



# CITY OF ALVARADO CITY CHARTER

Passed and approved by the voters of  
Alvarado at the May 6, 2023 Special  
Election.

Approved by Alvarado City Council  
Ordinance 2023-0013  
Effective 05/15/2023

## **CHAPTER I – INCORPORATION AND POWERS OF CITY**

### **1.01 Incorporation, Corporate Name**

All inhabitants of the City of Alvarado, Johnson County, Texas, residing within the boundaries of the City now established or as hereinafter established in the manner provided by law, shall constitute a municipal body politic incorporated under the name of "City of Alvarado," hereinafter referred to as the "City," with such powers, rights, authority, privileges, obligations, and immunities as are herein provided in accordance with the Constitution and statutes of the State of Texas.

### **1.02 Creation and Change of Municipal Ward Boundaries**

The City Council shall have power by ordinance to divide the City of Alvarado into municipal wards, and shall have power to alter or change the municipal ward boundaries of the City of Alvarado, which municipal wards shall be comprised, as nearly as practicable, of contiguous territory within straight lines, and as nearly as practicable shall contain the same number of registered voters, and it shall require a three-fourths ( $\frac{3}{4}$ ) vote of all the City Council persons elected to change, at any time, the number of municipal wards, or the boundaries of the same, and no change shall be made in said municipal wards or the boundaries of the same, unless it be done at least more than six (6) months before the next general ensuing City election; provided, however, when any additional territory shall become a part of the City, the municipal ward(s) that the same was adjoining shall be held for all purposes to be extended so as to include said added territory; provided, there shall at all times be at least (3) municipal wards within the City.

### **1.03 Form of Government**

The municipal government provided by this Charter shall be known as "Council-Manager Government." Pursuant to the provisions of, and subject only to the limitations imposed by the State Constitution, State Laws, and this Charter, all powers of the City shall be vested in an elective council, hereinafter referred to as the "City Council." The City Council shall appoint a City Manager, who shall be directly responsible to the City Council, for the execution of the laws and the administration of the government of the City.

### **1.04 Corporate Boundaries**

- (a) The boundaries of the City shall be as they exist when this Charter is adopted, until changed by the City Council.
- (b) The boundaries and limits of the City shall be those established and described on an official map duly adopted by the City Council by ordinance and amended from time to time to include annexations and disannexations from the corporate limits. The City

Secretary shall at all times keep a correct and complete description and official map on file, with recent annexations and disannexations.

### 1.05 Annexation

The City Council shall have the powers to fix the boundary limits of the City, to provide for the extension of said boundary limits and the annexation of additional territories lying adjacent to said City, to provide for the disannexation of territory within said City and to provide for the exchange of territory with other cities, according to such rules as may be provided by this Charter or any other method that may be prescribed by the laws of the State of Texas. Such rules or methods shall not be inconsistent with the procedural rules of the Municipal Annexation Act of the State of Texas.

- (a) *Annexation of lands by petition:* The qualified voting property owner or owners of any land contiguous and adjacent to the City may, by petition in writing to the City Council request the annexation of such contiguous and adjacent land, describing it by metes and bounds. The City Council shall thereafter hear such petition and the arguments for and against the same, and grant or refuse such petition. The City Council may by proper ordinance, under such procedural rules as may be prescribed by law, receive and annex such territory as a part of the City.
- (b) *Annexation by election:* The City Council shall have the power to order an election or elections if it so desires for the purpose of annexing territory adjacent to the City. Said election shall be in accordance with this Charter or as prescribed by State statutes.
- (c) *Annexation of lands by ordinance:* The City Council may by ordinance annex territory adjacent to the City with or without the consent of the inhabitants or owners thereof, subject to such procedural rules as may be prescribed by law.

*Annexed territory to become part of the City:* Upon completion of any one of the procedures hereinabove provided, the territory so annexed shall become a part of the City, and said land and its residents and future residents shall be entitled to all the rights and privileges of other citizens of the City and shall be bound by the acts, ordinances, resolutions and regulations of the City.

### 1.06 Disannexation

The City Council may, by ordinance, disannex any territory within the corporate boundaries of the City, if the City Council determines the territory is not necessary or suitable for City purposes, and may exchange territory with other municipalities, by agreement approved by resolution or ordinance. When the disannexation ordinance is passed, the disannexed territory shall cease to be a part of the City but the disannexed territory shall remain liable for its pro rata share of any indebtedness incurred while the area was a part of the City and the City shall continue to levy, assess and collect taxes

on the property in the disannexed territory until such indebtedness has been paid, unless the City Council determines that it is not necessary or advisable.

## **CHAPTER II – POWERS OF THE CITY**

### **2.01 General Powers of the City**

The City shall have all powers possible for a municipality to have under the constitution and laws of this state as fully and completely though they were specifically enumerated in this Charter.

### **2.02 Construction**

The powers of the City under this Charter shall be constructed liberally in favor of the City, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power stated in this article.

### **2.03 Eminent Domain**

The City shall have the full right, power and authority to exercise the power of eminent domain when necessary to carry out any of the powers conferred upon it by this Charter, or by the Constitution or laws of the State of Texas. The power of eminent domain hereby conferred shall include the right of the City to take fee title and easement interest in the lands so condemned, and such power and authority shall include the right to condemn public or private property for such purposes.

### **2.04 Power to Acquire Property Inside and Outside the City for Public Purposes**

The City shall have the power to sell and to acquire by condemnation or purchase either private or public property located inside or outside of the corporate limits for public purposes.

### **2.05 Street Powers**

The City shall have exclusive domain, control, and jurisdiction in, upon, over, and under all alleys, streets, gutters, and sidewalks situated in the City, and the power to layout, establish, open, alter, widen, lower, extend, grade, drain, abandon, and improve streets, alleys, sidewalks, squares, parks, public places, and bridges and regulate the use thereof, and require the removal from streets, sidewalks, alleys, and other public property or places of all obstructions, telegraph, telephone, or other poles carrying electric wires or signs, encroachments of every nature or character upon any said streets and sidewalks, and to vacate and close private ways; and when a street or alley has been vacated or abandoned, the City shall have the right to sell the same in any lawful manner. The City shall have the power to assess property owners for improvements and collect attorney's fees for the collection of assessments as allowed under state law. Such exclusive dominion, control, and jurisdiction in, upon, over, or under the public streets, avenues, sidewalks, parkways, alleys, and highways of the City shall also include, but not be limited to, the right to regulate, locate, relocate, remove, or prohibit the location of all utility pipes, lines, wires, or other property of any sort. The right of control and use of the public streets,

highways, sidewalks, and alleys is hereby declared to be inalienable to the City, except by ordinances not in conflict with this Charter.

### 2.06 Health and Police Powers

- (a) The City Council shall have the power to provide for and/or own and regulate the following, but not to the exclusion of other powers:
- (1) a solid waste collection and disposal system;
  - (2) a sanitary sewer utility or system;
  - (3) a water utility or system;
  - (4) an electric utility or system;
  - (5) a fire department;
  - (6) a police department;
  - (7) a health department;
  - (8) parks and playgrounds.
- (b) The City Council shall have the power to define all nuisances and prohibit them within the City and outside the City limits for at least a distance of 5,000 feet.
- (c) The City Council shall have the power to provide for fixing of penalties for failure of any person, firm, corporation, or association to comply with any such rules and regulations so prescribed by the City Council under the provisions of this section; it being the intention to vest in the City Council not only powers expressly enumerated in this section but all other powers reasonably necessary for the protection of the health, safety, and welfare of the City and its inhabitants.

### 2.07 Intergovernmental Relations

The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation by contract or otherwise, with any one or more States, and divisions or agencies thereof, the United States or any agency thereof.

## CHAPTER III – CITY COUNCIL AND MAYOR

### 3.01 Governing Body

The governing and lawmaking body of the City shall consist of the Mayor and six (6) Councilmembers and shall be known as the “City Council.”

### 3.02 Elective Officers

- (a) The members of the City Council shall hold office for three (3) years, until their successors are elected and have been qualified.
- (b) Two (2) Councilmembers shall be elected at the regular election held annually on the first Saturday in May, except every third year where the Mayor and two councilmembers shall be elected, unless the Council designates an alternative date allowed by state law at least six months prior to the regular election.
- (c) The City shall be divided into three (3) wards in accordance with Section 1.02 of this Charter, with two (2) Councilmembers elected from each respective ward, and the Mayor elected at large.
- (d) Places shall be assigned to the Councilmembers as follows:
  - (1) Place One shall be assigned to City Councilmember, Ward 1, seat currently occupied by Michael Bennett.
  - (2) Place Two shall be assigned to City Councilmember, Ward 2, seat currently occupied by Lydia Moon, which shall be Place Two.
  - (3) Place Three shall be assigned to City Councilmember, Ward 3, seat currently occupied by Kevin Thomas.
  - (4) Place Four shall be assigned to the second City Councilmember, Ward 1, elected in May 2023.
  - (5) Place Five shall be assigned to the second City Councilmember, Ward 2, elected in May 2023.
  - (6) Place Six shall be assigned to the second City Councilmember, Ward 3, elected in May 2023.
- (e) In order to affect a transition to three (3) year terms upon the adoption of this Charter, elections shall be held as follows:
  - (1) The Mayor and Place 1 and Place 2 shall fulfill their two-year terms and be elected to three (3) year terms upon expiration of the current term in 2024.
  - (2) The current terms of Place 3 shall be extended one (1) year to expire in 2025, at which time Place 3 shall be elected to a three (3) year term.
  - (3) Place Four shall be elected to a three (3) year term upon the expiration of the current two-year term in 2025.

