law, to call a special election to fill a vacancy, then The date for a special elections to fill such vacancy~~ ~~ies~~ shall be the first uniform election date after the vacancy occurs and for which there is sufficient time to call and give notice of the election as required by law. If ~~such~~ a vacancy occurs and no ~~such~~ election date falls within 120 days after the date of the vacancy, the council shall, without regard for the specified uniform election dates, order such election to be held on a Saturday within 120 days from the date of ~~such~~ the vacancy. All vacancies shall be filled ~~by election~~ for the remainder of the unexpired term of the office so filled. ~~A special election is not required if the term of the vacated office expires with a general election held within 120 days after the date of the vacancy.~~

**Rationale:** State law vacancy provisions have changed and this brings this Charter provision consistent with state law. The last sentence is deleted due to its redundancy.

**6. Commission Recommendation, Revise Article II. – The Council, Section 6 – Investigative powers of the council.**

The council shall have the power to inquire into the official conduct of any department, agency, office, officer, or employee of the city, and into any other matters of proper concern to the ~~Municipal Government~~city. For this purpose the council shall have the power to administer oaths, subpoena witnesses, and to compel the production of books, papers, and other evidence material to the inquiry. The council ~~shall~~may provide by ordinance penalties for contempt in failing or refusing to obey any such subpoena or to produce any such books, papers or other evidence and shall have the power to punish any such contempt in the manner provided by that ordinance.

**Rationale:** This cleans up the terminology and removes the absolute requirement for council to provide an ordinance for penalties for contempt but allows for council action if desired or warranted.

**7. Commission Recommendation, beginning with Article II. – The Council, Section 8 and throughout the entire Charter.**

Change all instances of “city clerk” to “city secretary”.

**Rationale:** The position of city secretary is recognized throughout the state as the appropriate title for that position.

**8. Commission Recommendation, Revise Article II. – The Council, Section 8 – Mayor and mayor pro tem.**

At the ~~second regular meeting each May~~first regular meeting following the election of members of council, the mayor shall appoint one of its members as mayor pro tem, subject to approval by the council. The mayor pro tem shall serve for one year and shall act as mayor during the absence or disability of the mayor, and shall have power to perform every act the mayor could perform if present.

**Rationale:** This is a procedural correction of the process in case of a run-off election.

**9. Commission Recommendation, Revise Article II. – The Council, Section 9 – Meetings of council.**

There shall be regular meetings of the council which shall be held at such times and places as shall be prescribed by ordinance or resolution. Special meetings which shall be for a specific purpose (or purposes) may be called at any time by the city manager upon request of the mayor or four (4) councilmembers ~~and no action shall be taken on other matters~~. Notice of

special meetings shall be given to each member of the council ~~at his/her regular address~~. Such notice shall include a statement of the purpose of the special meeting.

**Rationale:** State law provides notice and procedure requirements for meetings. Hand-delivery of notice of meetings is an outdated practice. The City no longer “delivers” hard copies of agendas to councilmembers at their home addresses.

**10. Commission Recommendation, Revise Article II. – The Council, Section 12 – Publication of ordinances.**

The descriptive caption of every ordinance imposing any penalty, fine or forfeiture for any violation of its provisions shall be published in the official newspaper ~~or as otherwise authorized by state law and every such ordinance shall not take effect until ten (10) days after the date of publication.~~ or as otherwise authorized by state law.

**Rationale:** State law requires cities to publish the caption but does not require the additional 10-day wait time to be effective for enforcement purposes. A circumstance could arise where the City may have to adopt an emergency ordinance to address an urgent issue and a 10-day wait period could create liability on the City.

**11. Commission Recommendation, Revise Article III. - Elections, Section 3 – The official ballot.**

The positions of the ~~several~~ members of the council shall be designated on the official ballot as "Member of the council, Districts A, B, C, D and E, and At-Large Positions 1 and 2," and each candidate shall indicate the place ~~which~~ that he/she desires to fill. Candidates for Districts A, B, C, D and E must reside within the boundaries of the district for which they seek election. Candidates for At-Large Positions 1 and 2 may reside in any portion of the city. The names of all candidates for office, except such as may have withdrawn, died or become ineligible, shall be ~~printed~~ placed on the official ballots without party designations in the order determined in ~~a drawing of lots conducted by the council~~ the ballot drawing. ~~All official ballots shall be printed at least twenty (20) days prior to the date of any general or special election,~~ Ballots and early voting shall be governed by the general election laws of the State of Texas.

