

ARTICLE I. - INCORPORATION, FORM OF GOVERNMENT, AND GENERAL POWERS

Sec. 1. - Incorporation.

The inhabitants of the City of Alvin in Brazoria County, Texas, within the corporate limits as now established and as hereafter altered, shall continue to be and are hereby constituted a municipal body politic and corporate, in perpetuity, under the name of "CITY OF ALVIN," hereinafter referred to as the "City," and having such powers, privileges, rights, duties and immunities as are herein provided.

Sec. 2. - Form of government.

The municipal government provided by this Charter shall be the council-manager form of government. Pursuant to the provisions of, and subject only to the limitations imposed by the state and federal constitution, the state and federal laws, and this Charter, all powers of the city shall be vested in an elective council, hereinafter referred to as the "council," which shall enact legislation, adopt budgets, determine policies, and appoint the city manager, who shall execute the laws and administer the government of the city.

(Res. No. 79-R-6, § 3, 4-9-79; Ord. No. 86-D, 2-12-86; Ord. No. 86-J, § 3, 4-9-86)

Sec. 3. - General powers of the city.

The city shall be a home rule city, with full power of local self-government, including the right to amend this Charter, as provided by the constitution and laws of this state. It shall have all the powers granted to cities by the constitution and laws of the State of Texas, together with all the implied powers necessary to carry into execution such granted powers.

It may use a corporate seal; may sue and be sued, provided that such shall never be construed as a waiver by the city of any immunity or defense; may contract and be contracted with; may adopt ordinances, establish programs and appropriate city funds and monies to accomplish any public purpose; provide economic development programs for the development of the city, including but not limited to grants and loans not inconsistent with state law; may cooperate with the government of the State of Texas, or any agency or political subdivision thereof, or the federal government or its agencies, to accomplish any lawful purpose for the advancement of the interest, welfare, health, morals, comfort, safety, and convenience of the city and its inhabitants; may acquire property within or without its corporate limits for any municipal purposes in fee simple, or in any lesser interest or estate, by purchase, gift, devise, lease or condemnation, and subject to the provisions of this Charter, may sell, lease, mortgage, hold, manage, and control such property as may now or hereafter be owned by it; may pass ordinances and enact such regulations as may be expedient for the maintenance of good government, order, and peace of the city and the welfare, health, morals, comfort, safety, and convenience of its inhabitants; and shall have and may exercise all municipal powers, functions, rights, privileges and immunities of every kind and nature whatsoever, subject only to the limitations imposed by the state and federal constitution, the state and federal laws, and this Charter.

The enumeration of particular powers by this Charter shall not be judged to be exclusive and, in addition to the powers enumerated or implied herein, it is intended that the city shall have and may exercise all powers which, under the constitution and laws of this state, it would be competent for this Charter specifically to enumerate.

(Res. No. 79-R-6, § 3, 4-9-79; Ord. No. 06-J, § 1, 2-16-06; Ord. No. 09-H, § 1, 5-9-09)

Sec. 4. - Streets and public property.

The city shall have exclusive dominion, control and jurisdiction in, upon, over and under the public streets, sidewalks, alleys, highways, public squares and public ways within the corporate limits of the city, and in, upon, over and under all public property of the city. With respect to each and every public street, sidewalk, alley, highway, public square, public park or other public way within the corporate limits of the city, the city shall have the power to establish, maintain, improve, alter, abandon, or vacate the same; to regulate, establish, or change the grade thereof; to control and regulate the use thereof; and to abate and remove in a summary manner any encroachment thereon.

Sec. 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; 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.

(Ord. No. 06-J, § 1, 2-16-06; Res. No. 17-R-14, 5-18-17)

**Editor's note**— Ord. No. 06-J, § 1, adopted February 16, 2006, amended article I, section 5 in its entirety to read as herein set out. Formerly, article I, section 5 pertained to change of boundaries, and derived from Res. No. 68-R-7, adopted April 18, 1968; Ord. No. 86-D, adopted December 12, 1986, and Ord. No. 86-J, adopted April 9, 1986.

ARTICLE II. - THE COUNCIL

Sec. 1. - 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. No mayor or councilmember may serve more than three (3) consecutive terms of office (inclusive of unexpired terms) without abstaining from holding office for the position of mayor or councilmember of the city for at least one full term of office.

The mayor and each councilmember shall serve until his or her successor is elected or appointed and qualified to serve. The regular term of office of the mayor and the councilmembers shall commence on the first Thursday following the canvass of the election at which they receive a majority vote. A member of the council elected in a run-off election shall take office on the first Thursday following the day on which the votes for the run-off election are canvassed. The remaining term of a member of council elected at a special election shall commence on the first Thursday after the canvass of votes for the election at which they receive a majority of the votes cast for the office.

- (b) For the purpose of term limits, the office of Mayor shall be considered a separate office from other Council positions; and a member of council may serve up to three (3) terms and be elected to the office of Mayor for three (3) terms, with or without a break in service. A person elected to fill a vacant office shall be deemed to have held that office for a full term if the person serves in that office for more than fifty percent (50%) of the full term.

(Res. No. 68-R-7, 4-18-68; Res. No. 73-R-13, § 3, 4-9-73; Res. No. 75-R-6, § 2, 4-7-75; Res. No. 77-R-12, § 3, 4-5-77; Res. No. 79-R-6, § 3, 4-9-79; Ord. No. 86-D, 2-12-86; Ord. No. 86-J, § 3, 4-9-86; Ord. No. 92-E, § 1, 3-5-92; Ord. No. 92-J, § 3, 5-4-92; Ord. No. 94-I, § 1, 3-17-94; Ord. No. 94-BB, § 3, 5-9-94; Ord. No. 02-E, § 1, 3-7-02; Ord. No. 06-J, § 1, 2-16-06; Res. No. 17-R-14, 5-18-17)

**Editor's note**— Ord. No. 06-J, § 1, adopted February 16, 2006, changed the title of article II, § 1 from "Number and term of office" to "Governing body."

Pursuant to Civil Action No. G-84-436, U.S. District Court for the Southern District of Texas, Galveston Division, the city's at-large election scheme was eliminated and a "5-2-1 plan" adopted, whereby councilmembers would be elected as set out in § 1. Prior to amendment, councilmember positions were designated "Members of the Council, Place Number 1, 2, 3, 4, 5, 6, and 7" and the terms of office staggered such that Place Numbers 3, 5 and 6 were filled at the same regular city election, Place Numbers 1, 4 and 7 were filled at the same regular city election, and Place Number 2 was filled at the same regular city election as the position of mayor.

## Sec. 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 chief financial officer shall inform the city secretary 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 secretary, 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.

If the mayor or any councilmember ceases to possess any of the qualifications of office, including continuous residency within the City and, as applicable, the district from which elected during the term of office, his/her office shall, upon such fact being determined by the council, immediately become vacant; provided that if the residence of the mayor or a councilmember is disannexed or located in another district as a result of redistricting, the mayor or councilmember shall serve the remainder of his or her term of office. Except as otherwise provided herein, if the mayor or any councilmember shall cease to possess any of the above-mentioned qualifications, or be convicted of a felony, his/her office shall immediately become vacant.

(Ord. No. 66-B, 2-15-66; Res. No. 73-R-13, 4-9-73; Ord. No. 86-D, 2-12-86; Ord. No. 86-J, § 3, 4-9-86; Ord. No. 88-R, § 5, 5-9-88; Ord. No. 99-H, § 1, 2-18-99; Ord. No. 06-J, § 1, 2-16-06; Res. No. 17-R-14, 5-18-17)

**Editor's note**— Ord. No. 66-B was adopted by referendum on April 5, 1966.

Sec. 3. - Reserved.

**Editor's note**— Res. No. 17-R-14, adopted by voters on May 18, 2017, repealed section 3 which pertained to transition and derived from Ord. No. 06-J, § 1, adopted February 16, 2006.

Sec. 4. - Vacancies in office.

The office of mayor or councilmember shall become vacant upon the death, resignation, removal from office or for other disqualification to hold such office. 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 councilmember that has an unexpired term of twelve (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 election to fill such vacancy 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 vacancy occurs and no election date falls within 120 days after the date of such 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 vacancy. All vacancies shall be filled for the remainder of the unexpired term of the office so filled.

(Ord. No. 06-J, § 1, 2-16-06; Res. No. 17-R-14, 5-18-17)

**Editor's note**— Ord. No. 06-J, § 1, adopted February 16, 2006, amended article II, section 4 in its entirety to read as herein set out. Formerly, article II, section 4 pertained to the power of council, and derived from original codification.

Sec. 5. - Power of council.

All powers and authority which are expressly or impliedly conferred on or possessed by the city shall be vested in and exercised by the council; provided, that the council shall not exercise those powers which are expressly conferred upon other city officers by this Charter.

(Ord. No. 06-J, § 1, 2-16-06)

Sec. 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 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 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.

(Ord. No. 06-J, § 1, 2-16-06; Res. No. 17-R-14, 5-18-17)

Sec. 7. - Interference in administrative matters.