- (4) The two-year terms of Place 5 and Place 6 shall be extended one (1) year to expire in 2026, at which time Place 5 and Place 6 shall be elected to a three (3) year term.

### 3.03 Limitation of Consecutive Terms for Elected Officials

- (a) A City Councilmember who has served as a Councilmember, regardless of place, for three (3) consecutive terms shall not again be eligible to become a candidate for Councilmember for two (2) years or until the next general election after the third consecutive term has expired. A person may be appointed to fill a vacancy, as defined by Section 3.09 of this Charter, in the event a vacancy occurs with less than twelve (12) months remaining in the unexpired term for their prior Place. This shall not prevent a Councilmember from becoming a candidate for Mayor upon expiration of the third consecutive term as a Councilmember.
- (b) A Mayor who has served as Mayor for three (3) consecutive terms as Mayor shall not again be eligible to become a candidate for that office until the next general election after the third consecutive term has expired. A person may be appointed to fill a vacancy, as defined by Section 3.09 of this Charter, in the event a vacancy occurs with less than twelve (12) months remaining in the unexpired term for Mayor. This shall not prevent a Mayor from becoming candidate for Councilmember upon expiration of the third (3rd) consecutive term as Mayor.
- (c) A person may serve no more than eighteen (18) years on the City Council, in any combination of years spent as Mayor or Councilmember.
- (d) As used in this section, any length of service within a three (3) year term that exceeds 360 days is a term served, and "Councilmember" does not mean "Mayor."
- (e) Any terms served as either Mayor or Councilmember prior to the adoption of this Charter shall not count toward the term calculations.

### 3.04 Qualifications of Candidates

Each person who becomes a candidate for Mayor or Councilmember shall meet the following qualifications:

- (a) Be a citizen of the United States of America;
- (b) Be a qualified voter of the City (which in this charter shall mean a person who is registered to vote by the State of Texas, whose registration is effective in the City of Alvarado);
- (c) Have resided in the City for at least twelve (12) months prior to the date of the election;
- (d) Be twenty-one (21) years of age or older on the first day of the term to be filled at the election;
- (e) Not have been finally convicted of a felony from which the person has not been otherwise released from the resulting disabilities;

- (f) Not have been declared mentally incompetent by the final judgment of a court;
- (g) Abide by the nepotism law (Chapter 573, Texas Government Code), and as provided in Section 14.01 of this Charter; and
- (h) Not be disqualified by reason of any other provision of law.

A member of the City Council who ceases to possess any of the qualifications specified in this section for a period of sixty (60) days following notice from the City Secretary regarding same, or who is convicted of a felony while in office, shall immediately forfeit the office and the City Council shall proceed to fill the vacancy in accordance with Section 3.09 of this Charter.

### 3.05 City Council to be the Judge of Qualifications

The City Council shall be the judge of the election and qualifications of its own members, and of the grounds for forfeiture of their office.

### 3.06 Compensation of Elective Officers

The City Council may determine the annual salary of the mayor and councilmembers by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of councilmembers elected at the next regular election. The mayor and councilmembers shall receive their actual and necessary expenses incurred in the performance of their duties of office.

### 3.07 Presiding Officer: Duties of the Mayor

- (a) The Mayor shall preside over the meetings of the Council, and perform such other duties consistent with the office as may be imposed upon the Mayor by this Charter and by ordinances and resolutions passed in pursuance thereof. The Mayor shall be recognized as the official head of the City by the courts for the purpose of enforcing military law and for all ceremonial purposes. The Mayor shall not vote except in the event of a tie.
- (b) The emergency powers of the Mayor shall be set forth by State law and local ordinances.

### 3.08 Mayor Pro Tem

At the first meeting after each general election or general election run-off, if any, or as soon thereafter as practicable, the Council shall appoint one of the Councilmembers as Mayor Pro Tem who shall hold office for one (1) year. The Mayor Pro Tem shall perform the duties of Mayor in case of the absence or disability of the Mayor.

### 3.09 Vacancies; Forfeiture of Office; Filling of Vacancies

- (a) Vacancies: The office of the Mayor or a Councilmember shall become vacant upon the Mayor or Councilmember's death, resignation, removal from office (in any manner authorized by law), or forfeiture of office.
- (b) Forfeiture of Office: The Mayor or a Councilmember shall forfeit their office if during a term of office, the Mayor or Councilmember:
  - (1) lacks any qualification for the office prescribed by this Charter or by other law;
  - (2) violates any expressed prohibition of this Charter;
  - (3) is convicted of a felony, whether final for purposes of appeal or not; a crime involving moral turpitude; or violating any state laws regulating conflicts of interest of municipal officers; or
  - (4) fails to attend three (3) consecutive regular meetings of the Council without being excused by the Council.

The Council shall, by an affirmative  $\frac{3}{4}$  vote of the entire membership, be the final judge in matters involving forfeiture of office by a Councilmember or the Mayor.

- (c) Filling of Vacancies: In the event a vacancy from any cause in the office of Mayor or Councilmember with three-year terms, and an unexpired term greater than twelve (12) months; the City Council shall order a special election called for the purpose of filling the vacancy within one hundred and twenty (120) days after such vacancy or vacancies. However, if a vacancy occurs in the office of Mayor or Councilmember with an unexpired term of twelve (12) months or less, the City Council may call a special election to fill the vacancy or may, by majority vote of the full Council, appoint a person to fill such vacancy until the expiration of the office to be filled, if permitted by the Texas Constitution. Such appointment shall require an affirmative vote of 75% of the full City Council.

In the event a vacancy from any cause in the office of Mayor or Councilmember with two-year terms, the City Council may call a special election to fill the vacancy or may, by majority vote of the full Council, appoint a person to fill such vacancy until the expiration of the office to be filled, if permitted by the Texas Constitution.

### 3.10 Prohibitions

- (a) Holding other office: Except where authorized by law, no Mayor or Councilmember shall hold any other compensated City office or employment by the City during the term for which they are elected to the Council, and no former Mayor or Councilmember shall hold any compensated appointive City office or employment until one (1) year after the expiration of the term for which they were elected to the City Council.
- (b) Appointment and Removals: Neither the City Council nor any of its members shall in any way dictate the appointment or removal of any City administrative officer or

employees whom the City Manager or any of the City Manager's subordinates are empowered to appoint, unless otherwise provided in this Charter. The City Council may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees.

- (c) Interference with Administration: Except for the purpose of inquiries and investigations by the direction of the Council, unless provided otherwise in this Charter, the Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Council nor its members shall give orders to any such officer or employee, either publicly or privately.
- (d) Admission of Liability: Neither the Mayor or Councilmembers shall accept or admit liability or pay any claim for damages asserted against the City without first obtaining a written opinion from the City Attorney regarding the City's liability therein.

### 3.11 Meetings of the City Council

The Council shall hold at least one (1) regular meeting each month at a time to be fixed by ordinance, unless the date falls on a regularly observed City holiday, provided that the Council may establish as many additional regular meetings during the month as may be necessary for the transaction of the business of the City and its citizens. Prescribed meeting dates may be cancelled by a vote of the City Council at a regular scheduled meeting. All meetings of the City Council shall be open in accordance with and except as provided by the Texas Open Meetings Act, and shall be held at the City Hall, except that the City Council may designate another place for the meetings.

### 3.12 Special Meetings

The Mayor may call special meetings by giving notice to the City Secretary who shall notify each member of the City Council of the time of the meeting and its purpose.

### 3.13 Rules of the City Council: Minutes and Procedures

- (a) The City Council shall determine its own rules of procedure and may compel the attendance of its members. Minutes of the proceedings of the City Council shall be kept, to which any citizen may have access at all reasonable times and which shall constitute one of the archives of the City.
- (b) The vote upon the passage of all ordinances and resolutions shall be taken by a show of hands or other method to indicate the vote of each member and entered into the minutes, and every ordinance or resolution upon its final passage, shall be authenticated by the signature of the presiding officer and the person performing the duties of the City Secretary, and kept as required by law.

- (c) Any item requested by the City Manager or by the Mayor, shall be placed on the agenda by the City Secretary. The Mayor will establish the order of the agenda for each City Council meeting. The City Secretary shall prepare the agenda, which shall be publicly posted at City Hall in accordance with the Texas Open Meetings Act.

### 3.14 Quorum and Voting

Four (4) Councilmembers, excluding the Mayor, shall constitute a quorum to do business and no action of the Council shall be valid or binding unless adopted by the affirmative vote of four (4) or more members of the City Council, including the Mayor in the event of a tie. A number less than a quorum may adjourn from time to time and compel the attendance of absent members. If the City Council is reduced to less than four (4) members on account of vacancies, the remaining members shall constitute a quorum for the sole purpose of calling an election.

### 3.15 Absence of Mayor and Councilmembers

- (a) If the Mayor or a Councilmember has four (4) unexcused absences from a regular city council meeting in a term, the Mayor or Councilmember may be removed from office by a vote of majority of the entire City Council. If removed, the City Council shall declare the office vacant and proceed to fill the office as in the case of other vacancies.
- (b) At each regular meeting from which the Mayor or a Councilmember is absent, the City Council shall determine whether the absence is excused.

### 3.16 Code of Ethics and Conduct

The City Council may adopt by ordinance a code of ethics and conduct that is consistent with the provisions of this Charter and state and federal law applicable to elected officers, appointed board, commission, and committee members, and employees of the City.

