

# City of Alamo Heights, Texas

## Charter

Adopted

November 2007

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## **PREAMBLE**

In thankful recognition of the leadership of Almighty God, we, the people of Alamo Heights, Texas, humbly invoking His blessings, do ordain and establish this Charter.

**ARTICLE I**  
**CORPORATE NAME**

**SECTION 1. Corporate Name**

All the inhabitants of the City of Alamo Heights, in Bexar County, Texas, as the boundaries and limits of said City are herein established, shall be a body politic, incorporated under and to be known by the name and style of the "City of Alamo Heights," with such powers, rights and duties as are herein provided.

**ARTICLE II**  
**MUNICIPAL BOUNDARIES**

**SECTION 1. Boundaries**

The boundaries and limits of the City of Alamo Heights shall be as follows, to-wit;

Beginning at the point where the North line of Tuxedo Avenue intersects the West line of Jones Maltsberger Road.

Thence East along the North line of Tuxedo Avenue for a distance of 3,520 feet, more or less, to the point where the said North line of Tuxedo Avenue intersects the West line of Nacogdoches Road.

Thence in a Northeasterly direction along the West line of Nacogdoches Road a distance of 1,340 feet, more or less, to the point where the West line of said Nacogdoches Road intersects a prolongation of the East-West dividing line of Block 5, Sylvan Hills Addition.

Thence East along the dividing line of Block 5 for a distance of 560 feet, more or less, to the point where the said East-West dividing line of Block 5 intersects the West line of Broadway.

Thence North along the West line of Broadway a distance of 350 feet, more or less, to the intersection of the said West line of Broadway with a prolongation of the North line of the East-West alley in Block 21, Oak Woods Subdivision.

Thence East across Broadway and along the North line of the said East-West alley in Block 21, across Vanderhoeven Drive and along the North line of the East-West alley in Block 22, Oak Woods Subdivision, a total distance of 2,310 feet, more or less, to the point where the said North line of East-West alley in Block 22 intersects the West line of North New Braunfels Avenue.

Thence in a Southerly direction along the West line of North New Braunfels Avenue a distance of 4,420 feet, more or less, to the point where the said West line of North New Braunfels Avenue intersects the North line of Redwood Avenue.

Thence East a distance of forty feet, more or less, to the East line of North New Braunfels Avenue.

Thence in a Southerly and Southwesterly direction along the East line of North New Braunfels Avenue for a distance of 5,860 feet, more or less, to the intersection of the said East line of North New Braunfels Avenue with the City Limits of the City of San Antonio in Burr Road.

Thence West along the present North line of the City of San Antonio, a distance of 3,000 feet, more or less, to the intersection of said line with the center line of the San Antonio River.

Thence in a Northwesterly direction along the Center line of the said San Antonio River a distance of 420 feet, more or less, to the intersection of said center line with the center line of Olmos Creek.

Thence in a Northwesterly direction along the center line of Olmos Creek a distance of 5,680 feet, more or less to, to the intersection of said center line with the West line of the Jones Maltsberger Road, referred to on the incorporating plat filed for record July 6, 1922, and recorded July 17, 1922, as "Olmos Drive."

Thence in a Northerly direction along the west line of the Jones Maltsberger Road (which is also the East City Limits line of the City of San Antonio) a distance of 1,450 feet, more or less, to an angle in said Jones-Maltsberger Road.

Thence in a Northwesterly direction along the South line of Jones Maltsberger Road a distance of 720 feet, more or less, to an angle in said road.

Thence in a Northerly and Northwesterly and Northeasterly direction along the West line of said Jones Maltsberger Road a distance of 2,405 feet, more or less, to the intersection of said West line of Jones Maltsberger Road with the North line of Tuxedo Avenue, which is the place of beginning.