**Rationale:** The City Clerk’s office conducts the ballot drawing and this change will update to the City’s current practice.

**12. Commission Recommendation, Revise Article IV. – Initiative, Referendum and Recall, Section 2 – Initiative.**

Subject only to the limitations provided in this Article, the people of the city shall have the power to propose legislation on any local government issue, except legislation appropriating money, levying taxes, affecting zoning, annexing land, or setting rates, fees or charges ~~, and, if~~

~~the council fails to adopt an ordinance so proposed, to adopt or reject the proposed legislation at an election.~~

**Rationale:** This is excessive language. It is unnecessary to describe the public's options here and is redundant about the process.

**13. Commission Recommendation, Revise Article IV. - Initiative, Referendum and Recall, Section 9 – Action on petition.**

~~Within thirty (30) days after the date an initiative petition has been certified to the council as sufficient, the council shall request a formal legal opinion from the city attorney on the legality of the proposed ordinance. If the city attorney issues a written opinion that the proposed ordinance is clearly and facially invalid, the council shall not be required to call an election on such initiative. Otherwise, within forty-five (45) days after an initiative or referendum petition has been certified to the council as sufficient, the council shall:~~

- (a) Adopt the proposed initiative ordinance without any change in substance; or
- (b) Repeal the referred ordinance; or
- (c) Call an election on the proposed or referred ordinance.

**Rationale:** The City Attorney should not be exercising a sovereign function; moreover, it is unlawful to deny the voters the right to have an initiative placed on the ballot based on the assertion that the action requested is unlawful. The Courts require cities to have the election first and then address the legality of the measure after the election.

**14. Commission Recommendation, Revise Article V. – Administrative Services, Section 3 – Powers and duties of the city manager.**

- ~~(a) The city manager may hire, appoint, and terminate department heads not specifically appointed by the council only with the advice and consent of city council. All other employees will be hired, employed, assigned, and terminated by the city manager in accordance with procedures delineated in the personnel policies manual.~~
- ~~(b) Prepare the budget annually and submit it to the council, and be responsible for its administration after adoption.~~
- ~~(c) Prepare and submit to the council as of the end of each month a complete report on the finances and administrative activities of the city for the previous month and the year to date.~~
- ~~(d) Keep the council advised of the financial condition and future needs of the city and make such recommendations as may seem desirable.~~

~~(e) The city manager shall present the council with an inventory of all city-owned property and equipment, including real property, at the time he/she presents his/her annual budget message. In order to meet this requirement, he/she shall cause to be established an event-oriented inventory management system and will cause a physical inventory to be made of all property at least once every two (2) years.~~

~~(f) As a part of the annual budget message to council the city manager shall provide the council with a written status report on all franchises granted by the city. The report shall address any problem areas and the annual revenues received from each franchise holder.~~

~~(g) Perform such duties as may be prescribed by this Charter or may be required of him/her by the council not inconsistent with this Charter.~~

-The city manager shall:

(a) Hire, appoint and remove any employee not appointed by the council.

(b) Prepare the budget annually and submit it to the council, and be responsible for its administration after adoption.

(c) Prepare and submit to the council as of the end of the fiscal year a complete report on the finances and administrative activities of the city for the preceding year.

(d) Keep the council advised of the financial condition and future needs of the city and make such recommendations as may seem desirable.

(e) Perform such duties as may be prescribed by this charter or may be required of him/her by the council, not inconsistent with this charter.

**Rationale:** The alternative language presented is more concise and updated, leaves out outdated practices of an operational function (inventory of city owned property). Deletion of Council consent to department head hiring/firing presumably requires Council's 'second guessing' the city manager. City has council-manager form of government, city manager has daily contact with department heads and Charter prohibits Council interference in administrative matters; cross reference Art II sec 7 of Charter.

**15. Commission Recommendation, Revise Article V. – Administrative Services, Section 5 – Chief of police.**

~~The chief of police, who shall be the executive officer of the police department, will be appointed by the city manager with approval of the council. He shall have prior experience in the field of law enforcement, possess good moral character and shall have never been convicted of a felony or any crime involving moral turpitude in this or any other state.~~

**Rationale:** Deletion of this section is recommended because it is not required nor necessary to identify the chief of police as an employee of the City.