## **CHAPTER IV – RESPONSIBILITIES OF THE CITY COUNCIL**

### **4.01 Powers of the City Council**

All powers and authority, including determination of all matters of policy, which are expressly or by implication conferred on or possessed by the City, shall be vested in and exercised by the City Council; provided, however, that the City Council shall have no authority to exercise those powers which are expressly conferred upon other City officers by this Charter.

### **4.02 Appointment of Members of Boards**

The members of all boards, commissions, or committees created by this Charter or by the City Council shall be appointed by the City Council.

### **4.03 Investigative Powers of the Council**

The City Council shall have the power to inquire into or investigate the official conduct of any department, agency, officer, or employee of the City and for that purpose shall have the power to administer oaths; subpoena witnesses; compel the production of books, papers, records, or other evidence. Contempt for failure or refusal to obey any such subpoena or to produce any such books, papers, records, or other evidence shall be punishable by a fine not to exceed five-hundred dollars (\$500) and/or removal from office.

### **4.04 Depository of City Funds**

The City Council is authorized to select a depository, according to State law, for the City funds.

### **4.05 Independent Audit**

The City Council shall provide for an independent annual audit of all City accounts and may provide for more frequent audits as it deems necessary. Such audits shall be carried out in accordance with Section 10.15 herein.

### **4.06 Interference in Administrative Matters**

The City Manager shall be the chief administrative officer and the head of the administrative branch of the City. Except for the purpose of inquiry or investigation, Councilmembers and the Mayor shall deal with the administrative departments and personnel solely through the City Manager, and no member of the City Council or the Mayor shall give orders to any subordinate of the City Manager, either publicly or privately.

### **4.07 Appointive Offices**

In addition to the elected officers, the other officers of the City shall be the City Manager, City Attorney, and such other officers as the City Council may from time to time direct. The Council may appoint, abolish, or consolidate such offices and positions as it may deem to be in the best interest of the City and may divide the administration of such offices or positions as it may deem advisable, create new offices and positions, and discontinue any office or position at its discretion except the offices of City Manager and City Attorney. Removal of officers appointed by the City Council shall be at the discretion of the City Council, by an affirmative  $\frac{3}{4}$  vote of the entire membership.

#### 4.08 State of Emergency

- (a) A state of emergency shall be deemed to exist during periods of impending or actual public crisis or disaster. If a meeting of the City Council cannot be called within the time available, whenever conditions threaten to render inadequate the normal procedures of the City for protection of persons or property, a state of emergency may be declared by the vote of the City Council, or by order of the Mayor, or, in the Mayor's absence or disability, the Mayor Pro Tem.
- (b) During a state of emergency, the Mayor, or, in the Mayor's absence or disability, the Mayor Pro Tem shall have all the powers that would be vested in the City Council by State law to the extent he considers reasonable or necessary for the protection of persons or property.
- (c) The emergency powers herein provided shall be exercised only to the extent made necessary by the nature of the emergency and during the continuation of the state of emergency.

#### 4.09 Validation of all Ordinances, Resolutions, Rules and Regulations

All ordinances, resolutions, rules, and regulations of the City heretofore ordained, passed, adopted, or enacted, that are in force at the time this Charter becomes effective, and which are not in conflict with such Charter, shall remain in full force until altered, amended, or repealed by the City Council after such Charter takes effect.

#### 4.10 Action Requiring an Ordinance

- (a) The City Council shall legislate by ordinance. In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the City Council shall be by ordinance which:
  - (1) adopt, amend, or establish an administrative code;
  - (2) provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
  - (3) levy taxes;
  - (4) adopt a budget;
  - (5) grant, renew, extend, or abolish a franchise;

- (6) convey, lease, or authorize the conveyance or lease of any City lands;
- (7) regulate the rate charged for services by a public utility;
- (8) authorize the borrowing of money that cannot be repaid within the current fiscal year;
- (9) regulate land use development;
- (10) adopt, with or without amendment, ordinances proposed under the initiative power; and
- (11) amend or repeal any ordinance previously adopted, except as otherwise provided in Chapter IX of this Charter with respect to repeal of ordinances reconsidered under the referendum power.

(b) Acts other than those referred to in the preceding sentence may be done either by ordinance, resolution, or minute order.

#### 4.11 Form of Ordinances

Every proposed ordinance shall be introduced in writing and in substantially the form required for final adoption. The subject of the ordinance shall be clearly expressed in its title except ordinances or resolutions making appropriations or authorizing the contracting of indebtedness or issuance of bonds or other evidence of indebtedness. The enacting clause of every ordinance shall be: "Be it ordained by the City Council of the City of Alvarado . . . ." but the same shall be omitted when the ordinances of the City are codified and published in a book or pamphlet form by the City. Any ordinance that repeals or amends an existing ordinance or part of the City code shall clearly set forth the provision or provisions being repealed or amended (which may be done by reference to code provisions) and, if amended, shall further clearly set forth the amendment being made.

#### 4.12 Procedure for Enacting Ordinances and Resolutions; Publications

- (a) Ordinances and resolutions may be passed at any regular meeting or special meeting called for that purpose provided notice has been given in accordance with the Texas Open Meetings Act.
- (b) All ordinances and resolutions, unless otherwise provided by State law, this Charter, or the ordinance itself shall be effective on the passage or adoption by the required majority of the City Council. Every ordinance, resolution or motion shall require on final passage the affirmative vote of a majority of a quorum of the City Council unless more is required by State law or this Charter.
- (c) The descriptive caption or title of an ordinance that imposes a penalty, fine or forfeiture and the penalty for violating the ordinance shall be published at least once in the official newspaper of the City.
- (d) All ordinances and resolutions may be admitted and received in all courts, subject to the rules of evidence and laws of jurisdictions where proof of such ordinances and resolutions are tendered, without further proof.

#### 4.13 Emergency Ordinances

- (a) To meet a public emergency affecting life, health, property, or the public peace, the City Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes; grant, renew, or extend a franchise; regulate the rate charged by any public utility for its service; or authorize the borrowing of money except as provided elsewhere in this Charter.
- (b) An emergency ordinance shall be introduced in the form and manner generally prescribed for ordinances, except that they shall be plainly designated in the title as an emergency ordinance and shall contain after the enacting clause a declaration stating that an emergency exists and describe the emergency in clear and specific terms.
- (c) An emergency ordinance may be introduced at any City Council meeting and can be adopted with or without amendment or rejected at the meeting at which it is introduced. The affirmative vote of a majority of the Councilmembers present shall be required for adoption.
- (d) Emergency orders shall become effective upon adoption and shall be published as soon as thereafter practicable. Every emergency ordinance so adopted, except one authorizing the borrowing of money as described herein, is automatically repealed as of the sixty-first (61st) day following the day on which it became effective. This shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists.

#### 4.14 Codification of Ordinances

The City Manager, as soon as practical after the adoption of this Charter shall cause to be codified and properly entered and published for public distribution or for anyone desiring same, the ordinances of the City, which codification shall be revised and updated at least annually.

## CHAPTER V – CITY ADMINISTRATION

### 5.01 Appointment and Qualifications of City Manager

- (a) The City Council, by majority vote of the City Council qualified and serving, shall appoint a City Manager, who shall be the chief administrative and executive officer of the City. The City Manager shall be responsible to the City Council for administration of all affairs of the City, with only those exceptions that are named in this Charter.
- (b) The method of selection shall be left to the discretion of the City Council so long as the method insures orderly, non-partisan action toward securing a competent and qualified person to fill the position. The City Manager shall be chosen solely upon the basis of the person's administrative training, experience, ability, and character.
- (c) Neither the Mayor nor any Councilmember shall be appointed City Manager or acting City Manager while holding office, or for a period of one (1) year after leaving office.

### 5.02 Compensation of City Manager

The City Manager shall receive compensation as may be fixed by the Council, and amended from time to time, according to the person's experience, education, and training.

### 5.03 Term and Removal of City Manager

- (a) The City Manager may be appointed for a definite term but shall serve at the will and pleasure of the City Council.
- (b) If the City Council requests the city manager resign, and the City Manager declines to resign, the City Council may suspend the City Manager by a resolution approved by a 75% vote of the total membership of the City Council. Such resolution shall set forth the reasons for suspension and proposed removal. A copy of such resolution shall be served immediately upon the City Manager. The City Manager shall have fifteen (15) days in which to reply thereto in writing, and upon request, shall be afforded a public hearing, which shall occur not earlier than ten (10) days nor later than fifteen (15) days after such hearing is requested. After the public hearing, if one is requested, and after full consideration, the City Council by a 75% vote of its total membership may adopt a final resolution of removal. The City Manager shall continue to receive full salary until the effective date of a final resolution of removal.
- (c) The action of the City Council in suspending or removing the City Manager shall be final. It is the intention of this Charter to vest all authority and fix all responsibilities of such suspension or removal in the City Council.
- (d) In case of the absence, disability, or suspension of the City Manager, the City Council may designate a qualified administrative officer of the City to perform the duties of the office.

- (e) The City Council is authorized to enter into a contract with a City Manager to establish additional terms of employment.

#### 5.04 Bond of City Manager

The City Council may require the City Manager before entering office, to execute a good and sufficient surety company bond, in such amount as the City Council may demand, payable to the City and conditioned for the faithful performance of the duties of the City Manager's office. The premium of such bond is to be paid by the City.