## **SECTION 2. Extension of Boundaries**

- (a) Territory adjoining and contiguous to the corporate limits of the City of Alamo Heights, as defined herein, may be annexed to said City, regardless of the shape or configuration or size thereof, upon application being made therefore, in writing, to the City Council of the City of Alamo Heights, describing the territory by metes and bounds, sought to be annexed, which said application shall be signed by a majority of those residing in said territory, who are qualified to vote for members of the Legislature of the State of Texas; which said application shall be proved by the affidavit of one or more persons that the signatures thereto are genuine. In the event it is found by the said City Council that a majority of said qualified voters residing in such territory are favorable to annexation, then the said City Council may, by ordinance, declare such territory annexed to the City of Alamo Heights, and the same shall thenceforth be an integral part of said City. The provisions of this section shall not be construed to prohibit the owner of any uninhabited territory or property contiguous to the City of Alamo Heights, as defined in this Charter, from making application to the City Council to have the same annexed to the City, and

when such application is made and acted upon, an ordinance shall be passed, providing for the annexation of such property, and said property when so annexed, shall be covered by the same rules and regulations as other territory annexed under the provisions of this section.

- (b) Annexation of additional territory to the City Limits may also, in addition to the above prescribed method, be made by the City Council initiating and ordering an election for the extension of the territorial limits of the City in accordance with the procedure and methods provided and set forth in Chapter 43 Local Government Code, and which Chapter is here adopted and made a part of this Charter.
- (c) Whenever any territory is annexed to the City of Alamo Heights, persons residing in such territory shall thereafter be entitled to all the rights and privileges of other citizens of said City, and shall thereafter be subject to the jurisdiction of the City of Alamo Heights and to all taxes levied by the City, and shall be bound by all the acts, ordinances, rules and regulations governing other citizens of said City.

### **ARTICLE III**

#### **FORM OF GOVERNMENT**

##### **SECTION 1. Council Manager Government**

The municipal government provided for by this Charter shall be known as the “Council-Manager” form of government. Pursuant to its provisions, and subject only to the limitations imposed by the Constitution, laws and statutes of the State of Texas and by this Charter, all powers of the City of Alamo Heights (referred to as the City) shall be vested in an elected City Council (referred to as the City Council) which shall enact local legislation, adopt budgets, determine policies and appoint a City Manager, who in turn, will be held responsible to the City Council for the execution of the laws and the administration of the government of the City. All powers of the City shall be exercised in the manner prescribed by this Charter, or if the manner not be prescribed, then in such manner as may be prescribed by the United States Constitution, Texas Constitution, laws or statutes of the State of Texas, and ordinances adopted by the City.

### **ARTICLE IV**

#### **OFFICERS AND THEIR ELECTION**

##### **SECTION 1. Wording Interpretation**

The gender of the wording throughout this Charter shall always be interpreted to mean either sex. All singular words shall include the plural and all plural words shall include the singular. All references to state law or laws of the State of Texas, however expressed in this Charter, shall mean “as presently enacted or as may be amended or superceded.” The use of the word City in this Charter shall mean the City of Alamo Heights, Texas, and the use of the word Charter shall mean the Home Rule Charter.

## **SECTION 2. City Officials**

The municipal government of the City shall consist of a City Council composed of a Mayor and five (5) Council Members. Said Mayor and Council Members shall be elected from the City at large. The above named officers shall be elected by the qualified electors of the City. Other officers of the City shall be a City Manager, City Attorney, Public Works Director, Police Chief and Fire Chief, and such other officers as the City Council may from time to time direct, who shall be appointed by the City Manager with the approval of the City Council in accordance with this Charter.

## **SECTION 3. City Elections**

- A. All City elections shall be conducted in accordance with the Texas Election Code and other applicable law.
- B. The general City election shall be held annually during the month of May or such date as required by the Texas Election Code. The City Council shall be responsible for specifying locations and times for holding such elections.
- C. The City Council may, by resolution, order a special election for purposes consistent with this Charter and laws of the State of Texas. The City Council shall be responsible for specifying locations and times for holding such elections.
- D. Municipal elections shall be conducted by election officials appointed by the City Council or contracted with the County Elections Office, as prescribed by law.
- E. All municipal elections shall be publicized in accordance with the Texas Election Code.

## **SECTION 4. Candidates: To Run For Places; Places Designated**

Candidates for City Council shall run for Place No. One, Place No. Two, Place No. Three, Place No. Four, or Place No. Five, or for Mayor, as the case may be, and shall be voted on and elected accordingly, by the vote of the qualified voters of the City at large. A candidate may not run for more than one elected position of the City.