Neither the council nor any of its members shall direct or request the city manager or any of his/her subordinates to appoint or to remove from office or employment any person except a person whose office

is filled by appointment of the council under the provisions of this Charter. Except for the purpose of inquiry and investigation, the council and its members shall deal with the administrative services of the city solely through the city manager; and neither the council nor any member thereof shall give orders to any subordinate of the city manager, either publicly or privately.

(Ord. No. 86-D, 2-12-86; Ord. No. 86-J, § 3, 4-9-86)

Sec. 8. - Mayor and mayor pro tem.

The mayor shall be the chief executive officer of the city. The mayor shall preside at all meetings of the council and shall be recognized as head of the city government for all ceremonial purposes, for the purpose of receiving service of civil process, for emergency purposes, and for military purposes. Although he/she shall have no regular administrative duties, the mayor shall have the duty of overseeing the general welfare of the city, staying abreast of and projecting the needs of the city, and recommending legislation to the council to address such objectives. The mayor, as a member of the council, shall be entitled to vote only in case of a tie and shall have the power to veto any ordinance or resolution enacted or adopted by the council with the exception of ordinances enacted pursuant to the initiative or referendum process set forth in this Charter. To be effective the veto must be accompanied by a veto message setting forth in writing the mayor's reasons for such veto. The veto and veto message must be filed with the city secretary within seven (7) working days of final reading of the ordinance or resolution. The city secretary shall deliver the mayor's veto and veto message to the city council at or before its next regularly scheduled meeting and such veto and veto message shall automatically be placed on the council agenda at the next regularly scheduled meeting. At any meeting of the council held not less than seven (7) nor more than thirty (30) days after the mayor has vetoed any ordinance or resolution of the council, the council may override such veto by an affirmative vote of two-thirds ( $\frac{2}{3}$ ) of the council. In that event such ordinance or resolution shall be considered finally passed and approved and shall not be subject to further veto. At the 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.

In the event of the absence, disability or disqualification of both mayor and mayor pro tem at any particular meeting of the council, the remaining members shall elect one member as acting mayor, and he/she shall have power to perform every act for such meeting that the mayor could if present.

(Res. No. 73-R-13, § 3, 4-9-73; Res. No. 81-R-12, § 3, 4-16-81; Ord. No. 86-D, 2-12-86; Ord. No. 86-J, § 3, 4-9-86; Ord. No. 88-R, § 5, 5-9-88; Ord. No. 94-I, § 1, 3-17-94; Ord. No. 94-BB, § 3, 5-9-94; Ord. No. 06-J, § 1, 2-16-06; Res. No. 17-R-14, 5-18-17)

Sec. 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. Notice of special meetings shall be given to each member of the council. Such notice shall include a statement of the purpose of the special meeting.

(Res. No. 79-R-6, § 3, 4-9-79; Ord. No. 86-D, 2-12-86; Ord. No. 86-J, § 3, 4-9-86; Ord. No. 06-J, § 1, 2-16-06; Res. No. 17-R-14, 5-18-17)

Sec. 10. - Rules of procedure.

The council shall by ordinance determine its own rules and order of business. A quorum of the council, which shall consist of four (4) councilmembers and the presiding officer, shall be necessary for the transaction of all business; but no ordinance shall be of any force or effect unless it is adopted by the favorable vote of a majority of the council. A majority of the council shall consist of four (4) councilmembers or three (3) councilmembers and the presiding officer. If a member of the council is absent from three (3) consecutive regular meetings without explanation acceptable to a majority of the council, his/her office shall be declared vacant at the next regular meeting. The council may adopt such rules, and prescribe such penalties as it may see fit to enforce the attendance of its members at all regular and called meetings of the council or its committees. Minutes of all meetings of the council shall be taken and recorded by the city secretary or his/her assistant, and such minutes shall constitute a public record. An abstention from voting shall constitute and be recorded as a "no" vote unless the councilmember has filed an affidavit declaring a conflict of interest under state law in which case the abstention shall constitute neither a "no" nor "yes" vote and shall be recorded as an abstention.

(Ord. No. 66-B, 2-15-66; Res. No. 79-R-6, § 3, 4-9-79; Ord. No. 86-D, 2-12-86; Ord. No. 86-J, § 3, 4-9-86; Ord. No. 94-I, § 1, 3-17-94; Ord. No. 94-BB, § 3, 5-9-94; Ord. No. 06-J, § 1, 2-16-06; Res. No. 17-R-14, 5-18-17)

Sec. 11. - Procedure to enact legislation.

The council shall legislate by ordinance only, and the enacting clause of every ordinance shall be "Be it ordained by the City Council of the City of Alvin." All ordinances, unless otherwise provided by law or this Charter or by the terms of such ordinance, shall take effect immediately upon the final passage thereof.

(Ord. No. 06-J, § 1, 2-16-06)

Sec. 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.

(Ord. No. 06-J, § 1, 2-16-06; Res. No. 17-R-14, 5-18-17)

Sec. 13. - Code of Ordinances.

The Code of Ordinances adopted on January 10, 1962, shall continue in effect and council shall revise, expand or recodify as may be required by law or the needs of the city. A printed copy of the city's Code of Ordinances shall be admitted in evidence without further proof and shall be prima facie evidence in all courts of the existence and regular enactment of all ordinances herein set forth.

(Ord. No. 06-J, § 1, 2-16-06)

### ARTICLE III. - ELECTIONS

Sec. 1. - Calling and regulating elections.

City elections shall be ordered, notice thereof given and held as provided in the Texas Election Code, and the council shall establish the procedures and order elections except as provided therein. The general city election to elect officers whose offices become vacant that year shall be held on the first Saturday in

May of each year, or if such not be authorized, the date nearest thereto as may be established by law. The council may by ordinance call such special elections as are authorized by this charter or state law, fix the time of holding such elections, and provide all means for holding such special elections; provided that every special election shall be held on a uniform election date, or a Saturday, unless otherwise provided by law or this charter.

(Ord. No. 66-B, 2-15-66; Ord. No. 88-R, § 5, 5-9-88; Ord. No. 92-E, § 1, 3-5-92; Ord. No. 92-J, § 3, 5-4-92; Ord. No. 06-J, § 1, 2-16-06)

#### Sec. 2. - Filing for office.

Candidates filing for office shall make application for a place on the ballot within the times prescribed by the Texas Election Code. In the absence of a filing deadline established by state law, applications for a place on the ballot shall be filed not later than close of regular business hours of the 62nd day before election day and not earlier than the 30th day before the date of the filing deadline. All applications shall designate the office sought. It shall be the duty of the city secretary to place the name of all qualified candidates, making timely application, on the official ballot.

(Ord. No. 86-D, 2-12-86; Ord. No. 86-J, § 3, 4-9-86; Ord. No. 06-J, § 1, 2-16-06; Ord. No. 13-C, § 1, 2-21-13, ref. 5-11-13; Res. No. 17-R-14, 5-18-17)

#### Sec. 3. - The official ballot.

The positions of the 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 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 placed on the official ballots without party designations in the order determined in a ballot drawing. Ballots and early voting shall be governed by the general election laws of the State of Texas.

(Res. No. 79-R-6, § 3, 4-9-79; Ord. No. 86-D, 2-12-86; Ord. No. 86-J, § 3, 4-9-86; Ord. No. 92-E, § 1, 3-5-92; Ord. No. 92-J, § 3, 5-4-92; Ord. No. 96-V, § 3, 5-6-96; Res. No. 17-R-14, 5-18-17)

**Editor's note**— Pursuant to Civil Action No. G-84-436, U.S. District Court for the Southern District of Texas, Galveston Division, the city's at-large election scheme was eliminated and a "5-2-1 plan" adopted, whereby councilmembers would be elected as set out in Art. II, § 1 of this Charter; councilmember positions would be designated on the official ballot and candidates could reside in the city as set out in Art. III, § 3. Prior to such amendment, councilmember positions on the official ballot were designated as "Member of the Council," Place Number 1, 2, 3, 4, 5, 6 and 7, and all candidates were permitted to reside in any portion of the city.

#### Sec. 4. - Election by majority; run-off election.

At any general or special municipal election, the candidate for each office who has received a majority of all votes cast for his/her particular office shall be declared elected. If no candidate for an elective office receives a majority of the votes cast for that position in the regular or special election, a run-off election shall be held between the two (2) candidates who received the greatest number of votes. Such run-off election shall be held in accordance with State election laws. The candidate receiving the highest number

of votes cast for the office in the run-off election shall be declared elected. If the run-off results in a tie vote, the tie shall be broken in a manner authorized by the Texas Election Code, or by lot or chance as agreed by and between the candidates.

(Ord. No. 06-J, § 1, 2-16-06; Ord. No. 13-C, § 1, 2-21-13, ref. 5-11-13)

**Editor's note**— Ord. No. 06-J, § 1, adopted February 16, 2006, amended article III, section 4 in its entirety to read as herein set out. Formerly, article III, section 4 pertained to election by plurality, and derived from Res. No. 73-R-13, § 3, adopted April 9, 1973, and Res. No. 75-R-6, § 2, adopted April 7, 1975.

Pursuant to Civil Action No. G-84-436, U.S. District Court for the Southern District of Texas, Galveston Division, candidates for office shall be elected by plurality as set out in Art. III, § 4. Prior to such amendment, § 4 provided for election by majority vote, with run-off elections in instances where no candidate received a majority of the votes cast for a specific office.