#### 5.05 Powers and Duties of City Manager

The City Manager shall be the chief administrative officer and head of the administrative branch of the City. The City Manager shall be responsible to the City Council for the proper administration of all the affairs of the City and to that end shall have the power and be required to:

- (a) In cooperation with the City Attorney, see that all State laws and City ordinances are effectively enforced.
- (b) Appoint, suspend, and/or remove the City Secretary and all or any one of the heads of departments and all subordinate officers and employees of the City; provided, however, that the City Council by ordinance may provide for personnel procedures or policies that permit the City Secretary and/or designated department heads an appeal to the Council regarding termination of employment.
- (c) Direct and supervise the administration of all departments and subdivisions thereof created by this Charter, or that may hereafter be created by the City Council, except as hereinafter provided.
- (d) See that all terms and conditions imposed in favor of the City or its inhabitants in any public utility franchise are faithfully kept and performed, and upon knowledge of any violation thereof to call the same to the attention of the City Attorney, whose duty it shall be to take such steps as may be necessary to enforce the same.
- (e) Attend all meetings of the City Council, except when excused by the City Council. The City Manager shall have the right to take part in discussion but shall not vote.
- (f) Prepare a proposed budget annually and submit to the City Council and the City Secretary as required by Texas Local Government Code Section 102.005, as amended.
- (g) Administer the budget of the City.
- (h) Prepare and submit to the City Council at the end of the fiscal year a complete report on the finances and administrative activities of the City for the preceding year.
- (i) Keep the City Council advised of the financial condition and future needs of the City and make such recommendations as may seem to him advisable.
- (j) Prepare personnel rules subject to the approval of the City Council.
- (k) Prepare the official agenda of all City Council meetings and meetings of the boards and commissions.

- (l) Perform such other duties as may be prescribed by this Charter or by the City Council.

#### 5.06 Acting City Manager

- (a) The City Manager, within thirty (30) days after taking office, shall designate by letter filed with the City Secretary, a qualified administrative officer of the City to perform the duties of the City Manager in his absence or disability. Such designation shall be subject to approval of the City Council. No member of the City Council nor the Mayor shall serve as Acting City Manager. Upon resignation or termination of the City Manager, the Acting City Manager shall perform the duties of the City Manager until a new City Manager or Acting City Manager is appointed by the City Council.
- (b) Should the need for an Acting City Manager occur prior to the City Manager submitting a designee or prior to the City Council's approval of the City Manager's designee, the City Council shall appoint an Acting City Manager.
- (c) The City Manager may select a different Acting City Manager by replacing the letter of designation and obtaining the City Council's approval. The previous designation is rescinded by this action.

#### 5.07 Appointment of City Secretary

The City Manager shall hire a City Secretary who shall report to the City Manager and act as the Secretary to the City Council. The City Secretary shall report to the City Manager, who shall have disciplinary and termination authority over the City Secretary. The City Secretary shall be entitled to a seat at the City Council table at all official meetings.

#### 5.08 Duties of the City Secretary

The duties and powers of the City Secretary shall be as follows:

- (a) Give notices of all official City Council meetings in a manner consistent with this Charter and state law.
- (b) Attend all public meetings and hearings of the City Council.
- (c) Record the minutes of all official meetings of the City Council; provided, however, only the captions of duly enacted ordinances and resolutions shall be recorded in the minutes.
- (d) Be the custodian of all municipal records of the City Council.
- (e) Recommend to the City Council rules and regulations to be adopted by ordinances to protect the safety and security of the municipal records.
- (f) Hold and maintain the City Seal and affix to all instruments requiring such seal.
- (g) Inquire into or investigate the genuineness of any signature on and the factual sufficiency of any initiative, referendum, or recall petition filed with the City Secretary in accordance with the provisions of this Charter, and for that purpose the City

Secretary shall have the power to administer oaths, subpoena witnesses, compel the production of books, papers, records, and other evidence.

- (h) Perform such other duties as may be required by the City Council, or required by law.

#### 5.09 Compensation of City Secretary

The City Manager shall set the compensation of the City Secretary.

#### 5.10 Administrative Departments

- (a) There shall be such administrative departments as are established by this Charter and as may be established by ordinance and excepting as otherwise provided in this Charter, these administrative departments shall be under the direction of the City Manager. The City Council shall have the authority to establish administrative departments or offices not herein provided by this Charter. The City Manager may discontinue, redesignate, or combine any of the administrative departments or offices.
- (b) The head of each department shall be a chief, director, superintendent, or coordinator who shall be appointed by the City Manager, and such chief, director, superintendent, or coordinator shall have supervision and control over that department. Two or more departments may be headed by the same individual, and the City Manager may act as City Secretary and may head one or more departments.

## CHAPTER VI – MUNICIPAL COURT

### 6.01 Purpose of the Municipal Court

There shall be established and maintained a court, designated as a Municipal Court of the City of Alvarado for the trial of misdemeanor offenses, with all such powers and duties as are now, or may hereafter be prescribed by the laws of the State of Texas relative to Municipal Courts.

### 6.02 Judge of the Court

The "Judge of the Municipal Court," shall be appointed by the City Council. The Judge shall be a resident of this State, and a citizen of the United States. The City Council shall fix the compensation for the Judge and such compensation shall never be based on fines assessed or collected. The Judge of the Municipal Court shall be appointed to a term of three (3) years and may be appointed to additional consecutive terms upon completion of the term of office. The removal of the Judge shall be at the discretion of the City Council, by majority of the full membership of the City Council. The Judge may request a public hearing prior to their removal.

### 6.03 Clerk of the Court

There shall be a Clerk of said court appointed by the City Manager for a term concurrent with the Judge of the Municipal Court. The Clerk of the court and such deputies as the Clerk and/or City Manager may appoint, shall have the power to administer oaths and affidavits, make certificates, keep minutes of the proceeding of the court, affix the seal of said court thereto, and generally do and perform any and all acts usual and necessary as performed by clerks and deputies of courts. The City Manager may require the Court Clerk, before entering upon the duties of the office, to execute a good and sufficient surety company bond, in such amount as the City Manager may demand, payable to the City and conditioned for the faithful performance of the duties of the office. The premium of such bond is to be paid by the City. The City Clerk shall be supervised by the City Manager and removal of the City Clerk shall be at the City Manager's discretion.

### 6.04 Absence of Judge

The City Council shall be empowered to appoint one or more alternate Judge(s) who shall have the same qualifications as the Judge of the Municipal Court and who shall receive such salary as may be fixed by the City Council. In case of the temporary disability or absence of the Judge of the Municipal Court, an alternate Judge shall have authority to act as Judge of said court. The City Council shall by appointment fill a vacancy in the office of the Judge for the remainder of the unexpired term.

### 6.05 Fines

All monies received as court-imposed fines or penalties shall be paid into the general fund of the City treasury, unless otherwise required by State law.

## CHAPTER VII – CITY ATTORNEY

### 7.01 City Attorney

- (a) The City Council shall appoint by the affirmative vote of a majority of the full membership of the City Council, a competent, duly qualified, licensed, and practicing attorney in the State of Texas, to be an attorney for the City, hereinafter referred to as the "City Attorney." The City Attorney shall serve at the discretion of the City Council and shall receive such compensation as may be fixed by the City Council.
- (b) The City Attorney shall:
- (1) Serve as the legal advisor to the City Council and the City Manager;
  - (2) Represent the City in litigation and legal proceedings as directed by the Council and City Manager;
  - (3) Review and provide opinions as requested by the City Council or the City Manager on contracts, legal instruments, and ordinances of the City; and
  - (4) Perform other duties prescribed by this Charter, by ordinance, or as directed by the City Council.
- (c) The City Council may contract with an attorney or with a firm of attorneys who may designate one (1) member of said firm, with City Council approval, to serve as City Attorney.
- (d) Compensation shall be fixed by contract with approval of the City Council or by appointment subject to the approval of the City Council.
- (e) The City Council shall have the right to retain special counsel at any time that it may deem necessary and appropriate.
- (f) The City Attorney serves at the pleasure of the City Council and may be removed by the affirmative vote of a majority of the full membership of the City Council.

### 7.02 City Prosecutor

All cases in the Municipal Court shall be prosecuted by the City Attorney, or such designated Prosecutor as the City Council may authorize.

## CHAPTER VIII – ELECTIONS

### 8.01 City Elections

The regular City Election shall be held annually on the first Saturday in May, unless specifically prescribed by State law. The City Council shall fix the hours and place for holding elections.

### 8.02 Special Elections

The City Council may, by ordinance or resolution, call special elections as are authorized by the State law, this Charter, or for any other reason the City Council deems necessary, fix the time and place of holding same, and provide all means for holding special elections in accordance with State law.

### 8.03 Publicizing City Elections

It is the responsibility of the City Council to publicize all municipal elections in accordance with the Texas Election Code, as amended. Sample ballots shall be posted outside the City offices and shall be published in some newspaper of general circulation in the City of Alvarado not less than ten (10) days prior to the election.

### 8.04 Regulation of Elections

All general and special elections shall be held in accordance with the laws of the State of Texas regulating the holding of municipal elections and in accordance with this Charter and ordinances or resolutions adopted by the City Council for the conduct of elections. The City Council shall appoint the election judges and shall provide for the compensation of all election officials in the City elections and for all other expenses in holding the elections. Sample ballots identical to the voting format for the specific election shall be posted in the voting place for the benefit of the voter.

### 8.05 Exception of Election Code

In the event there is a conflict between any of the provisions of this Charter and the Texas Election Code or an omission of any elements or provisions necessary for the conduct of an election, then those provisions of the Texas Election Code then existing shall prevail.

### 8.06 Voter Qualification

All duly qualified electors under the laws of the State of Texas, who are residents of the City, shall be qualified to vote in any City election.