## **SECTION 5. Candidates, How Elected**

The candidate receiving the largest number of votes of the entire City cast for the place which he seeks shall be elected to the respective office for which he is a candidate.

## **SECTION 6. Election Returns and Canvass**

The returns of every municipal election shall be handled in accordance with the Texas Election Code. These returns shall be delivered from the election judges to the person performing the duties of the City Secretary at City Hall as soon as possible after the closing of the polls. Election

returns, general and special, shall be presented to the City Council at their next meeting in accordance with the Texas Election Code, at which time the City Council shall canvass and declare the results of the election, which shall be recorded in the minutes of the meeting.

#### **SECTION 7. Terms of Office of Elected Officers**

Council Members in Places 3, 4, and 5 shall be filled by election in May of each even numbered calendar year, and the offices of Mayor and Council Members for Places 1 and 2 shall be filled by election in May of each odd numbered calendar year, or when their successors are elected and qualified.

#### **SECTION 8. Installation of Elected Officers**

Each newly elected person to the City Council shall be inducted into office at the first City Council meeting following the official canvassing of the election. At such meeting, the oath shall be administered in accordance with the City Charter.

#### **SECTION 9. Qualifications of Elected Officers**

The City Council shall be the judge of the qualification of its own members and of the Mayor. No person shall be eligible to the office of Mayor or the office of Council Member unless he or she is a qualified elector and has resided in the City one year, next preceding the election. If the Mayor or any Council Member moves from the City during the term of office for which he is elected, his office shall be deemed vacant.

#### **SECTION 10. Limitations of Elected Officers**

No member of the City Council shall hold any other employment or office under the City government while he is a member of said City Council, unless herein otherwise provided. No member of the City Council, or any other officer of the City, shall be directly or indirectly interested in any work, business or contract, the expense, price or consideration of which is paid from the City treasury, nor be the surety of any person having a contract, work or business with said City, for the performance of which security may be required, nor the surety on the official bond of any City officer. Direct or indirect interest in any work, business or contract shall be defined as "substantial interest" per Chapter 171 of the Texas Local Government Code.

#### **SECTION 11. Vacancy**

- A. The office of a Council Member or the Mayor shall become vacant upon his death, resignation, forfeiture of, or removal from office by any manner authorized by law. If any member of the City Council, or the Mayor, ceases to possess the required qualifications for his office, or is convicted of a felony, he shall automatically be deemed to have forfeited such office. Such forfeiture shall be declared by resolution, and enforced by the City Council. If there is a declared vacancy in the office of Mayor, the City Council shall appoint a Mayor from among the remaining City Council Members who shall assume that office until the next scheduled City election.

If the Mayor Pro Tempore is selected as Mayor, the City Council shall elect a new Mayor Pro Tempore at the next regular meeting following the declared vacancy. If the remaining Council Members refuse to serve as Mayor, the City Council may appoint a qualified resident to serve as Mayor until the next scheduled City election. If a vacancy occurs in the first year of a two-year term, the person appointed as Mayor shall have to stand for election at the next scheduled City election to serve out the one-year remaining on that term.

- B. Within thirty (30) days of a declared Council Member vacancy, the remaining Council Members shall appoint a qualified person to fill that vacancy for the remainder of that term, or until the next scheduled City election, whichever occurs first. Any person appointed to a vacancy which occurs in the first year of a two-year term, shall have to stand for election at the next scheduled City election to serve out the one-year remaining on that term.

## **SECTION 12. Mayor Pro Tempore**

At the first meeting of each new City Council, or as soon thereafter as practicable, one of the Council Members shall be elected Mayor Pro Tempore, who shall hold his office for one year. In case of the failure, inability or refusal of the Mayor to act, the Mayor Pro Tempore shall perform the duties of Mayor. When serving as Mayor as the presiding officer at City Council meetings, the Mayor Pro Tempore shall have the same rights and privileges as provided for by Article VI, Section 1, of this Charter, and shall be entitled to vote. In the case of absence from the City or the failure, inability or refusal of both the Mayor and Mayor Pro Tempore to perform the duties of Mayor, the City Council may, at a City Council meeting, by a vote of three affirmative votes, elect an acting Mayor Pro Tempore from the existing Council Members, who shall serve as Mayor with all of the powers and privileges of Mayor until either the Mayor or Mayor Pro Tempore shall resume his duties of office. When such acting Mayor Pro Tempore is serving as the presiding officer at City Council meetings, he shall have all the powers set forth in Article VI, Section 1 of this Charter, but shall be entitled to vote.