#### ARTICLE IV. - INITIATIVE, REFERENDUM AND RECALL<sup>21</sup>

##### Footnotes:

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**Editor's note**— Ord. No. 06-J, § 1, adopted February 16, 2006, amended article IV in its entirety to read as herein set out. Formerly, article IV pertained to similar subject matter, and derived from Res. No. 84-R-3, §§ 1(3—5), adopted January 24, 1984; Ord. No. 86-D, adopted February 12, 1986; Ord. No. 86-J, § 3, adopted April 9, 1986; Ord. No. 96-V, § 3, adopted May 6, 1996, and Ord. No. 99-H, § 1, adopted February 18, 1999.

##### Sec. 1. - General.

The citizens reserve the powers of initiative, referendum and recall, which may be exercised in the manner and subject to the limitations provided in this Article.

(Ord. No. 06-J, § 1, 2-16-06; Res. No. 17-R-14, 5-18-17)

##### Sec. 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.

(Ord. No. 06-J, § 1, 2-16-06; Res. No. 17-R-14, 5-18-17)

##### Sec. 3. - Referendum.

The people of the city shall have the power to require reconsideration by the city council of any adopted ordinance regarding any issue that would be a proper subject for an initiative. If the council fails to repeal an ordinance so reconsidered, the people of the city shall have the power to approve or reject the ordinance

at an election. Such power shall not extend to the budget; capital expenditures; levy of taxes; any bonds, certificates of obligation or any similar obligations; zoning; annexation; or any rates, fees and charges; provided that tax increases shall be subject to petition as provided by state law.

(Ord. No. 06-J, § 1, 2-16-06)

Sec. 4. - Conflict.

No initiative or referendum action shall conflict with this charter, the constitution or any state statute.

(Ord. No. 06-J, § 1, 2-16-06)

Sec. 5. - Signatures.

Initiative and referendum petitions must be signed by registered voters residing within the city in number equal to twenty percent (20%) of the number of votes cast at the last general election of the city, or 200 registered voters, whichever number is greater. The signatures to the initiative or referendum petition need not all be appended to one paper, but each signer shall sign his or her name in ink or indelible pencil and shall add or cause to be added his or her place of residence by street and number, county of residence, printed name, voter registration number, precinct number and date of signature.

(Ord. No. 06-J, § 1, 2-16-06)

Sec. 6. - Commencement of proceedings.

A qualified voter may commence an initiative or referendum proceeding by filing with the city secretary the complete form of a petition proposed to be circulated, including signature pages, together with a copy of the full text of the initiative ordinance, or the ordinance to be reconsidered. The ordinance set forth with the petition shall be complete and in the proper form, including the caption.

The city secretary shall place the time and date on the petition and documents when filed, examine the filing for sufficiency as to form and place the time and date of the certification for circulation on such petition and documents. The city secretary shall provide a certified copy of such filing as certified for circulation to the person presenting same, the city manager and the city attorney, and file a copy of such certified documents and petition in the archives of the city.

The circulated petition must be returned and refiled with the city secretary within ninety (90) days after the date the petition is certified for circulation. Signatures obtained prior to the date of such certification shall be invalid and a petition returned after the expiration of ninety (90) days shall not be considered.

(Ord. No. 06-J, § 1, 2-16-06; Res. No. 17-R-14, 5-18-17)

Sec. 7. - Examination and sufficiency.

The city secretary shall examine each signature separately and disqualify any signature not having all of the information required, or not found to be that of a qualified voter of the city, determine whether the petition contains the requisite number of valid signatures, and complete a certification as to the sufficiency of the petition signatures within fourteen (14) days following the date the circulated petition is filed with the city secretary. The petitioner shall be notified by certified mail of the sufficiency of, or any insufficiencies in, the petition.

If the petition is certified as sufficient, the city secretary shall present a certificate to the city manager who shall cause the same to be placed on the agenda for the first council meeting that is three (3) or more days after the date of the certification.

If the petition is certified as insufficient due to the disqualification or invalidity of signatures the petitioner shall have fourteen (14) days following the date the number of signatures is found insufficient to file a supplementary petition with additional signatures sufficient in number to equal the required number of signatures. Upon supplementary petitions being timely filed, the city secretary shall have seven (7) days from the date such supplementary petition is filed to certify the petition as sufficient or insufficient.

(Ord. No. 06-J, § 1, 2-16-06; Res. No. 17-R-14, 5-18-17)

Sec. 8. - Referendum-suspension of ordinance.

When an authorized referendum petition is certified by the city secretary as sufficient, the ordinance sought to be reconsidered shall be suspended; and such suspension shall continue until the council repeals the ordinance or the ordinance is upheld by election.

(Ord. No. 06-J, § 1, 2-16-06; Res. No. 17-R-14, 5-18-17)

Sec. 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.

The election on a proposed or referred ordinance shall be held on the next available uniform election date after the date of the council's action and for which notice may be timely given in compliance with state law and this charter. Such election may coincide with a regular city election should such election fall within the specified time. However, special elections on initiated or referred ordinances shall not be held more frequently than once each six (6) months and no ordinance substantially the same as a defeated initiative ordinance shall be adopted by the council or initiated within two (2) years after the date of the election. No referred ordinance repealed at an election may be readopted by the council within two (2) years from the date of the election at which such ordinance was repealed. Copies of the proposed or referred ordinances shall be made available at each polling place.

(Ord. No. 06-J, § 1, 2-16-06)

Sec. 10. - Procedure and results of election.

Not more than thirty (30) and not less than fifteen (15) days prior to the special election, the city secretary shall cause the proposed or referred ordinance to be published in its entirety at least once in a newspaper of general circulation in the city.

The ballots used when voting upon such proposed and referred ordinances shall set forth the nature of the ordinance sufficiently to identify the ordinance and shall also set forth a proposition as provided in this charter. If a majority of the qualified voters voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances adopted by the council. If conflicting ordinances are approved at the same election, the ordinance receiving the greatest number of affirmative votes shall prevail.

An ordinance adopted by initiative may not be repealed or amended at any time prior to the expiration of two (2) years from the date of its adoption, except at an election held for such purpose or such amendment being approved by the council by not less than six (6) affirmative votes.

If a majority of the qualified voters on a referred ordinance vote against the ordinance, it shall be considered repealed upon certification of the election results. If a majority of the qualified voters voting on a referred ordinance vote for the ordinance, it shall be upheld and, in such event, may not again be the subject of a petition within twelve months following the date of such election.

(Ord. No. 06-J, § 1, 2-16-06; Res. No. 17-R-14, 5-18-17)

Sec. 11. - Power of recall.

The people of the city reserve the power to recall any elected city officer and may exercise the power by filing with the city secretary a petition signed by qualified voters of the city equal in number to at least twenty percent (20%) of the number of votes cast in the last general city election, or 200 registered voters, whichever number is greater, demanding the removal of the elected officer. The petition shall state the reason for the recall and shall be signed and verified as required for an initiative petition and shall include the additional requirement that the bottom of each page of the petition shall contain the original signature of the presenter of the petition. A separate petition must be filed for each officer being recalled. If the council orders a recall election for any member, such election shall be held in the manner provided in this Article. Notwithstanding, any other provision of this Article, if the officer being recalled is elected from a single member district, only the voters residing in that district can vote in that recall election.

(Ord. No. 06-J, § 1, 2-16-06; Ord. No. 09-H, § 1, 5-9-09; Res. No. 17-R-14, 5-18-17)

Sec. 12. - Recall election.

The provisions regulating examination, certification, and amendment of initiative petitions shall apply to recall petitions. If the city secretary certifies the petition as sufficient, the city council shall, at the first meeting for which timely notice may be given, order a special election to be held at the earliest time permitted by this charter and state law, to determine whether the officer shall be recalled. If a majority of votes cast at a recall election be for the recall of the officer, the office shall be vacant.

(Ord. No. 06-J, § 1, 2-16-06; Res. No. 17-R-14, 5-18-17)

Sec. 13. - Limitation on recall.

No recall petition shall be filed against an officer within six (6) months after taking office; no officer shall be subjected to more than one (1) recall election during a term of office; and no officer shall be recalled at an election held less than three (3) months prior to the expiration of the term of office being served by such officer.

(Ord. No. 06-J, § 1, 2-16-06)

Sec. 14. - Failure of city council to call an election.

If the city secretary shall certify the petition as sufficient and the city council shall fail or refuse to order such recall election, or to discharge any other duty imposed upon the council with reference to the recall, then any citizen of the city may file suit in the district courts to compel the council to order the election.

(Ord. No. 06-J, § 1, 2-16-06; Res. No. 17-R-14, 5-18-17)

## ARTICLE V. - ADMINISTRATIVE SERVICES

### Sec. 1. - Appointment and qualifications of city manager.

The council shall appoint a city manager who shall be the chief administrative officer of the city and shall be responsible to the council for the administration of all the affairs of the city under his/her jurisdiction. He/she shall be chosen by the council solely on the basis of his/her executive and administrative training, experience and ability, and need not, when appointed, be a resident of the city. No member of the council shall, during the time for which he/she is elected and one year thereafter, be appointed or designated city manager.