**16. Commission Recommendation, Revise Article V. – Administrative Services, Section 6 – Limitation on departmental head authority.**

Department heads may make recommendations to the city manager regarding the hiring, promotion, demotion, discipline and termination of employees under their supervision but shall have no authority to consummate any such actions in the name of the City of Alvin unless otherwise designated by the city manager. ~~Final authority for any of such actions is vested in the city manager.~~

**Rationale:** This change provides for delegation by the city manager to others for hiring and termination processes pursuant to the City’s Personnel Policy Manual adopted by Council. The deleted sentence is inconsistent with Art V sec 3(a).

**17. Commission Recommendation, Revise Article V. – Administrative Services, Section 8 – Health Officer.**

The health authority~~officer~~ shall be appointed by the city council. He/she shall be a licensed physician, qualified to practice medicine in the State of Texas.

**Rationale:** Health & Safety Code 121.028 provides for the appointment of a Health Authority to administer state and local laws relating to public health in a municipality’s jurisdiction. This updates to current state law.

**18. Commission Recommendation, Revise Article V. – Administrative Services, Section 10 – Employee pay plans, personnel policies, etc.**

~~Appointments and promotions in the administrative service of the city shall be made according to merit and fitness. To carry out this purpose, t~~The council shall ~~by ordinance~~ provide a system for the classification of employees including pay plans, and rules for the appointment, promotion, discipline, grievance, administrative review, and dismissal. The rules shall contain policy statements that clarify employees' rights and benefits, such as vacation, sick leave, retirement and insurance. ~~In addition, the council shall develop a plan of uniform job classification systems that defines the duties, responsibilities and qualifications for every position.~~

**Rationale:** The City does not use a merit and fitness system for appointments and promotions. Currently, policies are adopted by resolution, while ordinances provide legislation.

**19. Commission Recommendation, Revise Article V. – Administrative Services, Section 11 – Classified service.**

~~No officer, employee, member of a board or other person, who is to be appointed by the council under this Charter, shall be included within the classified service of the city, but all other persons in the administrative services of the city shall be included therein unless specifically excluded by the ordinance providing for a system of classified services.~~

**Rationale:** This language typically refers to civil service employees. The City does not have civil service, thus this section is meaningless and can be deleted in its entirety.

## 20. Commission Recommendation, Revise Article V. – Administrative Services, Section 12 – City clerk.

~~The city manager shall appoint the city clerk with the advice and consent of the council. The position of city clerk shall be considered that of a department head. The city clerk or assistant shall keep minutes and other records of the council and shall have such other duties and responsibilities as may be assigned by this Charter, the council or the city manager.~~

**Rationale:** Deletion of this section is recommended as it is not required nor necessary to identify the city clerk/secretary as an employee of the City.

## 21. Commission Recommendation, Revise Article VI. - Municipal Court, Section 2 – Judge of the municipal court.

~~The municipal court shall be presided over by a magistrate who shall be known as the judge of the municipal court. The presiding judge of the municipal court He/she shall be ~~elected~~ appointed by a majority of the council and shall hold office for ~~to serve~~ a term of two (2) years. The judge shall have been a resident of Brazoria County for at least one year immediately prior to his/her appointment, ~~possess good moral character and shall have never been convicted of a felony or any crime involving moral turpitude in this or any other state.~~ The council shall have authority to ~~elect~~ appoint an ~~associate~~ alternate judge of the municipal court in the same manner and with the same qualifications set forth for the presiding judge. ~~The alternate judge shall have the same duties and responsibilities as the presiding judge and shall serve in the absence of the presiding judge. In the event either the presiding judge or alternate judge (if one is so appointed) of the municipal court is unable to act for any reason, the mayor shall act in his/her place until the council has appointed a replacement.~~ The judge or, alternate judge, ~~or anyone acting in his/her place~~ shall receive such compensation as may be set by the council. The council shall have the power to create and establish additional municipal courts, with the same or separate jurisdictions, and to ~~elect~~ appoint an additional magistrate for each court so established.~~

**Rationale:** This change simplifies the section, deletes excess language and provides the correct term that council ‘appoints’ the municipal judges, and provides the state judicially preferred title of ‘associate’ judge.