## **SECTION 13. Compensation of Mayor and Council Members**

The Mayor and Council Members shall receive One Dollar (\$1.00) per year as compensation and may be reimbursed for their expenses incurred in their official duties.

# **ARTICLE V**

## **DUTIES AND POWERS OF OFFICERS AND OTHER PUBLIC OFFICIALS**

### **SECTION 1. Oath**

All officers of the City, whether elective or appointive, shall qualify by taking the oath prescribed by the Constitution of this State and by executing such bond as may be required under the provisions of this Charter and the ordinances and resolutions of the City.

## **SECTION 2. Duties of Mayor and Mayor Pro Tempore**

- A. The Mayor occupies the highest elective office in the City and shall preside at meetings of the City Council. The Mayor shall be recognized as head of the City government for all ceremonial purposes, and by the Governor for purposes of military law, but shall have no regular administrative duties. The Mayor may participate in the discussion of all matters coming before the City Council. The Mayor shall not be entitled to vote as a member of the City Council, on legislative or other matters, except in case of a tie, when the Mayor shall cast the deciding vote.
- B. The Mayor Pro Tempore shall be a Council Member elected by the City Council at the first regular meeting after each election of Council Members and/or Mayor. The Mayor Pro Tempore shall act as Mayor during the disability or absence of the Mayor, and in this capacity shall have all the rights conferred upon the Mayor and shall still be entitled to vote as a Council Member per Charter Article IV, Section 11.

## **SECTION 3. Powers of the City Council**

All powers of the City and the determination of all matters of policy shall be vested in the City Council. Except where in conflict with and otherwise expressly provided by this Charter, the City Council shall have all powers authorized to be exercised by the Constitution and laws of the United States and the State of Texas and the acts amendatory thereof and supplementary thereto, now or hereafter enacted. Without limitation of the foregoing and among the other powers that may be exercised by the City Council, the following are hereby enumerated for greater certainty:

- (1) Appoint and remove the City Manager;
- (2) Appoint the Municipal Judge(s) of the Municipal Court;
- (3) Approve the appointment and removal of the City Attorney;
- (4) Establish administrative departments;
- (5) Adopt the budget of the City;
- (6) Inquire into the conduct of any office, department or agency of the City and make investigations as to municipal affairs;
- (7) Provide for and appoint a Planning and Zoning Commission, Board of Adjustment and other boards, commissions and committees as deemed necessary, and appoint the members of all such boards, commissions and committees. Such boards, commissions or committees shall have all powers and duties now or hereafter conferred and created by this Charter, by City ordinance or by law;
- (8) Adopt and modify the official map of the City and the official zoning map;

- (9) Adopt, modify and carry out plans in cooperation with the Planning and Zoning Commission for the replanning, improvement and redevelopment of specific areas of the City;
- (10) Adopt, modify and carry out plans in cooperation with the Planning and Zoning Commission for the replanning, reconstruction or redevelopment of any area or district which may have been destroyed, in whole or part, by disaster;
- (11) Regulate, license and fix the charges or fares, or tariffs made by any person owning, operating or controlling any vehicle of any character used for the carrying of passengers for hire on the public streets and alleys of the City;
- (12) Provide for the establishment and designation of fire limits and prescribe the kind and character of buildings or structures or improvements to be erected therein; provide for the erection of fireproof buildings within certain limits; and provide for the condemnation of dangerous or dilapidated structures or buildings, and such buildings or structures calculated to increase the fire hazard, and the manner of their removal or destruction;
- (13) Fix and regulate rates and charges of all municipal utilities and public services and operate municipal utilities; and
- (14) Adopt development Master Plans and subdivision plats.