(Ord. No. 86-D, 2-12-86; Ord. No. 86-J, § 3, 4-9-86; Ord. No. 94-I, § 1, 3-17-94; Ord. No. 94-BB, § 3, 5-9-94)

### Sec. 2. - Term and salary of city manager.

The city council may employ the services of a city manager by contractual agreement. The city manager, nonetheless, may be removed by a vote of at least four (4) members of the council. The action of the council in suspending or removing the city manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility for such suspension or removal in the council. In case of the absence or disability of the city manager, the council may designate some qualified person to perform the duties of the office during such absence or disability. The city manager shall receive such compensation as may be fixed by the council.

(Ord. No. 92-E, § 1, 3-5-92; Ord. No. 92-J, § 3, 5-4-92; Ord. No. 02-E, § 1, 3-7-02)

### Sec. 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.

(Res. No. 84-R-3, § 1(7), 1-23-84; Ord. No. 86-D, 2-12-86; Ord. No. 86-J, § 3, 4-9-86; Ord. No. 94-I, § 1, 3-17-94; Ord. No. 94-BB, § 3, 5-9-94)

Sec. 4. - Administrative departments.

There shall be such administrative departments as are established by this Charter and may be established by ordinance, and excepting where otherwise provided in this Charter these administrative departments shall be under the control and direction of the city manager. The council may abolish or combine one or more of the departments created by it, and may assign or transfer the duties of any department to another department where not in conflict with other provisions of this Charter. All changes to the organizational charts recommended by the city manager shall be submitted to council for approval prior to implementation.

(Ord. No. 94-I, § 1, 3-17-94; Ord. No. 94-BB, § 3, 5-9-94)

Sec. 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.

(Ord. No. 88-R, § 5, 5-9-88; Ord. No. 02-E, § 1, 3-7-02)

Sec. 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.

(Res. No. 84-R-3, § 1(9), 1-23-84; Ord. No. 94-I, § 1, 3-17-94; Ord. No. 94-BB, § 3, 5-9-94; Res. No. 17-R-14, 5-18-17)

Sec. 7. - City attorney.

Council shall appoint a competent attorney, duly licensed by the State of Texas, to be city attorney. He/she shall be appointed and removed at the will and pleasure of council by a majority vote of the entire council. He/she shall receive compensation as may be fixed by council. The city attorney, or other attorneys selected by him/her with the approval of council, shall represent the city in all litigation. He/she shall be the legal advisor, attorney and counsel for the city and all officers and departments thereof.

(Res. No. 73-R-13, § 3, 4-9-73; Ord. No. 86-D, 2-12-86; Ord. No. 86-J, § 3, 4-9-86; Ord. No. 88-R, § 5, 5-9-88)

Sec. 8. - Health officer.

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

(Res. No. 73-R-13, § 3, 4-9-73; Ord. No. 86-D, 2-12-86; Ord. No. 86-J, § 3, 4-9-86; Ord. No. 92-E, § 1, 3-5-92; Ord. No. 92-J, § 3, 5-4-92; Res. No. 17-R-14, 5-18-17)

Sec. 9. - Reserved.

**Editor's note**— Pursuant to Res. No. 84-R-3, § 1, proposition 10, passed Jan. 23, 1984, Art. V, § 9, relative to the fire marshal, has been deleted.

Sec. 10. - Employee pay plans, personnel policies, etc.

The council shall 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.

(Res. No. 84-R-3, § 1(11), 1-23-84; Res. No. 17-R-14, 5-18-17)

Sec. 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.

(Res. No. 84-R-3, § 1(12), 1-23-84)

Sec. 12. - City secretary.

The city manager shall appoint the city secretary with the advice and consent of the council. The position of city secretary shall be considered that of a department head. The city secretary 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.

(Ord. No. 88-R, § 5, 5-9-88; Ord. No. 90-L, § 3, 5-7-90; Ord. No. 94-I, § 1, 3-17-94; Ord. No. 94-BB, § 3, 5-9-94; Res. No. 17-R-14, 5-18-17)

**Editor's note**— Res. No. 17-R-14, adopted by voters on May 18, 2017, changed the title of section 12 from "City clerk" to "City secretary." The historical notation has been preserved for reference purposes.

Sec. 13. - At-will status of employees.

All employees of the city shall be at-will employees except as may otherwise be provided by state or federal law or contract.

(Ord. No. 94-I, § 1, 3-17-94; Ord. No. 94-BB, § 3, 5-9-94; Ord. No. 02-E, § 1, 3-7-02)

Sec. 14. - Grossly negligent and fraudulent approval of claims.

Each officer and employee of the city shall be responsible for loss or damage sustained by the city as a result of the officer's and/or employee's grossly negligent or fraudulent approval of claims against the city.

(Ord. No. 94-I, § 1, 3-17-94; Ord. No. 94-BB, § 3, 5-9-94)

#### ARTICLE VII. - MUNICIPAL FINANCE

##### Sec. 1. - Fiscal year.

The fiscal year of the city shall begin on the first day of October and shall end on the last day of September of each calendar year. Such fiscal year shall also constitute the budget and accounting year.

##### Sec. 2. - Preparation and submission of budget.

The city manager, between sixty (60) and ninety (90) days prior to the beginning of each fiscal year, shall submit to the council a proposed budget, which budget shall provide a complete financial plan for the fiscal year and shall be prepared in accordance with generally accepted accounting principles, guidelines established by the Governmental Accounting Standards Board and the Governmental Finance Officers' Association or the successor agency/entity. The budget shall contain such schedule in detail and summary form as to adequately inform and clearly define the plan of operation, and shall contain the following:

- (a) A budget message, outlining the proposed financial policies of the city for the fiscal year, and the reasons for salient changes from the previous fiscal year in expenditure and revenue items, and explaining in detail any major changes in financial policy.
- (b) A consolidated statement of anticipated receipts and proposed expenditures for each department, comparing them with those of the previous fiscal year.
- (c) An analysis of property valuations.
- (d) An analysis of tax rate.
- (e) Tax levies and tax collections by years for at least five (5) years.
- (f) General fund resources in detail.
- (g) Special fund resources in detail.
- (h) Summary of proposed expenditures by function, department and activity.
- (i) Detailed estimates of expenditures shown separately for each activity to support the summary called for in (h) above.
- (j) A revenue and expense statement for all types of bonds, time warrants and other indebtedness.
- (k) A description of all bond issues, time warrants and other indebtedness outstanding, showing rate of interest, date of issue, maturity date, amount authorized, amount issued and amount outstanding.
- (l) A schedule of requirements for the principal and interest of each issue of bonds, time warrants and other indebtedness.
- (m) The appropriation ordinance.
- (n) The tax levying ordinance, as soon as practicable.
- (o) An organizational chart designating the Department Head of each department.

(Res. No. 84-R-3, § 1(16), 1-23-84; Ord. No. 02-E, § 1, 3-7-02; Ord. No. 13-C, § 1, 2-21-13, ref. 5-11-13)

Sec. 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 manager shall provide copies for distribution to all interested persons.

Sec. 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.

(Ord. No. 94-I, § 1, 3-17-94; Ord. No. 94-BB, § 3, 5-9-94; Res. No. 17-R-14, 5-18-17)

Sec. 5. - Public hearing on budget.

At the time and place set forth in the notice required by Section 4, or at any time and place to which such public hearing shall from time to time be adjourned, the council shall hold a public hearing on the budget submitted, and all interested persons shall be given a five-minute opportunity to be heard either for or against any item or the amount of any item therein contained.

(Ord. No. 90-L, § 3, 5-7-90)

Sec. 6. - Proceedings on budget after public hearing.

After the conclusion of such public hearing, the council may insert new items or may increase or decrease the items of the budget, except items in proposed expenditures fixed by law, but where it shall increase the total proposed expenditures, it shall also provide for an increase in the total anticipated revenue to at least equal such proposed expenditures.

Sec. 7. - Vote required for adoption.

The budget shall be adopted by the favorable vote of a majority of the members of the council.

Sec. 8. - Date of final adoption.

The budget shall be finally adopted not later than fifteen (15) days prior to the beginning of the fiscal year, and should the council fail to so adopt a budget within the specified time, the existing budget and its appropriations shall be deemed adopted on an emergency basis for up to thirty (30) days.

(Res. No. 84-R-3, § 1(17), 1-23-84)

Sec. 9. - Approved budget filed with City Secretary.

Upon final adoption, a copy of the budget shall be filed with the city secretary and as otherwise provided by state law.

(Ord. No. 13-C, § 1, 2-21-13, ref. 5-11-13; Res. No. 17-R-14, 5-18-17)

**Editor's note**— Res. No. 17-R-14, adopted by the voters on May 18, 2017, changed the title of section 9 from "Approved budget filed with City Clerk" to "Approved budget filed with City Secretary." The historical notations have been retained for reference purposes.

Sec. 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 reappropriation 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 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.