**22. Commission Recommendation, Revise Article VII. – Municipal Finance, Section 3 – Budget a public record.**

The budget and all supporting schedules shall be filed with the person performing the duties of city secretary, submitted to the council and shall be a public record. ~~The city shall provide copies for distribution to all interested persons.~~

**Rationale:** This eliminates the requirement of an outdated practice. The budget is available online and in the city secretary’s office and the Alvin Branch Library.

**23. Commission Recommendation, Revise Article VII. – Municipal Finance, Section 4 – Notice of public hearing on budget.**

At the meeting of the city council at which the budget is submitted, the council shall fix the time and place of a public hearing on the budget and shall cause to be published in the official newspaper of the city, a notice of the hearing setting forth the time and place thereof, in accordance with state law ~~at least five (5) business days before the date of such hearing.~~

**Rationale:** This provides a legal update; Local Govt Code 102.0065 establishes the notice requirement for the budget hearing.

**24. Commission Recommendation, Revise Article VII. – Municipal Finance, Section 10 – Budget establishes appropriations.**

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes named therein. Except as provided in this article or state law, no funds of the city shall be expended nor shall any obligation for the expenditure of money be incurred, except pursuant to the annual appropriation ordinance provided by this article. At the close of each fiscal year, any unencumbered balance of any appropriation shall revert to the fund from which appropriated and become available for re-appropriation for the next fiscal year. The council may transfer any unencumbered appropriated balance or portion thereof from one office, department, or agency to another at any time. The council shall have the authority to transfer appropriation balances from on[e] expenditure account to another within a single office, department, or agency of the city. As part of each fiscal year budget, the city council may authorize the city manager or his or her designee to transfer appropriation balances from one expenditure account to another within a single office or department within a fund. The city manager will report to the city council all inter-departmental or interfund budget transfers he or she has authorized during the fiscal year according to council requirements.

**Rationale:** The additional language clarifies the City’s actual practice.

**25. Commission Recommendation, Revise Article VII. – Municipal Finance, Section 11 – Purchase procedure.**

The city ~~manager~~ shall develop ~~for adoption by ordinance~~, a uniform guide for purchase procedures for adoption by council. The city ~~attorney~~ shall review the purchase procedures ~~every two years~~ and make recommendations to the council regarding changes, if any, made necessary by federal and/or state laws. ~~If changes are recommended, such changes shall be made in the form of an amendment to the ordinance which shall be brought before the council for approval.~~

**Rationale:** Policies and procedures are typically adopted by resolution not ordinance. The last sentence is not necessary as it recites the normal practice of conducting city business.

**26. Commission Recommendation, Revise Article VII. – Municipal Finance, Section 15 – Annual audited financial report.**

At the close of each fiscal year, and at such other times as it may deem necessary, the council shall cause an independent audit to be made of all accounts of the city by a certified public accounting ing firm ~~ant~~, ~~recommended~~ appointed by the City Manager ~~mayor or Chief Financial Officer~~ with the approval of the council. The certified public accounting ing firm ~~ant~~ so selected shall have no personal interest, directly or indirectly, in the financial affairs of the city or any of its officers. The certified public accounting ing firm ~~ant~~ shall perform the audit in accordance with accounting and auditing standards generally accepted in the United States of America and the Governmental Accounting Standards Board ~~a spot check of city owned property and report the results with each annual audited financial report. Upon completion of the annual audit, the combined balance sheet thereof shall be published in the official newspaper of the City of Alvin within thirty (30) days of council acceptance of the annual audit.~~ Copies of the comprehensive annual audited financial report ~~all audits~~ shall be placed on file in the offices of the ~~Chief~~ chief ~~Financial~~ financial ~~Officer~~ officer and the city ~~clerk~~ secretary.

**Rationale:** The deleted language is an outdated practice and the changes will update to current practice and terminology.

**27. Commission Recommendation, Revise Article VII. – Municipal Finance, Section 18 – Depository and withdrawals.**

All monies received by any person, department or agency of the city, for or in connection with affairs of the city, shall be deposited promptly in the city depository or depositories. ~~At a minimum, t~~ The council will select a city depository(ies) up to every ~~five~~ four (54) years ~~by~~

~~competitive bid~~ and in accordance with state law. All city funds will be secured by appropriate securities in accordance with state law. All checks, vouchers or warrants for the withdrawal of money from the city depositories shall require two (2) signatures, those being from any two (2) of the following: city manager, ~~finance director~~ chief financial officer, city ~~clerk~~ secretary or mayor.