#### **SECTION 4. City Manager**

- A. **Appointment.** The City Council shall appoint, upon the affirmative vote of a majority of the full membership of the City Council, a City Manager who shall serve as Chief Administrative Officer of the City. The City Manager shall be responsible to the City Council for administration of all the affairs of the City, with only those exceptions that are named in this Charter. City Council may enter into a contract with the City Manager outlining terms and conditions of employment, compensation and separation.
- B. **Exemption.** No Mayor or member of the City Council shall, during the term to which he is elected and for two (2) years thereafter, be appointed City Manager.
- C. **Compensation.** The City Council shall fix the compensation of the City Manager, and the City Manager's compensation may be amended from time to time, in accordance with the City Manager's experience, qualifications and performance.
- D. **Suspension or Removal.** The City Manager may be removed at the pleasure of the City Council by the affirmative vote of a majority of the City Council.
- E. **Acting City Manager.** In case of the 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 or appoint an interim City Manager. By letter filed with the City

Secretary and copies provided to the Mayor and City Council, the City Manager may designate a qualified administrative officer to exercise the powers and perform the duties of the City Manager in case of the temporary absence of the City Manager. The City Council may revoke such designation at any time and appoint another officer of the City to serve until the City Manager returns.

**F. Duties and Responsibilities.** The City Manager shall:

1. Appoint, suspend and remove all City employees and appointive administrative officers provided for in this Charter, except as otherwise provided by law, this Charter or personnel rules adopted pursuant thereto;
2. Direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by law of this Charter;
3. See that all state laws and City ordinances are effectively enforced;
4. Attend or designate a City employee to attend City Council, Commission, and Board meetings, with the right to take part in discussion, but shall not vote;
5. Prepare or designate an appropriate department head or City employee to prepare items for inclusion in the official agenda of all City Council meetings and meetings of all boards and commissions;
6. Prepare and recommend to the City Council the annual budget and capital improvement budget and administer the budgets as adopted by the City Council;
7. Keep the City Council advised, at least quarterly, as to the financial conditions of the City and make recommendations concerning the affairs of the City;
8. Make reports as the City Council may require concerning the operations of the City departments, offices, or agencies subject to the City Manager's direction or supervision;
9. Designate an appropriate department head or City employee to keep a written inventory of all real property and all permanent equipment belonging to the City, said inventory to be subject to annual audit. A system shall be established to control the use and replacement of expendable items;
10. Execute all contracts as authorized by the City Council except as otherwise provided in this Charter; and
11. Perform such other duties as are specified in this Charter or may be required by the City Council, which are consistent with this Charter and state and federal laws.

## **SECTION 5. City Secretary**

- A. The City Manager shall appoint the City Secretary. The City Manager may remove the City Secretary with or without cause. The City Manager shall fix the compensation of the City Secretary and the City Secretary's compensation may be amended, from time to time, in accordance with the City Secretary's experience, qualifications and performance. The City Manager shall annually evaluate the performance of the City Secretary.
- B. The City Secretary shall:
1. Give notice of all official public meetings of the City Council, Commissions, and Boards in a manner consistent with this Charter and state laws;
  2. Attend or designate a City employee to attend public meetings and hearings of the City Council;
  3. Keep the minutes of the proceedings of all public official meetings and hearings of the City Council in a manner prescribed by the City Council consistent with applicable law;
  4. Act as a custodian of all official records of the City Council;
  5. Hold and maintain the seal of the City and affix this seal to all appropriate documents;
  6. Authenticate, by signature and seal, and record all ordinances, resolutions and proclamations of the City;
  7. Act as agent for the purposes of serving civil process;
  8. Assist the City Manager with the maintenance and public information request of all records;
  9. Perform such other duties, as may be required by the City Council or City Manager, which are consistent with this Charter and state and federal law; and
  10. Schedule and oversee all City elections in accordance with the Texas Election Code and any other applicable law.