(Res. No. 84-R-3, § 1(18), 1-23-84; Ord. No. 94-I, § 1, 3-17-94; Ord. No. 94-BB, § 3, 5-9-94; Ord. No. 02-E, § 1, 3-7-02; Res. No. 17-R-14, 5-18-17)

Sec. 11. - Purchase procedure.

The city shall develop a uniform guide for purchase procedures for adoption by council. The city shall review the purchase procedures and make recommendations to the council regarding changes, if any, made necessary by federal and/or state laws.

(Res. No. 77-R-12, § 3, 4-5-77; Res. No. 81-R-12, § 3, 4-16-81; Res. No. 84-R-3, § 1(19), 1-23-84; Ord. No. 94-I, § 1, 3-17-94; Ord. No. 94-BB, § 3, 5-9-94; Ord. No. 96-V, § 3, 5-6-96; Res. No. 17-R-14, 5-18-17)

Sec. 12. - Budget establishes amount to be raised by property tax.

From the effective date of the budget, the amount stated therein as the amount to be raised by property tax shall constitute a determination of the amount of the levy for the purposes of the city in the corresponding tax year; provided, however, that in no event shall such levy exceed the legal limit provided by the constitution and laws of the State of Texas.

Sec. 13. - Emergency appropriations.

In the absence of unappropriated available revenues or other funds to meet emergency appropriations, including emergencies created by natural disasters or man-made calamities that affect life, health, property, or the public peace, the council may by emergency ordinance authorize the re-appropriation of revenues previously budgeted for maintenance and operation expenses; the appropriation of unanticipated revenues; and/or the appropriation of restricted reserves. If there are insufficient funds available for appropriation or re-appropriation for such purposes, the council may by emergency ordinance authorize the borrowing of money to meet such deficit by the issuance of notes, certificates of obligation or other revenue or general obligation debt, which may be renewed from time to time, but all such obligations or other general obligation debt and renewals thereof shall not be inconsistent with state law. Any such ordinance shall require a two-thirds ( 2/3 ) vote of the council members then able to serve.

(Res. No. 68-R-7, 4-18-68; Res. No. 84-R-3, § 1(20), 1-23-84; Ord. No. 94-I, § 1, 3-17-94; Ord. No. 94-BB, § 3, 5-9-94; Ord. No. 09-H, § 1, 5-9-09)

**Editor's note**— Ord. No. 09-H, § 1, adopted by the voters of the city on May 9, 2009, changed the title of section 13 from "Borrowing to meet emergency appropriations" to "Emergency appropriations." The historical notation has been preserved for reference purposes.

Sec. 14. - Estimated expenditures shall not exceed estimated resources.

The total estimated expenditures of all fund types shall not exceed the total estimated resources of each fund (prospective income plus cash on hand). The classification of revenue and expenditure accounts shall conform as nearly as local conditions will permit to the uniform classification as promulgated by the Governmental Accounting Standards Board (or its successor agency/entity) or some other nationally accepted classification.

(Res. No. 84-R-3, § 1(21), 1-23-84; Ord. No. 02-E, § 1, 3-7-02)

Sec. 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 firm, recommended by the city manager or chief financial officer with the approval of the council. The certified public accounting firm 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 firm 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. 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 all audits shall be placed on file in the offices of the chief financial officer and the city secretary.

(Res. No. 84-R-3, § 1(22), 1-23-84; Ord. No. 94-I, § 1, 3-17-94; Ord. No. 94-BB, § 3, 5-9-94; Ord. No. 13-C, § 1, 2-21-13, ref. 5-11-13; Res. No. 17-R-14, 5-18-17)

Sec. 16. - Reserved.

**Editor's note**— Pursuant to Res. No. 84-R-3, § 1, proposition 23, passed Jan. 23, 1984, Art. VII, § 16, relative to the department of taxation, has been deleted.

Sec. 17. - Power to tax.

The council shall have the power under the provisions of the state law to levy, assess and collect an annual tax upon real and personal property within the city to the maximum provided by the constitution and laws of the State of Texas. The council shall also have the power to levy other taxes consistent with the laws of the State of Texas.

Sec. 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. The council will select a city depository(ies) up to every five (5) years 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, chief financial officer, city secretary or mayor.

(Res. No. 84-R-3, § 1(24), 1-23-84; Ord. No. 86-D, 2-12-86; Ord. No. 86-J, § 3, 4-9-86; Ord. No. 99-H, § 1, 2-18-99; Res. No. 17-R-14, 5-18-17)

Sec. 19. - Property subject to tax.

All real and personal property within the city not expressly exempted by law shall be subject to annual taxation.

(Ord. No. 66-B, 2-15-66; Res. No. 84-R-3, § 1(25), 1-23-84)

**Editor's note**— Ord. No. 66-B, enacted February 15, 1966, as an emergency measure, was duly adopted by referendum on April 5, 1966.

Secs. 20—22. - Reserved.

**Editor's note**— Pursuant to Res. No. 84-R-3, § 1, propositions 26—28, passed Jan. 23, 1984, Art. VII, §§ 20—22, relative to the board of equalization, have been deleted. Section 21 was formerly amended by Res. No. 79-R-6, § 3, passed April 9, 1979.

Sec. 23. - Ad Valorem Taxes.

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 other applicable state laws or state agency rules.

(Res. No. 84-R-3, § 1(29), 1-23-84; Ord. No. 13-C, § 1, 2-21-13, ref. 5-11-13; Res. No. 17-R-14, 5-18-17)

**Editor's note**— Res. No. 17-R-14, adopted by voters of the city on May 18, 2017, changed the title of section 23 from "Taxes; when due and payable" to "Ad Valorem Taxes." The historical notations have been retained for reference purposes.

**Cross reference**— Payment of delinquent taxes by installment, § 22-7.1.

Sec. 24. - Tax liens.

- (a) The tax levied by the city is hereby declared to be a lien, charge or encumbrance upon the property upon which the tax is due, which lien, charge or encumbrance the city is entitled to enforce and foreclose in any court having jurisdiction over the same, and the lien, charge or encumbrance on the property in favor of the city, for the amount of the taxes due on such property is such as to give the state courts jurisdiction to enforce and foreclose said lien on the property on which the tax is due, not only as against any resident of this state or person whose residence is unknown, but also as against nonresidents.
- (b) All persons or corporations owning or holding personal property or real estate in the city on the first day of January of each year shall be liable for all municipal taxes levied thereon for such year.

- (c) The city's tax lien shall exist from January first in each year until the taxes are paid, and the statute of limitations shall not apply. Such lien shall be prior to all other claims, and no gift, sale, assignment or transfer of any kind, or judicial writ of any kind, can ever defeat such lien.

Sec. 25. - Tax remissions, discount and compromises, correction of error.

The council or any other official of the city shall never extend the time for the payment of taxes, or remit, discount or compromise any tax legally due the city, nor waive the penalty and interest that may be due thereon to any person(s), firm(s) or corporation(s) owing taxes to the city for such year or years, except as provided in or authorized by the Texas Tax Code. The provisions of this section shall not be construed to prevent the compromise of any tax suit. Such compromise shall have the approval of city council. Correction of errors shall conform to the regulations of the Texas Tax Code.

(Ord. No. 90-L, § 3, 5-7-90; Ord. No. 92-E, § 1, 3-5-92; Ord. No. 92-J, § 3, 5-4-92)

Sec. 26. - General obligation bonds.

The city shall have the power to borrow money on the credit of the city and to issue general obligation bonds for permanent public improvements or for any other public purpose not prohibited by the constitution and laws of the State of Texas, and to issue refunding bonds to refund outstanding bonds of the city previously issued. All such bonds shall be issued in conformity with the laws of the State of Texas.

Sec. 27. - Revenue bonds.

The city shall have the power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities or any other self-liquidating municipal function not prohibited by the constitution and laws of the State of Texas, and to issue revenue bonds to evidence the obligation created thereby, and to issue refunding bonds to refund outstanding bonds of the city previously issued. Such bonds shall be a charge upon and payable solely from the properties, or interest therein, pledged, or the income therefrom, or both, and shall never be a debt of the city. All such bonds shall be issued in conformity with the laws of the State of Texas.

Sec. 28. - Sale of bonds.

No bond (other than refunding bonds issued to refund and in exchange for previously issued outstanding bonds) issued by the city shall be sold for less than par value and accrued interest.

All bonds of the city having been issued and sold in accordance with the terms of this section, and having been delivered to the purchasers thereof, shall thereafter be incontestable, and all bonds issued to refund and in exchange for outstanding bonds previously issued shall, after said exchange, be incontestable.

Sec. 29. - Use of sales and use tax.

Funds received by the city as a result of the local sales and use tax adopted pursuant to 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. 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, 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.

(Res. No. 68-R-7, 4-18-68; Res. No. 77-R-12, 4-5-77; Ord. No. 92-E, § 1, 3-5-92; Ord. No. 92-J, § 3, 5-4-92; Ord. No. 96-V, § 3, 5-6-96; Ord. No. 99-H, § 1, 2-18-99; Ord. No. 02-E, § 1, 3-7-02; Res. No. 17-R-14, 5-18-17)

**State Law reference—** Municipal Sales and Use Tax Act, V.T.C.A., Tax Code ch. 321.

Sec. 30. - Joint tax administration 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 secretary's office.