**Rationale:** This updates to current state law, Local Govt Code 105.

**28. Commission Recommendation, Revise Article VII. – Municipal Finance, Section 23 – Taxes; when due and payable.**

Sec. 23. ~~–~~ Ad Valorem Taxes; ~~when due and payable~~.

As to the assessment and collection of ad valorem taxes for the city, the city shall follow the law as stated in the Texas Property Code and any other applicable state laws or state agency rules. ~~It taxes due the city shall be payable at the offices of the assessor-collector, as designated from time to time by the City Council, and may be paid at any time after the tax rolls for the year have been completed and approved, which shall be not later than October first or as soon thereafter as practicable. Taxes shall be paid before February first, and all such taxes not paid prior to such date shall be deemed delinquent and shall be subject to such penalty and interest as shall be assessed as provided in the Property Tax Code or by subsequent legislation. The council may provide further by ordinance that all taxes, either current or delinquent, due the city may be paid in installment. Failure to levy and assess taxes through omission in preparation of the approved tax roll shall not relieve the person, firm or corporation so omitted from obligation to pay such current or past due taxes as shown to be payable by recheck of the rolls and receipts for the years in question.~~

**Rationale:** Brazoria County Tax Assessor, Rovin Garret, suggested this update to current state law.

**29. Commission Recommendation, Revise Article VII. – Municipal Finance, Section 29 – Use of sales and use tax.**

~~Except as otherwise approved by the voters, all f~~unds received by the city as a result of the local sales and use tax, adopted pursuant to ~~article 1066c, Vernon's Texas Civil Statutes (Acts 1967, 60th Legislature, Regular Session, Chapter 36, page 62), now codified as~~ Chapter 321 of the Texas Tax Code, shall be apportioned to restrict two-thirds of the funds received to be used only in connection with streets, drainage and sidewalks, and to allocate the remaining one-third of funds received to the general fund. ~~within the City of Alvin.~~ Any and all costs associated with streets, drainage and sidewalks shall be authorized. The portion of sales and use tax funds restricted to use only in connection with streets, drainage and sidewalks shall be maintained in a separate fund by the chief financial officer ~~city treasurer~~, which shall be

designated in a manner calculated to properly identify same and shall not be used for any purpose other than that expressly authorized by this Charter ~~or by the voters in a separate election.~~

**Rationale:** This language identifies the split of the portion of sales tax remitted by the state to the city for its designated purposes and allocation of funds.

**30. Commission Recommendation, Revise Article VII. – Municipal Finance, Section 30 – Joint tax administrative agreements; tax department; assessment, collection procedures.**

The city council shall have the power to enter into contracts and agreements for joint tax administration services between the city and other governmental agencies, and to establish a tax department, and tax assessment and collection procedures in connection therewith, in accordance with law. Upon receipt of the certified approval roll, steps required by the Property Tax Code shall be taken concerning the effective tax rate. The city may appraise and assess properties only if granted that right by future legislation. The city manager ~~shall take aggressive action to collect delinquent taxes and~~ shall provide each councilmember with a copy of the delinquent tax roll at a regular council meeting each July. A copy of the delinquent tax roll shall be made available for public inspection in the city clerk's office ~~tax assessor-collector's office.~~

**Rationale:** This updates to current City practice as the City contracts with Brazoria County Tax Assessor to collect City taxes, thus it does not collect taxes anymore, nor take action to collect delinquent taxes.

**31. Commission Recommendation, Revise Article VII. – Municipal Finance, Section 31 – Department of finance.**

Change all instances of “director of finance” or “city treasurer” to “chief financial officer”.

**Rationale:** The position title of Chief Financial Officer was changed by ordinance June 7, 2012 and several instances of the former title(s) remain in the charter.

There shall be a department of finance, headed by the Chief Financial Officer, who will report to the city manager. The Chief Financial Officer, shall administer and supervise all financial affairs of the city and to that end shall have authority and may be required to: . . .