### 8.07 Filing for Office/Procedures

- (a) Each candidate for an elective office shall meet the qualifications set forth in Section 2.04 and the Texas Election Code, as amended.
- (b) Any person so qualified who desires to become a candidate for election shall file an application with the City Secretary, in accordance with the Texas Election Code. Such an application shall be in compliance with the Texas Election Code.

#### 8.08 Holding Other Office

- (a) No person elected to the City Council shall, during the term for which the person is elected to the City Council, hold or be appointed to any compensated office, position, or employment in the service of the City. This Section shall not prohibit a Councilmember from serving on the board of an economic development corporation, crime control and prevention district, or other instrumentality of the City.
- (b) If any appointive officer of the City shall become a candidate for election to any public office the officer shall, immediately upon becoming a candidate, forfeit the office held with the City.

#### 8.09 Official Ballots

- (a) Candidate Names on Ballots: The names of all candidates who have filed for office shall be printed on the official ballots without party designation. The order on the ballot of the names of the candidates for each office or position shall be determined by lot in a drawing to be held under the supervision of the City Secretary, or as otherwise required by State law.
- (b) Absentee Balloting: Voting shall be permitted in accordance with the Texas Election Code.
- (c) Write-in Votes: Write-in voting shall be permitted in accordance with the Texas Election Code.

#### 8.10 Canvassing and Election Results

- (a) Canvassing shall be conducted in accordance with state law. Returns of every municipal election shall be delivered forthwith by the election judges to the City Secretary with a copy of the returns being sent to the Mayor. The City Council shall canvass the returns, investigate the qualifications of the candidates and declare the official results of the election in accordance with the Texas Election Code. The results of every municipal election shall be recorded in the minutes of the City Council.
- (b) Majority Rules: The candidate for each place on the ballot who shall have received the majority of the votes cast for such place shall be declared elected. In the event that no candidate for a designated office receives a majority of the votes cast for that place in the regular or special election, a runoff election shall be held between the

candidates who received the two (2) greatest number of votes for such place. Such a runoff election shall be held in accordance with State law.

#### 8.11 Notification of City Officers

The City Secretary, with the concurrence of the City Council, shall promptly notify all persons elected to office. A candidate who is elected in a regular, special, or runoff City election shall, after taking the oath of office as prescribed herein, take office, and enter upon their duties at the next City Council meeting after the date of the election.

#### 8.12 Oath of Office

Every officer of the City, whether elected or appointed, shall take the oath of office prescribed by the Texas Constitution prior to assuming office.

## CHAPTER IX – INITIATIVE, REFERENDUM AND RECALL

### 9.01 Recall

Any elected City official shall be subject to recall and removal from office by the qualified voters of the City on grounds of incompetency, misconduct, or malfeasance in office.

### 9.02 Petitions for Recall

Before the question of recall of such officer shall be submitted to the qualified voters of the City, a petition demanding such question to be submitted shall first be filed with the person performing the duties of City Secretary, which said petition shall be signed by qualified voters of the City equal in number to at least thirty-five percent (35%) of the number of votes cast at the last regular municipal election of the City, but in no event less than one hundred and fifty (150) such petitioners. Each signer of such recall petition shall personally sign his name thereto in ink or indelible pencil, and shall write after his name his place of residence, giving name of street and number, or place of residence, and shall also write thereon the day, the month, and year his signature was affixed.

### 9.03 Form of Recall Petition

The recall petition mentioned above must be addressed to the City Council of the City of Alvarado, must be distinctly and specifically point out the ground or grounds upon which such petition for removal is predicated, and, if there be more than one (1) ground, such as for incompetency, misconduct, or malfeasance in office, shall specifically state each ground with such certainty as to give the officer sought to be removed notice of the matters and things with which they are charged. Each signer of such recall petition shall provide all requisite information as required by the Texas Election Code, as amended, and this Charter. The signature shall be verified by oath in the following form:

“State of Texas            )  
County of Johnson        )

I, \_\_\_\_\_, being first duly sworn, on oath depose and say that I am one of the signers of the above petition, and that the statements made therein are true, and that each signature appearing thereto was made in my presence on the day and date it purports to have been made, and I solemnly swear that the same is the genuine signature of the person it purports to be.

Sworn and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Notary Public in and for the State of Texas.”

#### 9.04 Various Papers Constituting Petition

The petition may consist of one (1) or more copies, or subscription lists, circulated separately, and the signatures thereon may be upon the paper or papers containing the form of petition or upon other papers attached thereto. Verifications provided for in the preceding section 9.03 of this Charter may be made by one (1) or more petitioners; and the several parts of copies of the petition may be filed separately and by different persons; but no signatures to such petition shall remain effective or be counted that were placed thereon more than thirty (30) days prior to the filing of such petition or petitions with the person performing the duties of City Secretary on the same day, and that said City Secretary shall immediately notify, in writing, the officer sought to be removed, by mailing such notice to their City address.

#### 9.05 Presentation of Petition to the City Council

Within seven (7) days after the date of the filing of the papers constituting the recall petition, the person performing the duties of the City Secretary shall present such petition to the City Council.

#### 9.06 Public Hearing to be Held

The officer whose removal is sought may, within eleven (11) days after such recall petition has been presented to the City Council, request that a public hearing be held to permit the officer to present the facts pertinent to the charges specified in the recall petition. In this event, the City Council shall order such public hearing to be held not less than five (5) days nor more than fifteen (15) days after receiving such request for a public hearing.

#### 9.07 Calling of Recall Election

If an officer whose removal is sought does not resign, then it shall become the duty of the City Council to order an election to be held on the first uniform election date that permits the compliance with the requirements of law.

#### 9.08 Ballots in Recall Election

Ballots used at recall elections shall conform to the following requirements:

- (a) With respect to each person whose removal is sought, the question shall be submitted:

“Shall (name of person) be removed from the office of (name of office) by recall?”

- (b) Immediately below each such question there shall be printed the following words, one above the other, in the order indicated:

“YES”

“NO”

#### 9.09 Results of Recall Election

If the majority of the votes cast at a recall election are “NO,” that is against the recall of the person named on the ballot, the officer shall continue in office for the remainder of their unexpired term, subject to recall as before. If the majority of the votes cast at such election are “YES,” that is for the recall of the person named on the ballot, the officer shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy shall be filled as vacancies in the City Council are filled, as provided in this Charter.

#### 9.10 Recall: Restrictions Thereon

No recall petition shall be filed against any officer of the City within six (6) months after the officer’s election, nor within nine (9) months after an election for such officer’s recall. Nothing herein shall prevent impeachment of an officer of the City nor removal for other causes as provided herein.

#### 9.11 General Power of Initiative and Referendum

The registered voters of the City, in addition to the method of legislation herein before provided, shall have the power of direct legislation by initiative and referendum.

- (a) *Initiative*: The qualified voters of the City shall have power to propose ordinances to the City Council, and, if the City Council fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a City election, provided that such power shall not extend to the budget or capital program or any ordinance relating to zoning, appropriation of money, levy of taxes, issuance of bonds and notes, borrowing of money, salaries or duties of City officers or employees, matters related to administration of municipal employees, annexation, municipal boundary adjustments, or in any instance where a court of proper jurisdiction determines that the initiated ordinance has been removed from the field of initiative. Such initiative power may be used to enact a new ordinance, or to repeal or to amend sections of any existing ordinances.
- (b) *Referendum*: The qualified voters of the City shall have power to require reconsideration by the City Council of any adopted ordinance, and if the City Council fails to repeal an ordinance so reconsidered, to approve or reject it at a City election provided that such power shall not extend to the budget or capital program or any ordinance relating to zoning, appropriation of money, levy of taxes, issuance of bonds and notes, borrowing of money, salaries or duties of City officers or employees, matters related to administration of municipal employees, annexation, municipal boundary adjustments, or in any instance where a court of proper jurisdiction determines that the referred ordinance has been removed from the field of referendum.

### 9.12 Commencement of Proceedings for Initiative and Referendum; Petitioners' Committee; Affidavit

- (a) Any five (5) qualified voters may commence initiative or referendum proceedings by filing with the City Secretary an affidavit stating they will constitute the Petitioners' Committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered. The Petitioners' Committee shall designate one (1) contact person for communications with the City and to receive all notices.
- (b) Promptly after the affidavit of the Petitioners' Committee is filed the City Secretary shall verify that the applicants are qualified voters, and if they are, shall issue the appropriate petition blanks to the Petitioners' Committee.

### 9.13 Petitions for Initiative and Referendum

- (a) Number of Signatures: Initiative and referendum petitions must be signed by qualified voters of the City equal in number to at least fifteen percent (15%), or one hundred and fifty (150) voters, whichever is greater, of the total number of current qualified voters registered to vote on the date the affidavit of the Petitioners' Committee is filed with the City Secretary.
- (b) Form and Content: All papers of a petition shall be uniform in size and style and shall be assembled as one (1) instrument for filing. The form and content of a petition shall meet the requirements set forth in the Texas Election Code. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.
- (c) Time for Filing Petitions: Initiative and Referendum petitions must be filed within sixty (60) days after issuance of the appropriate petition blanks to the Petitioners' Committee. All petitions shall be filed with the City Secretary.

### 9.14 Procedure After Filing Petition for Initiative or Referendum

- (a) Review by City Secretary: Upon the filing of a petition for initiative or referendum, the City Secretary shall review the petition to determine the existence of the requisite number of signatures of qualified voters and whether the form of the petition complies with the provisions of this Charter. The City Secretary shall also review the petition to determine the genuineness of the signatures.
- (b) Certificate of City Secretary: Within ten (10) days after the petition is filed, the City Secretary shall complete a certificate as to its sufficiency, specifying, if it is

insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the Petitioners' Committee by registered mail.