(Res. No. 75-R-6, § 2, 4-7-75; Res. No. 84-R-13, § 1(30), 1-23-84; Ord. No. 94-I, § 1, 3-17-94; Ord. No. 94-BB, § 3, 5-9-94; Res. No. 17-R-14, 5-18-17)

Sec. 31. - Department of finance.

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:

- (a) Have custody of and be responsible for all monies belonging to or under the control of the city or any office, department or agency thereof and shall promptly deposit all such monies in the city depository or depositories.
- (b) Examine all contracts, orders, and other documents by which the city government incurs financial obligations, having previously ascertained that money has been appropriated and allotted and will be available when the obligation becomes due and payable.
- (c) Prescribe the forms of receipts, vouchers, bills, claims and bookkeeping procedures to be used by all offices, departments and agencies of the city.
- (d) Audit and approve before payment all bills, invoices, payrolls, and other evidence of claims, demands or charges against the city. The Chief Financial Officer shall, when it is deemed necessary, seek the written advice of the city attorney in order to determine the regularity, legality, and correctness of such claims, demands, or charges, prior to presentation of the same to the council for approval.
- (e) Submit to the council through the city manager a 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) 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, 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 financial officer, and city 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 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 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; 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.
- (j) Pay no claim against the city unless it is evidenced by bill or voucher submitted and approved by the head of the department for which the indebtedness was incurred.

(Ord. No. 94-I, § 1, 3-17-94; Ord. No. 94-BB, § 3, 5-9-94; Ord. No. 99-H, § 1, 2-18-99; Ord. No. 13-C, § 1, 2-21-13, ref. 5-11-13; Res. No. 17-R-14, 5-18-17)

#### ARTICLE VIII. - MUNICIPAL PLANNING

##### Sec. 1. - Planning commission.

The council shall appoint a city planning commission, consisting of not less than five (5) nor more than eleven (11) members who shall be residents of the city, and shall serve without compensation. The commission shall meet when there are matters necessary for consideration by the commission. All minutes of the planning commission meetings shall be submitted to the city council.

(Ord. No. 66-B, 2-15-66; Ord. No. 88-R, § 5, 5-9-88; Ord. No. 06-J, § 1, 2-16-06; Res. No. 17-R-14, 5-18-17)

##### Sec. 2. - Term of office.

Members shall be appointed for a three-year term with one-third to be appointed each year on a continuing basis.

##### Sec. 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.

(Res. No. 17-R-14, 5-18-17)

##### Sec. 4. - Organization.

The commission shall elect a chairperson from its membership annually and shall establish rules of procedure which shall include the following:

- (a) A quorum shall consist of a majority of the membership, and an affirmative vote of a majority of those present shall be necessary to pass upon pending questions.
- (b) The chairperson shall be entitled to vote upon any question.
- (c) Minutes shall be kept of the proceedings of the commission and shall be a public record.
- (d) All meetings shall be open to the public.

(Ord. No. 86-D, 2-12-86; Ord. No. 86-J, § 3, 4-9-86)

Sec. 5. - Powers and duties.

The commission shall have the power and be required to:

- (a) Be responsible to and act as an advisory body to the council.
- (b) Submit findings and recommendations to the council concerning the making, amending, extending and adding to a master plan for the physical development of the city.
- (c) Review all plans for platting or subdividing of land within the city and within adjacent areas as permitted by law and submit findings and recommendations to the council.
- (d) Submit annually to the city council, not later than April first, a list of recommended capital improvements found necessary or desirable for each of the next three (3) budget years.
- (e) Perform such other duties and be vested with such other powers as the council may prescribe in accordance with the laws of the State of Texas.

(Res. No. 70-R-14, § 3, 12-10-70; Res. No. 75-R-6, § 2, 4-7-75; Res. No. 81-R-12, § 3, 4-16-81; Ord. No. 88-R, § 5, 5-9-88; Ord. No. 99-H, § 1, 2-18-99)

Sec. 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.

(Ord. No. 90-L, § 3, 5-7-90)

Sec. 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.

(Ord. No. 96-V, § 3, 5-6-96)

## ARTICLE IX. - PARKS AND RECREATION<sup>[3]</sup>

Footnotes:

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**Editor's note**— Res. No. 73-R-13 added this article as IX and renumbered former Arts. IX and X as X and XI respectively.

Sec. 1. - Parks and recreation board created; composition; qualifications, compensation of members.

There is hereby created a parks and recreation board for the city, 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 and who have resided within the city 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.

(Res. No. 73-R-13, § 1, 4-9-73; Ord. No. 92-E, § 1, 3-5-92; Ord. No. 92-J, § 3, 5-4-92; Res. No. 17-R-14, 5-18-17)

Sec. 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 appointed.

(Res. No. 73-R-13, § 2, 4-9-73; Ord. No. 86-D, 2-12-86; Ord. No. 86-J, § 3, 4-9-86; Res. No. 17-R-14, 5-18-17)

Sec. 3. - Board officers.

Officers of the parks and recreation board shall consist of a chairperson, vice-chairperson and a secretary to be elected by a majority of the board members. Officers of the board shall hold office for a period of one year and until their successors have been duly elected.

(Res. No. 73-R-13, § 3, 4-9-73; Ord. No. 96-V, § 3, 5-6-96)

Sec. 4. - Duties of board generally.

The parks and recreation board shall be an advisory body and shall act only in an advisory capacity to the city council. The board shall advise and make recommendations to the city council concerning the acquisition, development, improvement, equipment and maintenance of all parks and public playgrounds owned or controlled by the city within and without the corporate limits. It shall be the duty of the board, subject to such organizations and activities as the board may itself establish internally, to advise the city council concerning the future development of public parks, playgrounds and recreational facilities for the city, to study and recommend the purchase of additional lands and sites for parks, playgrounds and recreational facilities, and further to advise the city council concerning improvements in the maintenance, operation and general welfare of existing public parks, playgrounds and recreational facilities and the use

of the same by the public. With reference to the development of new parks and playgrounds, it shall be the duty of the board to outline the general plan of development, including landscaping, roads, trails, buildings and equipment, which plan shall be submitted to the city manager for detailed development, after which such plan shall be submitted to the city council for adoption or change in the discretion of the city council. The parks and recreation board shall make recommendations to the city council for the improvement and betterment of public parks and recreational facilities by March first of each year.

(Res. No. 73-R-13, § 4, 4-9-73; Ord. No. 99-H, § 1, 2-18-99)

Sec. 5. - 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.

(Res. No. 73-R-13, § 5, 4-9-73; Res. No. 75-R-6, § 2, 4-7-75; Res. No. 17-R-14, 5-18-17)

**Editor's note**— Res. No. 17-R-14, adopted by voters of the city on May 18, 2017, changed the title of section 5 from "Filling of board vacancies" to "Vacancies." The historical notations have been retained for reference purposes.

Sec. 6. - Quorum constituted; meetings.

Acts of the parks and recreation board shall be by majority vote of the board members present at any meeting. A majority of the board members shall constitute a quorum for meetings of the board. The board shall meet at least once a month.

(Res. No. 73-R-13, § 7, 4-9-73; Res. No. 75-R-6, § 2, 4-7-75)

**Editor's note**— Res. No. 75-R-6, § 2, adopted April 7, 1975, deleted former § 6, relating to board meetings and establishment of rules and regulations, and renumbered § 7 as § 6 to read as set forth herein. Former § 6 was derived from Res. No. 73-R.13, § 6, 4-9-73.

ARTICLE X. - FRANCHISES AND PUBLIC UTILITIES<sup>41</sup>

Footnotes:

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**Editor's note**— Res. No. 73-R-13, § 3, adopted April 9, 1973, creating a new Art. IX, renumbered this article as X.

Sec. 1. - Powers of the city.

In addition to the city's power to buy, construct, lease, maintain, operate, and regulate public utilities and to manufacture, distribute, and sell the output of such utility operations, the city shall have such further powers as may now or thereafter be granted under the Constitution and laws of the State of Texas.

Sec. 2. - Power to grant franchise.

The council shall have the power, by ordinance, to grant, renew, extend and amend by mutual agreement, all franchises of all public utilities of every character operating within the city. No franchise shall be for an indeterminate period, and no franchise shall be granted for a term of more than thirty (30) years from the date of the grant, renewal or extension.

Sec. 3. - Grant not to be exclusive.

No grant or franchise to construct, maintain, or operate a public utility and no renewal or extension of any such grant shall be exclusive.

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.

(Ord. No. 99-H, § 1, 2-18-99)

Sec. 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.

(Res. No. 17-R-14, 5-18-17)

Sec. 6. - Reserved.

**Editor's note**— Res. No. 17-R-14, adopted by voters of the city on May 18, 2017, repealed section 6, which pertained to franchise value not to be allowed and derived from the original codification.

Sec. 7. - Right of regulation.