- (e) Submit to the council through the city manager a financial ~~monthly~~ statement ~~of all receipts and disbursements~~ in sufficient detail to show the exact financial condition of the city ~~as prescribed by ordinance~~ at Council's request, but not less than quarterly.
- (f) Submit to the council the comprehensive annual audited financial report at a regular council meeting for council to acknowledge receipt of such report. ~~Publish in the official newspaper of the city a financial statement of the financial condition of the~~

~~city, including the status of all general and special accounts, and bonded and other indebtedness of the city in the form and as often as a majority of the councilmembers qualified and serving may require, but at least once each fiscal year. The publication required by section 15 of this article shall constitute compliance with this Charter for purposes of the annual audit. Audits other than annually shall be on a noncertified basis. Prior to publication, t~~The financial report shall be submitted to the council for acceptance or rejection. Such acceptance or rejection must be made at a regular meeting of the council and the results shall be made a matter of record and shall be reflected on the report when published as above provided. One or more copies of such report shall be made available for public inspection in the offices of the ~~Chief~~chief ~~Financial~~financial ~~Officer~~officer, and city ~~clerk~~secretary during normal office hours.

- (g) Invest all funds deemed in excess of current needs in the manner authorized by the laws of the State of Texas; current needs are hereby defined as expenditures to be made within a given ninety (90) day period.
- (h) Have custody of all investments in investor funds of the city, or in the possession of the city in a fiduciary capacity and maintain evidence of~~have~~ the safe-keeping of all bonds and notes of the city and the receipt and delivery of city bonds, warrants, and notes for transfer, registration or exchange. The chief financial officer~~director of finance~~ shall be responsible for the disposition of redeemed, paid and canceled bonds, warrants and notes.
- (i) Maintain a general accounting system for the city government and each of its offices, departments and agencies; account~~keep books~~ for and exercise financial budgetary control over each office, department, and agency; keep separate accounts for the items of appropriations contained in the city budget, each of which account shall show the amount of the appropriations, the amount paid therefrom, the unpaid obligations against it and the unencumbered balance; require reports of receipts and disbursements from each receiving and spending office, department or agency of the city to be made daily or at such intervals as the director may deem expedient.

**Rationale:** While each subsection may be submitted as individual proposed changes for the election, they are presented here as a collective portion of the Department of Finance section. The changes update to current practices and terminology.

### **32. Commission Recommendation, Revise Article VIII. – Municipal Planning, Section 1 – Planning commission.**

The council shall appoint a city planning commission, consisting of not less than five (5) nor more than ~~fifteen~~eleven (~~15~~11) members who shall be residents of the city, and shall serve without compensation. The commission shall meet at least once each month. All minutes of the planning commission meetings shall be submitted to the city council.

**Rationale:** Reduced the size to current number on the commission due to past difficulty of sufficient attendance for a quorum.

**33. Commission Recommendation, Revise Article VIII. – Municipal Planning, Section 3 – Vacancies.**

Vacancies occurring in the commission shall be filled within thirty (30) days by the council for the remainder of the unexpired term. Membership shall be accompanied by active participation in the activities of the commission, and any member who is absent from three (3) consecutive regular meetings shall automatically be dropped from membership without an acceptable explanation to a majority of the commission ~~and the commission shall immediately notify the council that a vacancy exists.~~

**Rationale:** This provides the ability to have “excused absences” if approved by the commission.

**34. Commission Recommendation, Revise Article VIII. – Municipal Planning, Section 6 – Zoning and land use agency.**

~~Consistent with all applicable federal and state laws regulating land use, development and environmental protection, the city council shall:~~

- ~~(a) Designate an agency or agencies to carry out the planning function and such decision-making responsibilities as may be specified by ordinance; and~~
- ~~(b) Adopt a comprehensive plan that determines when and to what extent zoning ordinances and land use control ordinances are implemented consistent with such plan; and~~
- ~~(c) Adopt development regulations, to be specified in ordinances, which implement the zoning and land use controls of the plan.~~

**Rationale:** This language is not necessary when the City does not have zoning nor is it required if the City approves zoning in the future.

**35. Commission Recommendation, Revise Article VIII. – Municipal Planning, Section 7 – Adoption of zoning ordinance.**

~~The City of Alvin shall have the power to adopt a zoning ordinance only after (a) allowing a six month waiting period after publication of any proposed ordinance and map(s) for public hearing and debate, and (b) holding a binding referendum at a regularly scheduled election.~~

~~Any existing ordinance is hereby repealed.~~

**Rationale:** State law provides how a city adopts zoning, thus, this language is not necessary. In the alternative, this needs revision because currently it requires the initial form of the zoning ordinance that was published to be considered by the voters. It is advisable to provide more flexibility in the process and give Council the ability to revise the proposed ordinance after public input.