- (c) Amendment by Petitioner: A petition certified insufficient for lack of the required number of valid signatures or due to inadequate form or content may be amended once if the Petitioners' Committee files a notice of intention to amend it with the City Secretary within five (5) days after receiving the copy of this certificate and files a supplementary petition with additional papers within ten (10) days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subsection (b) of 9.13 and within five (5) days after it is filed the City Secretary shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the Petitioners' Committee by registered mail as in the case of an original petition.
- (d) Submission to City Council. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the Petitioners' Committee does not elect to amend as provided in subsection (c) within the time required, the City Secretary shall promptly present this certificate to the City Council and the certificate shall then be a final determination as to the sufficiency of the petition.

#### 9.15 Action on Initiative or Referendum Petitions

- (a) Action by City Council: When an initiative or referendum petition has been finally determined sufficient, the City Council shall promptly consider the proposed initiative ordinance in the manner prescribed for enacting ordinances or reconsider the referred ordinance by voting its repeal. If the City Council fails to adopt a proposed initiative ordinance without any change in substance within sixty (60) days or fails to repeal the referred ordinance within thirty (30) days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters of the City.
- (b) Submission to Voters: The vote of the City on a proposed or referred ordinance shall be held on the next election date authorized by the Texas Election Code that allows sufficient time for compliance with the requirements of the Texas Election Code regarding deadlines to call elections. Copies of the proposed or referred ordinance shall be made available at the polls and shall be published at least once in the official newspaper of the City and on the City's website no later than fifteen (15) days before the date of the election.
- (c) Withdrawal Signatures: No signature shall be withdrawn from any petition after such petition has been filed with the City Secretary.

### 9.16 Form of Ballots

The ballots used when voting upon such proposed and referred ordinance, resolutions, or measures, shall set forth their nature sufficiently to identify them and shall also set forth upon separate lines the words:

“For the Ordinance” or

“Against the Ordinance” or

“For the Resolution” or

“Against the Resolution”

### 9.17 Results of Election for Initiative and/or Referendum

- (a) Initiative: If a majority of the qualified electors 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 of the same kind adopted by the City Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.
- (b) Referendum: If a majority of the qualified electors voting on a referendum ordinance vote in favor of repealing it, it shall be considered repealed upon certification of the election results.

### 9.18 Limitation on Initiative and Referendum

The same initiative or referendum petition shall be prohibited to be filed within one (1) year of the City Secretary’s certification of the previous petition.

## CHAPTER X – MUNICIPAL FINANCE

### 10.01 Fiscal Year

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

### 10.02 Submission of Budget

The City Manager shall prepare and submit to the City Council a proposed budget for the ensuing fiscal year and an accompanying message. The proposed budget shall be submitted to the City Council in accordance with the deadlines for submitting a budget found in Texas Local Government Code Section 102.005, as amended.

### 10.03 Budget

- (a) **Budget Message:** A budget message explaining the budget both in fiscal terms and in terms of the work programs shall be submitted with the budget. It shall outline the proposed financial policies of the City for the ensuing fiscal year and the impact of those policies on future years. It shall describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the City's debt position, including factors affecting the ability to raise resources through debt issues; and include such other material as the City Manager deems desirable.
- (b) **Operating Budget:** The operating budget shall provide a complete financial plan of all City Funds and activities and, except as required by law or this Charter, shall be in such form as the City Manager deems desirable or the City Council may require. The budget message shall explain the budget in fiscal terms and in terms of work programs for the ensuing fiscal year. It shall outline the proposed financial policies of the City, and shall include such other materials, as the City Manager deems necessary.
- (c) **The budget shall contain the following:**
  - (1) Comparative figures for the actual and estimated tax rate, revenues, and other income and expenditures to compare the current and prior fiscal year.
  - (2) The proposed expenditures of each office, department, or function.
  - (3) A schedule showing the debt service requirement due on all outstanding indebtedness and on any proposed debt.
  - (4) The total of the proposed expenditures shall not exceed the total estimated income and the balance of available funds.
  - (5) Tax levies and tax collections from the previous fiscal year.
  - (6) Additional information that may be required by state law, the City Council, or deemed appropriate by the City Manager.

#### 10.04 Capital Facilities and Property Budget

The City Manager shall propose annually a five (5) year Capital Facilities and Property budget, which may be revised and extended each year to indicate capital improvements pending or in process of construction or acquisition, and which shall provide the following items:

- (a) A summary of proposed programs;
- (b) A list of all capital facilities and property improvements that are proposed to be undertaken during the five (5) fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;
- (c) Cost estimates, method of financing, and recommended time schedules for each such improvement with the estimated effect on the tax levy and;
- (d) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired over the five (5) year period.

#### 10.05 Public Notice and Hearing

The City Council shall post in the City Hall and publish in the official newspaper and on the City's website, as required by State law, prior to any required public hearing on the budget a notice stating the time and place where copies of the message and budget are available for inspection by the public, and the time and place of each public hearing on the budget.

#### 10.06 Amendment before Adoption

The City Council may adopt the budget with or without amendment at a regular or special meeting. In amending the budget, it may add or increase any programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated income plus funds available from prior years.

#### 10.07 Adoption

The City Council, by majority vote, shall adopt the budget. Adoption of the budget shall constitute appropriations of the amount specified therein as expenditures from the fund indicated, and shall constitute a levy of the property tax therein proposed.

#### 10.08 Defect Shall Not Invalidate Tax Levy

Errors or defects in the form or preparation of the budget or the failure to perform any procedural requirements shall not nullify the tax levy or the tax rate.

#### 10.09 Failure to Adopt a Budget

If the City Council fails to adopt the budget in accordance with State law, the amounts appropriated for the prior fiscal year just completed shall be deemed adopted for the ensuing fiscal year on a month to month basis with all items in it pro-rated accordingly until such time as the City Council adopts a budget for the ensuing fiscal year.

#### 10.10 Public Records

Copies of the approved operation budget, capital facilities and property budget and supporting papers shall be filed with the City Secretary and shall be public records available to the public for inspection upon request.

#### 10.11 Specified Reserve Fund

Specified reserve funds may be created for specific purposes, and may be used only for such purposes.

#### 10.12 Amendments After Adoption

- (a) **Supplemental Appropriations:** If during the fiscal year the City Manager certifies that there are revenues available for appropriation in excess of those estimated in the budget, the City Council may make supplemental appropriations to fund the appropriations as desired or carry the excess into the next fiscal year or by resolution may make supplemental appropriations to retire indebtedness or to fund emergency appropriations.
- (b) **Emergency Appropriations:** To meet a public emergency created by a natural disaster or man-made calamity affecting life, health, property, or the public peace, the City Council may make emergency appropriations, and may authorize the issuance of emergency debt or notes.
- (c) **Reduction of Appropriations:** If at any time during the fiscal year it appears probable to the City Manager that the revenues available will be insufficient to meet the amount appropriated, the City Manager shall report to the City Council without delay, indicating the estimated amount of the deficit, any remedial actions taken by the City Manager, and the City Manager's recommendations as to any other steps to be taken. The City Council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose the City Council may by ordinance reduce one or more appropriations.
- (d) **Transfer of Appropriations:** At any time during the fiscal year the City Manager may transfer part or all of any unencumbered appropriation balance among programs within a department, division, or office and transfer part or all of any unencumbered appropriation balance from one department, office, or agency to another, within the same fund. If the City Manager transfers from one department, office, or agency to another, then the City Manager shall provide a written accounting of all transfers to the City Council at the next regular City Council meeting. The City Council may

require their approval of these transfers within departments above a limit they wish to establish.

- (e) Limitations: No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof.
- (f) Effective Date: The supplemental and emergency appropriations authorized by this section may be made effective immediately upon adoption of the ordinance or budget amendments.

#### 10.13 Borrowing

- (a) Authority to Incur Indebtedness: The City Council shall have the power to incur, create, refund, and refinance indebtedness and borrow money for public purposes; to issue special or general obligation bonds, certificates of obligation, industrial bonds, revenue bonds, funding and refunding bonds, time warrants, and any other evidences of indebtedness permitted by law; and to secure and pay the same in the manner and in accordance with the procedures provided and required by State law.
- (b) Bonds Incontestable: All bonds of the City having been issued and sold and having been delivered to the purchaser thereof, shall thereafter be incontestable and all bonds issued to refund in exchange for outstanding bonds previously issued shall and after said exchange, be incontestable.
- (c) Borrowing in Anticipation of Property Tax: In any budget year, the City Council may, by resolution, authorize the borrowing of money in anticipation of the collection of the property tax for the same year whether levied or to be levied. Notes may be issued for periods not exceeding one (1) year and must be retired by the end of the budget year in which issued.
- (d) Use of Bond Funds: Any and all bond funds approved by a vote of the citizens of Alvarado will be expended only for the purposes stated in the bond issue.

#### 10.14 Purchasing

The City Council may confer upon the City Manager general authority to contract for expenditures without further approval of the City Council for all budgeted items not exceeding limits set by the City Council or State law. All contracts for expenditures involving more than the set limits must be approved by the City Council. All contracts or purchases involving more than the set limits, shall be let as provided by law or ordinance; provided that the City Council, or City Manager in such cases as he is authorized to contract for the City, shall have the right to reject any and all bids.