Every grant, renewal, extension or amendment of a public utility franchise, whether so provided in the ordinance or not, shall be subject to the right of the council:

- (a) To forfeit any such franchise by ordinance at any time for the failure of holder thereof to comply with the terms of the franchise, such power to be exercised only after notice and hearing, and a reasonable opportunity to correct the default;
- (b) To require such expansion and extension of plant and facilities as are reasonably necessary to provide adequate service to the public;
- (c) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates;
- (d) To impose reasonable regulations to ensure safe, efficient and continuous service to the public;

- (e) To examine and audit at any time during regular business hours the accounts and records of any such utility which are relevant to the city's right of regulation, and to require annual and other reports, including reports on operations within the city;
- (f) To require such compensation and rental as may be permitted by the laws of the State of Texas.

Sec. 8. - Regulation of rates.

To the extent not inconsistent with applicable federal or state law, the council shall have full power, after notice and hearing, to regulate by ordinance the rates of every public utility operating in the city, provided that no such ordinance shall be passed on an emergency measure; shall have the power to employ expert advice and assistance in determining a reasonable rate and equitable profit to the public utility; and shall have the power to require within the franchise grant, or any extension or renewal thereof, or as a condition precedent to any hearing concerning rates and service of any public utility operating within the city, that the movant seeking the rate or service change pay the reasonable cost of the service of a rate consultant chosen by the council.

(Ord. No. 92-E, § 1, 3-5-92; Ord. No. 92-J, § 3, 5-4-92)

Sec. 9. - Reserved.

**Editor's note**— Pursuant to Res. No. 84-R-3, § 1, proposition 31, passed Jan. 23, 1984, Art. X, § 9, relative to municipally owned utilities, has been deleted. Said former section was amended by Ord. No. 66-B, adopted by referendum on April 6, 1966.

Sec. 10. - Sales of municipal services.

The council shall have the power and authority to:

- (a) In or outside the limits of the city, sell and distribute water; sell and provide sewer service; provide for garbage and trash collection and disposition; and to provide similar services.
- (b) Prescribe the kind of materials used within or beyond the limits of the city for such municipal services; inspect the same and require such materials to be kept in good order and condition at all times; make such rules and regulations as shall be necessary and proper; and prescribe penalties for noncompliance with same.

ARTICLE XI. - GENERAL PROVISIONS<sup>[5]</sup>

Footnotes:

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**Editor's note**— Res. No. 73-R-13, § 3, adopted April 9, 1973, creating a new Art. IX, renumbered this article as XI.

Sec. 1. - Official oath.

All officers of the city shall, before entering upon the duties of their respective offices, take and subscribe to the official oath prescribed in the constitution of the State of Texas.

Sec. 2. - Public records.

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

(Ord. No. 92-E, § 1, 3-5-92; Ord. No. 92-J, § 3, 5-4-92; Res. No. 17-R-14, 5-18-17)

Sec. 3. - Official newspaper.

The council shall have the power to contract annually with, and by resolution designate, a public newspaper of general circulation in the city as official organ thereof and to continue as such until another is designated, and shall cause to be published therein all ordinances, notices and other matter required by this Charter, by the ordinances of the city, or by the constitution and laws of the State of Texas, to be published.

Sec. 4. - Notice of claim against city.

Except as provided for by the state constitution or a statute in conflict herewith, the city shall not be liable for any damages, attorney fees, costs of court, or other monies regarding any matters whatsoever, unless notice shall have first been given the city in compliance with this section. Further, neither the power of the city to sue and be sued nor any other term or provision of this Charter shall ever be interpreted or construed as a waiver of any immunity by the city.

- (a) Before the city shall be liable for any damage, claim or suit, attorney fees or costs of court, arising out of or for any personal injury, damage to property, or violation of any statutory right or duty, the person who is injured or whose property has been damaged, or someone on his or her behalf, shall give the city manager or the city secretary notice in writing duly certified within ninety (90) days after the date of the alleged damage, injury or violation of statutory right or duty, stating specifically in such notice when, where and how the injury or damage was sustained, setting forth the extent of the injury or damage as accurately as possible, and giving the names and addresses of all witnesses known to the claimant upon whose testimony the claimant is relying to establish the injury or damage. In case of injuries resulting in death, the person or persons claiming damage shall within ninety (90) days after the death of the injured person give notice as required above.
- (b) Before the city shall be liable for any damages, attorney fees, court costs or monies whatsoever, whether arising out of any action authorized by statute, for declaratory judgment, or for equitable remedy, or for any damage, claim or suit arising out of contract, the person who seeks such remedy, relief or damage, or someone on his or her behalf, shall:
  - (i) Give the city manager or the city secretary notice in writing not less than thirty (30) days prior to the filing of such claim, suit or cause of action, stating specifically the allegations of and basis for such claim, suit or request for remedy, the facts, contract provisions or circumstances supporting the same, the specific remedy or damages sought, the names of all city officers and employees complained of, and giving the names and addresses of all witnesses known to the claimant upon whose testimony the claimant is relying to establish the injury or damage; and
  - (ii) Upon request of the city manager or the city council meet, confer and negotiate with the city for the purpose of reaching an acceptable compromise and settlement.

(Ord. No. 66-B, 2-15-66; Ord. No. 86-D, 2-12-86; Ord. No. 86-J, § 3, 4-9-86; Ord. No. 06-J, § 1, 2-16-06; Res. No. 17-R-14, 5-18-17)

**Editor's note**— Ord. No. 06-J, § 1, adopted February 16, 2006, changed the title of article XI, section 4 from "Notice of claim" to "Notice of claim against city."

Ord. No. 66-B was adopted by referendum on April 5, 1966, amending § 4 of Art. X, now Art. XI.

Sec. 5. - Assignment, execution and garnishment.

The property, real or personal, belonging to the city shall not be liable for sale or appropriation under any writ of execution. The funds belonging to the city in the hands of any person, firm or corporation, shall not be liable to garnishment, attachment or sequestration; nor shall the city be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the city nor any of its officers or agents shall be required to answer any such writ of garnishment on any account whatever. Unless otherwise provided by federal or state constitution or laws, the city shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors.

(Ord. No. 92-E, § 1, 3-5-92; Ord. No. 92-J, § 3, 5-4-92)

Sec. 6. - Security or bond.

It shall not be necessary in action, suit or proceedings in which the city shall be a party for any bond, undertaking or security to be executed in behalf of the city; but all actions, suits and proceedings shall be conducted in the same manner as if such bond, undertaking or security had been given. The city shall have all remedies of appeal provided by law in all courts in this state without bond or security of any kind. For all purposes of such actions, suits, proceedings and appeals, the city shall be liable in the same manner, and to the same extent, as if the bond, undertaking or security in ordinary cases had been given and executed. The council shall require such officers and employees of the city as it deems necessary to give bond in such amount and with such surety as required. The premiums on such bonds shall be paid by the city.

Sec. 7. - Personal interest in city contracts.

Neither the mayor nor a member of the council shall participate in any vote or decision on a matter involving a business entity or real property in which he/she has a substantial interest, as defined by state law. Additionally, neither the mayor nor a member of council shall be the surety on any bond of any officer of the city or for any person having a contract, work or business with the city. No employee of the city shall have a substantial interest, as defined by state law, in any work, business or contract the expense, price or consideration of which is paid from the city treasury, or by an assessment levied by an ordinance or resolution of the council, nor be the surety of the bond of any officer of the city or for any person having a contract, work or business with the city. Any willful violation of this section shall constitute malfeasance in office and any officer or employee guilty thereof shall be subject to removal from his/her office or position. Any violation of this section with the knowledge, express or implied, of the person or corporation contracting with the city shall render the contract voidable by the council.

(Ord. No. 86-D, 2-12-86; Ord. No. 86-J, § 3, 4-9-86; Ord. No. 94-I, § 1, 3-17-94; Ord. No. 94-BB, § 3, 5-9-94)

Sec. 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 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.

(Ord. No. 86-D, 2-12-86; Ord. No. 86-J, § 3, 4-9-86; Ord. No. 99-H, § 1, 2-18-99; Res. No. 17-R-14, 5-18-17)

Sec. 9. - Meetings of boards, committees and commissions.

All boards, committees, and commissions established in this charter will meet at least once quarterly and submit the minutes of their meetings to the city council. The need for other boards, committees and commissions appointed by council, will be reviewed annually by the city manager and appropriate recommendations for their continuance made to the city council.

(Ord. No. 94-I, § 1, 3-17-94; Ord. No. 94-BB, § 3, 5-9-94)

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.

(Ord. No. 09-H, § 1, 5-9-09)

**Editor's note**— Ord. No. 09-H, § 1, adopted by the voters of the city on May 9, 2009, amended section 10 in its entirety to read as herein set out. Formerly, section 10 pertained to conflicts of interest; board of ethics, and derived from Ord. No. 94-I, § 1, adopted March 17, 1994, and Ord. No. 94-BB, § 3, adopted May 9, 1994.

Sec. 11. - Effect of Charter on existing law.

All ordinances, resolutions, rules and regulations in force in the city on the effective date of this Charter, and not in conflict with this Charter, shall remain in force until altered, amended or repealed by the council. All taxes, assessments, liens, encumbrances and demands of or against the city fixed or established before such date, or for the fixing or establishing of which proceedings have begun at such date, shall be valid when properly fixed or established either under the law in force at the time of the beginning of such proceedings or under the law after the adoption of this Charter.

Sec. 12. - Continuance of status of officers and employees.