**36. Commission Recommendation, Revise Article IX. – Parks and Recreation, Section 1 – Parks and recreation board created; composition; qualifications, compensation of members.**

There is hereby created a parks and recreation board for the ~~City of Alvin~~, which shall be composed of not less than seven (7) persons and not more than nine (9) persons who are resident, qualified voters of the ~~City of Alvin~~ and who have resided within the ~~City of Alvin~~ for a period of not less than six (6) months immediately preceding their appointment. Members of the parks and recreation board shall be such persons who are known to be interested in leisure time of the people of the city. The city manager shall be an ex officio member of the board. The members of the parks and recreation board shall serve without compensation.

**Rationale:** Provides flexibility for the number of board members.

**37. Commission Recommendation, Revise Article IX. – Parks and Recreation, Section 2 – Appointment, term of members.**

The members of the parks and recreation board shall be appointed by the city council and each shall hold office for a term of two (2) years or until his/her successor has been duly ~~elected~~appointed.

**Rationale:** Members are appointed by Council, not elected.

**38. Commission Recommendation, Revise Article IX. – Parks and Recreation, Section 5 – Appointment, term of members.**

Sec. 5. - ~~Filling of board v~~vacancies.

Vacancies occurring on the board shall be filled within thirty (30) days by the council for the remainder of the unexpired term. Membership shall be accompanied by active participation in the activities of the board, and any member who is absent from three (3) consecutive regular meetings shall automatically be dropped from membership without an acceptable explanation to a majority of the commission ~~and the board shall immediately notify the council that a vacancy exists.~~

**Rationale:** This provides the ability to have “excused absences” if approved by the board.

**39. Commission Recommendation, Revise Article X. – Franchises and Public Utilities, Section 4 – Ordinance granting franchise.**

~~Sec. 4. – Ordinance granting franchise.~~

~~All ordinances granting, renewing, extending or amending a public utility franchise shall be read at two (2) separate regular meetings of the council and the full text of such ordinance shall be published once, within seven (7) days following the first reading, in the official newspaper of the city, and the expense of such publication shall be borne by the prospective franchise holder.~~

**Rationale:** State law does not require the notice and publishing as currently established. This requirement is difficult to satisfy with local publishing dates.

**40. Commission Recommendation, Revise Article X. – Franchises and Public Utilities, Section 5 – Transfer of franchise.**

No public utility franchise shall be transferable or assigned except with the approval of the council expressed by ordinance. The term "transferable," as used herein, shall not be construed in such a manner as to prevent the franchise holder from pledging said franchise as security for a valid debt or mortgage.

**Rationale:** Current franchise agreements include assignment provisions so this requires approval of council and provides additional protection of the city’s interests.

**41. Commission Recommendation, Revise Article X. – Franchises and Public Utilities, Section 6 – Franchise value not to be allowed.**

~~Sec. 6. – Franchise value not to be allowed.~~

~~No value shall be assigned to any franchise granted by the city in fixing reasonable rates and charges for utility service within the city and in determining the just compensation to be paid by the city for public utility property which it may acquire by condemnation or otherwise.~~

**Rationale:** Correctly identifies how rate making works by PUC but not necessary to discuss or include in charter.

**42. Commission Recommendation, Revise Article XI. – General Provisions, Section 2 – Public records.**

All public records of every office, department or agency of the city, which are not ~~exempt~~ excepted from disclosure pursuant to the ~~Open Records~~ Public Information Act or any other applicable law shall be open to inspection by any ~~citizen~~ member of the public at all reasonable times.

**Rationale:** Update to current terms and name of the Act. Citizenship is not required to submit a request for information.

**43. Commission Recommendation, Revise Article XI. – General Provisions, Section 8 – Nepotism.**

No person related within the second degree by affinity or the third degree by consanguinity to the mayor, any member of the council or the city manager shall be employed ~~in a appointed to any~~ paid office, position, clerkship or other service of the city. This prohibition shall not apply, however, to any person who shall have been employed by the city for a period of six (6) months prior to and at the time of the election or the appointment of the official so related to him/her.

**Rationale:** This revision creates consistency with the City personnel policy manual and state law.

**44. Commission Recommendation, Revise Article XI. – General Provisions, Section 10 – Board of ethics and compliance.**

~~Sec. 10. Board of ethics and compliance.~~

~~By ordinance, the city council shall establish an independent board of ethics and compliance. The city council shall adopt and keep in effect an ethics ordinance, as may be amended from time to time.~~

**Rationale:** Past Ethics Boards have advised that this requirement be deleted due to duplication of state law & city expense to hire attys to handle complaints when other remedies are available.