Emergency contracts as authorized by law may be negotiated by the City Council, or City Manager if given authority by the City Council, without competitive bidding. Such

emergency shall be declared by the City Manager and approved by the City Council or may be declared by the City Council.

#### 10.15 Administration of the Budget

- (a) Payments and obligations prohibited: No payment shall be made or obligation incurred except those specifically allowed for in the budget. Any authorization of payment or incurring of any such obligation in violation of the provisions of this Charter will be void and any payment so made will be illegal. Such action may be the cause, at the discretion of the City Manager, or the City Council in reference to the City Manager, for the removal of any officer who knowingly authorized or made such payment or incurred such obligation. However, this prohibition shall not be construed to prevent the making or authorizing of payment, or the making of contracts for, payments beyond the end of the fiscal year, provided that such action is made or approved by an ordinance.
- (b) Financial reports: The City Manager shall submit to the City Council a report of the financial condition of the City budget items for the fiscal year to date. The report shall be submitted periodically, as directed by the City Council, but in no event less than quarterly.
- (c) Independent Audit: At the close of each fiscal year, and at such times as it may be deemed necessary, the City Council shall cause an independent audit to be made of all accounts of the City by a Certified Public Accountant. The Certified Public Accountant shall have no personal interest, directly or indirectly, in the financial affairs of the City or any of its officers. Upon completion of the audit, the results thereof in a summary form shall be presented to the City Council. A copy of the Audit shall be posted on the City website and shall be made available to the public for inspection upon request.

## **CHAPTER XI – FRANCHISES AND PUBLIC UTILITIES**

### **11.01 Inalienability of Control of Public Property**

The sole right of control, easement, use, ownership of, and title to the public streets, sidewalks, highways, bridges, alleys, public places, and other real property of the City is hereby declared to be inalienable, except by ordinance adopted by a majority of the City Council.

### **11.02 Powers of the City**

The City shall have the power to buy, sell, construct, lease, maintain, operate, and regulate public services and utilities within and without the City limits, and to manufacture, distribute, and sell such utility services, including but not limited to water, gas, electric, telephone, cable, waste management, recycling, and transportation services. The City shall have such regulatory powers as may now or hereafter be granted under the Constitution and laws of the State of Texas.

### **11.03 Power to Grant Franchise**

The City Council shall have the power by ordinance, after public hearing, to grant, amend, renew, and extend all franchises for all utilities of every character operating within the City and, to amend the same, provided, however, that no franchise shall be granted for an indeterminate term, and that no franchise shall be granted for a term of more than twenty (20) years from the date of the grant, renewal, or extension. City Council action on all ordinances granting, renewing, extending, or amending a utility franchise shall comply with the applicable provisions set forth in this Charter. Notice of the public hearing relating to a franchise shall be published at least once in a newspaper of general circulation in the City and posted on the City's website at least ten (10) days prior to the public hearing. All required publication costs shall be paid by the utility.

### **11.04 Exclusiveness of Franchises**

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

### **11.05 Transfer of Franchise**

No utility franchise shall be transferable except with the approval of the City Council expressed by ordinance following a public hearing. 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.

### **11.06 Franchise Value Not to be Allowed**

Franchises granted by the City are of no value in fixing reasonable rates and charges for utility service within the City and in determining the just compensation to be paid by the City for public utility property that the City may acquire by condemnation or otherwise.

#### 11.07 Right of Regulation

All grants, renewals, extensions, or amendments of utility franchises shall be subject to the following rights of the City, whether or not specifically stated in the franchise ordinance:

- (a) To repeal the franchise by ordinance at any time for failure to begin construction or operation within the time prescribed or otherwise to comply with the terms of the franchise, such power to be exercised only after due notice and hearing.
- (b) To require an adequate extension of plant and service as is necessary to provide adequate service to the public, and maintenance of the plant and fixtures at the highest reasonable standard of efficiency.
- (c) To require at any time compensation and rental as may be permitted by the laws of the State of Texas for use of public streets, sidewalks, highways, alleys, and public places.
- (d) To require reasonable standards of service and quality of product and prevent rate discrimination.
- (e) To examine and audit the accounts and other records of any such utility and to require annual and other reports on local operations of the public service or utility as may be allowed by law.
- (f) To require the franchisee to restore at the franchisee's expense, all public or private property to a condition equally as good as or better than before disturbed by construction, repair, or removal.
- (g) To require every franchisee to furnish within a reasonable time to the City, without cost to the City, a general map, with updates outlining the location, character, size, length, and terminals of all facilities of such franchisee in, over, and underground of property in the City and to provide detailed information on request.
- (h) To impose other reasonable regulations, requirements, and conditions as may be deemed necessary to promote the health, safety, welfare, or accommodation of the public and to insure safe, efficient and continuous service to the public.
- (i) To require the franchisee to give notice to any subscriber to its services prior to permanent or temporary discontinuance of such service by the franchisee, except in cases of emergency, and to require that no officer, agent, servant or employee of the franchisee nor any vehicles under their control shall make use of, go upon or cross any private property without first obtaining the permission of the owner or occupant, except in cases of emergency, and to provide a penalty for the violation of such requirements.
- (j) To require every franchisee to indemnify and hold harmless the City against any liability, claims, or damages (including attorney's fees and expenses) for injury to persons, including death, or damages to any property, arising out of any intentional or negligent act or omission of the franchisee, or any of its officers, agents, or

employees, in connection with the franchisee's construction, maintenance, and operation of the franchisee's facilities in the City.

#### 11.08 Regulation of Rates

- (a) The City Council shall have full power after due notice and public hearing to regulate by ordinance the rates, charges, and fares of all public utility franchise holders operating in the City as authorized by state and federal law.
- (b) The City Council, upon receiving a request from a public service desiring a change in rates, charges, or fares, shall call a meeting for consideration of such change.
- (c) A holder of a franchise to provide a public service or utility in the City must show the necessity for such change by establishing by clear, competent, and convincing evidence:
  - (1) Cost of its investment for service in the City;
  - (2) Amount and character of expenses and revenues connected with rendering the service; and
  - (3) Any additional evidence required by the City Council.
- (d) The City Council may, if not satisfied with the sufficiency of the legal evidence furnished by the public service, select and employ rate consultants and auditors to investigate any requests or changes in rates, charges, or fares. The public service shall reimburse the City for fifty percent (50%) of its reasonable and necessary expenses incurred.

#### 11.09 Records and Accounts; Annual Reports

- (a) The Council shall require all franchise holders and public service companies operating within the City to file a sworn annual report of the receipts from the operation of the said business for the current year, how much thereof was expended for betterments or improvements, the charges for services rendered to the public, and any other facts or information that the City Council may deem pertinent for its use. Said reports to be filed with the City Secretary. Such reports shall be reviewed annually by the City Council to determine the propriety of the rates being charged.
- (b) Any franchise holder or public service company who shall for a thirty (30) day period willfully refuse or fail to report in the manner provided by this Charter, or shall file any report, knowing that the same does not truly report the facts about the matters mentioned therein, shall be subject to such penalties as may be prescribed by the City Council by ordinance.

#### 11.10 Municipal Owned Utilities

The Council shall have the right to:

- (a) Set rates of City-owned public services; and
- (b) Require any City-owned public services to keep accounts of financial operations. Accounts must show actual cost of each service to the City, including costs of extensions and improvements and source of funds extended for these purposes. Costs and revenues of services furnished to other cities or government agencies must be included.

#### 11.11 Franchise Records

The City shall compile and maintain a public record of utility franchises.

#### 11.12 Extensions

All extensions of service of utilities within the City limits shall become a part of the aggregate property of the utility, shall operate as such, and shall be subject to all the obligations and reserved rights contained in this Charter and in any original grant hereafter made. The right to use and maintain any extension shall terminate with the original grant and shall be terminable as provided in this Chapter. In case of extension of a utility operated under a franchise hereafter granted, such right shall be terminable at the same time and under the same conditions as the original grant.

#### 11.13 Franchises Granted Before Ratification of this Charter

All franchises granted before ratification of the Charter are recognized as contracts between the City and the grantee, shall continue in full force and effect, and the contractual rights contained in any such franchise shall not be impaired by the provisions of the Charter.

## CHAPTER XII – TAXATION

### 12.01 Power to Tax

The Council shall have the power to levy, assess, and collect taxes on property within the territory of the City for any municipal purpose.

### 12.02 Tax Rate

The tax rate shall be calculated, publicized, and adopted in accordance with State law.

### 12.03 Taxes – When Due and Payable

- (a) All taxes due to the City of Alvarado shall be payable at the office of the City Tax Collector, or at such location or locations as may be designated by the City Council, and may be paid at any time after the tax rolls for the year have been completed and approved. Taxes for each year shall be paid on or before January 31st and all such taxes not paid on or prior to such date shall be deemed delinquent and shall be subject to such penalty and interest as prescribed by State statute. The Council may provide further by ordinance that all taxes, either current or delinquent, due the City of Alvarado, may be paid by installments.
- (b) Failure to levy and assess taxes through omission in preparation of the appraisal rolls shall not relieve the person, firm, or corporation so omitted from obligation to pay such current or past due taxes as shown to be payable by recheck of the rolls and receipts for the years in question.