Nothing in this Charter contained, except as specifically provided, shall affect or impair the rights and privileges of officers and employees of the city as existing on the effective date hereof, or any provision of law in force at such time which is not inconsistent with the Charter, in relation to the appointment, rank, grade, tenure, promotion, removal, pension and retirement rights, or any other rights and privileges of such officers and employees.

Sec. 13. - Rearrangement and renumbering of Charter provisions.

In order to preserve unity, the council shall have the power, by ordinance, to renumber and rearrange all articles, sections and paragraphs of this Charter or any amendments thereto, and upon the passage of any such ordinance, a copy thereof, certified by the city manager, shall be forwarded to the secretary of state for filing.

Sec. 14. - Judicial notice.

This Charter shall be held a public act and shall have the force and effect of a general law, may be read in evidence without pleading or proof, and judicial notice thereof shall be taken in all courts and places without further proof.

Sec. 15. - Separability clause.

If any section or part of a section of this Charter is held to be invalid or unconstitutional by a court of competent jurisdiction, the same shall not invalidate or impair the validity, force or effect of any other section or part of a section of this Charter.

Sec. 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) 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.

It shall be the duty of the Charter review commission to:

- (a) Inquire into the adequacy of, consistency with state and federal law, and currentness of Charter provisions to determine whether any such provisions require revision. To this end one or more public hearings may be held and the commission shall have the power to compel attendance of the city manager and/or city attorney and to require the submission of any of the city records which it may consider necessary to its duties. Issues regarding charter compliance shall be referred to city council for investigation and disposition;
- (b) Make any recommendation it considers desirable to update and/or revise the provisions of the Charter;
- (c) Propose amendments to this Charter to improve the effective application of said Charter to current conditions;
- (d) Report its findings and present its proposed amendments, if any, to the council.

The Charter review commission shall submit its report to the council within six (6) months of the date of its appointment by the council. The council shall receive and have published in the official newspaper of the city any report presented by the Charter review commission, shall consider any recommendations made and, if any amendment or amendments be presented as a part of such report, may order such to be submitted to the voters of the city in the manner provided by the applicable statute of the State of Texas.

Except as provided herein, the term of office of the Charter review commission shall not extend beyond eight (8) months. After submission of a report the Charter review commission shall convene for the sole purpose of meeting with council to discuss its report. If no report is issued by the Charter review commission, the term of office shall not extend beyond six (6) months. Furthermore, if no report is presented to the council, then all records of the proceedings of the commission shall be filed with the city manager and become a public record.

(Res. No. 73-R-13, § 3, 4-9-73; Res. No. 81-R-12, § 3, 4-16-81; Res. No. 84-R-3, § 1(32), 1-23-84; Ord. No. 86-D, 2-12-86; Ord. No. 86-J, § 3, 4-9-86; Ord. No. 92-E, § 1, 3-5-92; Ord. No. 92-J, § 3, 5-4-92; Ord. No. 96-V, § 3, 5-6-96; Ord. No. 99-H, § 1, 2-18-99; Res. No. 17-R-14, 5-18-17)

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.

J.E. O'Keefe, Chairman

Tom	Blakeney,	Jr.
Alton		Burgess
E.	A.	Cain
Grace	D.	Criley
Arthur	G.	Daniel
F.	C.	Fredrickson
N.	P.	Holt
Thelma		Hutchins
Adelaide		Jacob
Marvin		McLemore
L.	A.	Pugh
R.	H.	Stansel
A.	E.	Stuart
Hallie W. Triplett		

CHARTER COMPARATIVE TABLE

(Rpld—Repealed; Rnbd—Renumbered; Rltd—Relettered)

Ordinance/ Resolution Number	Date	Section	Article and Section this Charter
63-D	2-28-63		Adopted Charter
66-B	2-15-66		II, § 2
			II, § 9
			III, § 1
			V, § 12
			VI, § 2
			VII, § 19
			VIII, § 1
			IX, § 9

			X, § 4
68-R-7	4-18-68	3	I, § 5(a)
		3	I, § 5(b)
		3	I, § 1
		3	VII, § 13
		3	VII, § 29
70-R-14	12-12-70	3 Rpld	VII, § 5(d)
		Rltd	VII, § 5(a), (f) as (d), (e)
73-R-13	4- 9-73	3	II, §§ 1—3, 7
			III, § 4
			V, §§ 7, 8
			VI, §§ 1—3
		Added	IX, §§ 1—7
			X, § 16
		Rnbd	IX, X as X, XI
75-R-6	4- 7-75	3	II, § 1
			III, § 4
		Added	VII, § 30
			VIII, § 5
			IX, § 5

		Rpld	IX, § 6
		Rnbd	IX, § 7 as § 6
77-R-12	4- 5-77	3	II, § 1
			VII, § 11
			VII, § 21(d)
			VII, § 29
79-R-6	4- 9-79	3	Preamble
		3	I, §§ 2, 3
		3	II, §§ 1, 8, 9
		3	III, § 3
		3	VII, § 20
81-R-12	4-16-81	3	II, § 7
			V, § 3
			VII, § 11
			VIII, § 5
			XI, § 16
84-R-3	1-23-84	1(2)	II, § 3
		(3)	IV, § 3
		(4)	IV, § 5
		(5)	IV, § 7

		(7)	V, § 3(a)
		(8) Rpld	V, § 5
		(9)	V, § 6
		(10) Rpld	V, § 9
		(11), (12)	V, §§ 10, 11
		(13) Rpld	V, § 12
		(14)	VI, § 2
		(15) Rpld	VI, § 3
		(16)	VII, § 2
		(17)	VII, § 8
		(18), (19)	VII, §§ 10, 11
		(20)—(22)	VII, §§ 13—15
		(23) Rpld	VII, § 16
		(24), (25)	VII, § 18, 19
		(26)—(28) Rpld	VII, §§ 20—22
		(29)	VII, § 23
		(30)	VII, § 30
		(31) Rpld	X, § 9
		(32)	XI, § 16
86-D	2-12-86		I, §§ 2, 5

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			III, §§ 2, 3
			IV, §§ 3, 6—9
			V, §§ 1, 3(e), 7, 8
			VI, § 2
			VII, § 18
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			IX, § 2
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86-J	4- 9-86	3	I, §§ 2, 5
			II, §§ 1, 2, 6—9
			III, §§ 2, 3
			IV, §§ 3, 6—9
			V, §§ 1, 3(e), 7, 8
			VI, § 2
			VII, § 18
			VIII, § 4
			IX, § 2
			XI, §§ 4, 7, 8, 16
88-R	5- 9-88	5	II, §§ 2, 7

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			V, § 12
90-L	5- 7-90	3	V, § 12 VII, §§ 5, 25 VIII, § 6
92-E	3- 5-92	1	II, § 1
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			V, §§ 2, 8
			VI, § 2
			VII, §§ 25, 29
			IX, § 1
			X, § 8
			XI, §§ 2, 5, 16
92-J	5- 4-92	3	II, § 1
			III, §§ 1, 3
			V, §§ 2, 8
			VI, § 2
			VII, §§ 25, 29
			IX, § 1

			X, § 8
			XI, §§ 2, 5, 16
94-I	3-17-94	1	II, §§ 1, 7, 9
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			6, 12—14
			VII, §§ 4, 10, 11,
			13, 15, 30, 31
			XI, §§ 7, 9, 10
94-BB	5- 9-94	3	II, §§ 1, 7, 9
			V, §§ 1, 3(a), (e), (f),
			6, 12—14
			VII, §§ 4, 10, 11,
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			XI, §§ 7, 9, 10
96-V	5- 6-96	3	III, § 3
			IV, §§ 2, 4
			VII, §§ 11, 29
			VIII, § 7
			IX, § 3
			XI, § 16

99-H	2-18-99	1	Art. II, § 2
			Art. IV, §§ 6, 7
			Art. VII, §§ 18, 29, 31
			Art. VIII, § 5
			Art. IX, § 4
			Art. X, § 4
			Art. XI, §§ 8, 16
02-E	3- 7-02	1	Art. II, § 1
			Art. V, § 2
			Art. V, § 5
			Art. V, § 13
			Art. VII, § 2
			Art. VII, § 14
			Art. VII, § 10
			Art. VII, § 29
06-J	2-16-06	1	Art. I, §§ 3, 5
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		as	Art. II, §§ 5—13
			Art. III, §§ 1, 2, 4

			Art. IV, §§ 1—10
		Added	Art. IV, §§ 11—14
			Art. VIII, § 1
			Art. XI, § 4
09-H	5- 9-09	1	I, § 3
			IV, § 11
			VII, § 13
			XI, § 10
13-C	2-21-13	1	III, §§ 2, 4
			VI, § 2
			VII, §§ 2, 9, 15, 23, 31
17-R-14	5-18-17		I, § 5
			II, §§ 1, 2, 4, 6, 8—10, 12
		Rpld	II, § 3
			III, §§ 2, 3
			IV, §§ 2, 6—8, 10—12, 14
			V, §§ 6, 8, 10, 12
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			VIII, §§ 1, 3

			IX, §§ 1, 2, 5
			X, § 5
		Rpld	X, § 6
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