**45. Commission Recommendation, Revise Article XI. – General Provisions, Section 16 – Charter review commission.**

The council shall appoint, at its first regular meeting in June, the year 2001 and in June of every fourth year thereafter, a Charter review commission of seven (7) ~~citizens~~ residents of the

city. The Council may appoint a Charter Review Commission any time after two (2) years has elapsed from the date of appointment of the commission.

**Rationale:** Corrects terminology.

**46. Commission Recommendation, Revise Article XI. – General Provisions, Section 17 – Submission of Charter to electors.**

~~Sec. 17. – Submission of Charter to electors.~~

~~The Charter commission finds and declares that in the submission of this Charter to the voters it would be impracticable to segregate each subject for a separate vote thereon, for the reason that the Charter is so constructed that in order to enable it to function it is necessary that it be adopted in its entirety. The Charter commission, therefore, directs that this Charter be voted on as a whole, and that it be submitted to the qualified voters of the City of Alvin at an election to be held for that purpose on the twenty-third day of February, 1963. If said Charter is approved by a majority of the qualified voters voting at said election, it shall become the Charter of the City of Alvin upon the entering upon the city records by the council of an official order declaring the adoption of the Charter.~~

~~WE, the members of the City of Alvin Charter Commission, appointed by the City Council to frame a new Charter for the City of Alvin, do hereby certify the attached Charter is a true and correct copy of the Charter prepared by this Charter Commission.~~

**Rationale:** This is from the original charter submission to voters in 1963. While this is historical in nature, it no longer accurate due to multiple charter changes over the years. This could be reproduced as an Editor’s note rather than a charter provision.

**V. Other Recommendations from the Commission**

1. Commission Recommendation: Delete outdated language in Editor’s note after Preamble.

**Editor's note**—The city's Charter was adopted by vote of the people at an election held on February 23, 1963, and is included herein for the benefit of the user of this Code. The special election was called by Ordinance No. 63-A and the results thereof were declared by Ordinance No. 63-D, which ordinance declared the Charter to be in full force and effect from and after February 28, 1963.

~~The Charter is printed herein as originally adopted, including arrangement, article headings and catchlines.~~

2. Recommendation from the Commission: Correct various typographical/grammar/spelling errors in the City Charter.

Correct Article XI, General Provisions, Section 15. - Severability~~parability~~ clause.

## **VI. Other Findings and Considerations**

Other major discussions not resulting in Commission recommendations were related to the public input. The following suggestions were submitted by one member of the public:

(1) Each department head should maintain a primary permanent residence within the Alvin city limits, notwithstanding that if they have a 2<sup>nd</sup> home in another city or state, their primary residence shall be Alvin; and (2) Similar to the City Council members, the “appointed” citizens for each commission, ie., planning commission, parks and recs, etc., shall attend the same state training classes or instruction to serve, as the City Council members do, since these “appointed citizens” also see the public and make decisions for the public such as for example the planning commission decides variances and interacts with the public.

The City Attorney informed the citizen of the differences between the roles and offices of council and boards/commissions and the law regarding training for public officials. The citizen withdrew the training suggestion. The Commission discussed the suggestion to require department heads to reside within the city limits and declined to forward such recommendation to Council.

A second suggestion received from the public was:

Please do not let Chris Sanger get hotel/motel taxes changed to be used for giving police officers or other city employees raises. The Commission discussed the suggestion and declined to forward a recommendation to Council.

## **VII. Conclusion**

The Charter Review Commission wishes to thank the city staff for their help in the charter review/discussions and the Alvin City Council for opportunity to serve them and the residents of Alvin. We have all had a unique experience and hope that this blend of citizenry has met the expectations of the City Council.

As you know, after submission of our report to Council, the Commission shall convene for the sole purpose of meeting with Council to discuss its report. We remain available to assist the Council to further elaborate on these issues.

Submitted By:

2016 Alvin Charter Review Commission:

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Chad Gormly, Chairman

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J.W. Kitchens, Vice-Chairman

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Martin Vela, Secretary

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Marisol Jimenez

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Roger Stuksa

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Santos Garza

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Kerry Ulm