### 12.04 Tax Liens

- (a) The tax levied by the City is hereby declared to be a lien, charge, or encumbrance upon the property as of January 1st of each year (or on a date otherwise established by State law), 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 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 the unknown heirs of any person who owns the property upon which the tax is due and also as against non-residents. All taxes upon real estate shall be a lien and a charge upon the property upon which the taxes are due, and such lien may be foreclosed in any court having jurisdiction. Such lien shall be prior to all other claims, and no gift, sale, assignment, transfer of any kind, or judicial writ of any kind can ever defeat such lien.
- (b) In addition to the lien herein provided, the owner of real and personal property subject to taxation by the City shall be personally liable for the taxes due thereon for such year. The City shall have the power to sue for and recover personal judgment for

taxes without foreclosure, or to foreclose its lien or liens, or to recover both personal judgment and foreclosure. In any such suit where it appears that the description of any property in the City Assessment Rolls is insufficient to identify such property, the City shall have the right to plead a good description of the property intended to be assessed, to prove the same, and to have its judgment foreclosing the tax lien and/or personal judgment against the owner for such taxes.

#### 12.05 Other Rules and Regulations

Except as otherwise provided by law or this Charter, the City Council shall have the power to provide by ordinance such rules, regulations, and mode of procedure to enforce and facilitate the collection by and payment to the Tax Assessor and Collector of all taxes due the City as it may deem expedient, and may provide such penalty and interest as prescribed by State law for the failure to pay such taxes.

## **CHAPTER XIII – BOARDS AND COMMISSIONS**

### 13.01 Authority, Composition and Procedures

The City Council shall create, establish, or appoint, as may be required by the laws of the State of Texas or this Charter, or deemed desirable by the City Council, such boards, commissions, and committees as it deems necessary to carry out the functions and obligations of the City. The City Council shall, by ordinance or resolution, prescribe the purpose, composition, function, duties, accountability, and tenure of each board, commission, and committee where such are not prescribed by law or this Charter.

## **CHAPTER XIV – NEPOTISM, PROHIBITIONS, AND PENALTIES**

### **14.01 Nepotism**

No person related within the second degree by affinity or within the third degree by consanguinity to any elected officer of the City or to the City Manager shall be appointed to any compensated position with the City. This prohibition shall not apply, however, to any person who shall have been continuously employed by the City for a period of six (6) months prior to the election of the Councilmember or appointment of the City Manager so related to him.

### **14.02 Personal Financial Interest**

The Council, City Manager, City Secretary, department heads, or deputy department heads, of the City shall not have a substantial financial interest in any contract with the City; or be substantially interested in the sale to the City of any land, materials, supplies or services as substantial interest is defined by State law.

### **14.03 Penalties**

Any person who willfully engages in and is found in violation of any of the activities prohibited in this Chapter shall be ineligible for appointment or election to a position in the City for a period of three (3) years from that time. If the person is an officer or employee of the City at the time of the violation, they shall immediately forfeit their office or position, if found in violation.

## **CHAPTER XV – GENERAL AND TRANSITIONAL PROVISIONS**

### **15.01 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. 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 beginning of such proceedings or under the law after the adoption of this Charter.

### **15.02 Continuation of Present Offices**

All persons holding administrative office at the time this Charter takes effect shall continue in office and in the performance of their duties until provision shall have been made in accordance therewith for the performance of such duties or the discontinuance of such office. The powers conferred and the duties imposed upon any office, department or agency of the City by the laws of the State shall, if such office, department or agency be abolished by this Charter or under its authority, be thereafter exercised and discharged by the office, department or agency designated by the City Council unless otherwise provided herein.

### **15.03 Public Meetings**

All meetings of the City Council and all boards and commissions appointed by the City Council shall be governed by the provisions of the Open Meetings Act, and any amendments thereto. This section shall not be construed to require any action or measure beyond that required by State law.

### **15.04 Public Records**

Access to the records of every office, department, or agency of the City shall be subject to public inspection as provided by the Public Information Act, and any amendments thereto. This section shall not be construed to require any action or measure beyond that required by State law.

### **15.05 Official Newspaper**

The City Council may designate by resolution one or more newspapers of general circulation in the City as the official newspaper of the City, and shall cause to be published therein all ordinances, notices, and other matters which are required to be published by this Charter, the ordinances of the City or the Constitution or laws of the State of Texas. In addition to publication in the official newspaper, such notices shall be posted on the City's website.

#### 15.06 Notice of Injury or Damage

Before the City shall be liable for any claim for damages for the death or personal injuries of any person or for damages to property, the complainant or his authorized representative shall notify the City Secretary. The notification shall be in writing and shall state specifically how, when, and where the death, injury, or damage occurred; the amount of loss claimed; and the identity of any witnesses upon whom it is relied to establish the claim. The person giving notice under this section shall give the addresses of every place that he has resided during the six (6) month period prior to the damage or injury and subscribe his name to the notice under oath that the statements and facts contained in said notice are true and correct. The notification shall be filed within six (6) months of the date of injury or damage or in the case of death, within six (6) months of the date of death.

#### 15.07 Bond or Security Not Required

It shall not be necessary in any action, suit, or proceeding in which the City is a party, for any bond, including supersedeas bond, undertaking or security to be demanded or executed by or on behalf of said City in any of the State courts, but in all such actions, suits, appeals, or proceedings same shall be conducted in the same manner as if such bond, undertaking, or security had been given as required by law.

#### 15.08 Judicial Notice

This Charter shall be deemed 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 shall be taken thereof in all courts and places without further proof.

#### 15.09 Continuance of Contracts

All contracts entered into by the City or for its benefit prior to the taking effect of this Charter shall continue in full force and effect. Public improvements for which legislative steps have been taken under laws or ordinances existing at the time this Charter takes effect may be carried to completion in accordance with the provisions of such existing laws or ordinances. All suits, taxes, penalties, forfeitures, and all other rights, claims, and demands, which have accrued under the laws, heretofore in force governing the City shall belong to and be vested in and shall be prosecuted by and for the use and benefit of the City, and shall not in any way be diminished, affected, or prejudiced by the adoption and taking effect of this Charter.

#### 15.10 Continuance of Present Governing Body

All members of the City Council, including the Mayor, holding office at the time of passage of this Charter shall continue to hold their respective place and office until their respective

term of office for which they were elected expires, in accordance with Chapter 3 of this Charter.

#### 15.11 Indemnification of Officers

The City Council shall, by appropriate ordinance, provide for the indemnification and defense of the officers and employees of the City, including members of the City Council, or any board, commission, or committee, including volunteers, against any loss, cost, or expense, including court costs and attorneys' fees, to the extent allowed by law, arising out of any claim, suit, or judgment, or settlement thereof, resulting from any alleged negligent act or omission of such officer, employee, member, or volunteer during the discharge of his duties and within the scope of his office, employment, membership, or assigned voluntary position with the City, or in any other case where the City is directed or authorized by law to do so, provided however, that such indemnification will not be provided for any act arising out of the intentional or knowing violation of any penal statute or ordinance arising out of any conduct determined by final judgment to be an act of fraud or to have been taken with the intent to deceive or defraud, or for any personal or private business of such officer, employee, member, or volunteer, or for the gross negligence or official misconduct, or willful or wrongful act or omission of such officer, employee, member, or volunteer.

#### 15.12 Property Not Subject to Execution

No property owned or held by the City shall be subject to any execution of any kind or nature.

#### 15.13 Garnishment

No funds of the City shall be subject to garnishment and the City shall never be required to answer in any garnishment proceedings.

#### 15.14 Persons Serving on Boards, Commissions, or Committees

Persons serving on any board, commission, or committee at the time of the adoption of this Charter shall continue to serve on the board, commission, or committee to which they were appointed until their terms shall have expired or until their successors shall have qualified.

#### 15.15 Assignment of Wages

The City shall never be liable to the assignee of any wages of any officer, agent, or employee of said City, whether earned or unearned, upon any claim or account whatsoever, and as to the City such assignment shall be absolutely void.

#### 15.16 When General Law is Applicable

The general laws of the State of Texas and ordinances of the City Council shall furnish the authority for the power and exercise thereof and control all matters to the extent not specifically and completely covered by this Charter.

#### 15.17 Severability Clause

If any section or part of section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of section so held invalid may appear except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part to which such holding shall directly apply.

#### 15.18 Meaning of Words

The provisions of this Charter shall be liberally construed for the purpose of effecting the objects and ends thereof. Unless some other meaning is manifest the word "CITY" shall be construed to mean the "CITY OF ALVARADO", the words in the present tense include future tense, except when a more restricted meaning is manifest, and singular may mean plural. Throughout this Charter, words used in expressing masculine gender shall be construed to include the feminine. The word "CITY SECRETARY" refers to the person performing the duties of City Secretary. The word "COUNCIL" shall be construed to mean the "CITY COUNCIL OF THE CITY OF ALVARADO." All references to State law or the laws of the State of Texas, however expressed in this Charter, shall mean "as presently enacted or hereafter amended.

#### 15.19 Amendment of Charter

Amendments to this Charter may be framed and submitted to the voters of the City in the manner provided by State law, as now or hereafter enacted or amended.

#### 15.20 Submission of Charter to Voters

The Charter Commission in preparing this Charter concludes that it is impracticable to segregate each subject so as to permit a vote of "yes" or "no" on the same, for the reason that the Charter is so constructed that in order to enable it to work and function, it is necessary that it should be adopted in its entirety. For these reasons, the Charter Commission directs that the said Charter be voted upon as a whole and that it shall be submitted to the qualified voters of the City at an election to be held for that purpose on Saturday, May 6, 2023. Not less than thirty (30) days prior to such election, the City Council shall cause the City Secretary to mail a copy of this Charter to each qualified voter of the City as appears from the latest certified list of registered voters. If a majority of the qualified voters voting in such election shall vote in favor of the adoption of this Charter, it shall immediately become the governing law of the City, until amended or repealed.