## **SECTION 6. Finance Director**

The City Manager shall appoint the Finance Director. The City Manager may remove the Finance Director with or without cause. The City Manager shall fix the compensation of the Finance Director, and the Finance Director's compensation may be amended, from time to time, in accordance with the Finance Director's experience, qualifications and performance. The City

Manager shall annually evaluate the performance of the Finance Director. The Finance Director shall give bond in favor of the City in such amount, and in such form as the City Council may require, with sufficient security to be approved by the City, conditioned for the faithful discharge of his duties. He shall receive and securely keep all moneys belonging to the City, and make all payments from the same upon authorization of the City. He shall render a full and correct statement of his receipts and payments to the City Council, at their first regular meeting in every quarter and whensoever, at other times, he may be required by them so to do. He shall do and perform such other acts and duties as the City Manager may require.

The Finance Director shall have the responsibility of assessing and collecting all ad valorem taxes or overseeing the contractor approved by the City with the responsibility of assessing and collecting all ad valorem taxes. The Finance Director shall keep complete and accurate records of the same, and shall have such other duties as are given to him by this Charter and which may be hereafter assigned to him by the City Manager.

### **SECTION 7. Police Chief**

The Chief of Police shall be in charge of the Police Department and shall have the powers and duties as is provided by state law and such other duties and responsibilities as the City Manager from time to time may assign to him.

The Chief of Police shall be appointed by the City Manager with the approval of City Council and meet the standards of the State Laws of Texas. The Chief of Police shall report to the City Manager. The Chief of Police may be removed from office by the City Manager with the approval of the City Council.

### **SECTION 8. City Attorney**

The City Attorney shall be the legal adviser and counsel to the Mayor, City Council, City Manager, department heads, and City boards and commissions. The City Attorney shall be appointed by the City Manager with the approval of City Council. He shall prepare or approve all City ordinances and resolutions and shall attend all meetings of the City Council. He shall be appointed either on a part time or a full time basis and shall have such other duties and responsibilities as may from time to time be assigned to him by the City Council or the City Manager. The City Council may provide for such services by contract with a duly qualified law firm.

The City Attorney shall have the authority of a Municipal Prosecutor, and may recommend additional Municipal and Assistant Municipal Prosecutors to the City Manager, who, with the consent and approval of the City Council, shall have the authority to employ such Municipal and Assistant Municipal Prosecutors.

The City Manager, with the consent and approval of the City Council, shall have the authority to appoint special counsel to represent the City in collecting taxes, or to represent the City in legal proceedings filed by or against the City and in any extraordinary legal matters.

## **SECTION 9. Public Works Director**

The Public Works Director shall be responsible for overseeing all capital improvement projects to be done by the City; he shall be adviser to the City on all public works projects; he shall be general adviser to the Board of Adjustment and the Planning and Zoning Commission, and shall have such other responsibilities and duties as the City Manager from time to time may assign to him.

The Public Works Director shall be appointed by the City Manager with the approval of City Council. The Public Works Director shall report to the City Manager. The Public Works Director may be removed from office by the City Manager with the approval of the City Council.

## **SECTION 10. Fire Chief**

The Fire Chief shall be in charge of the Fire Department and shall have the powers and duties as is provide by state law and such other duties and responsibilities as the City Manager from time to time may assign to him.

The Chief of the Fire Department shall be appointed by the City Manager with the approval of City Council and meet the standards of the State Laws of Texas. The Fire Chief shall report to the City Manager. The Fire Chief may be removed from office by the City Manager with the approval of the City Council.

## **SECTION 11. Bond for Appointive Officers**

The City Council shall have the right to require bond from any appointive officers or employees of the City in such amounts as the City Council from time to time may fix by ordinance or resolution and conditioned by the faithful discharge of the duties of his office and accounting for all moneys, credits and things of value coming into the hands of such officers or employees; and all such bonds shall be signed as surety by some surety company authorized to do business under the laws of the State, and the premiums accruing thereon shall be paid by the City.

## **SECTION 12. Resignation of Officers**

Resignation of any officer authorized by this Charter to be elected or appointed shall be made by filing a written resignation with the City Secretary.

## **SECTION 13. Removal of Officers or Officials**

In the event the City Manager position is vacant, the City Council shall have the power to remove any officer or official reporting to the City Manager, after due notice and an opportunity to be heard in his defense.

## **ARTICLE VI**

### **THE CITY COUNCIL**

#### **SECTION 1. Presiding Officer**

The Mayor shall preside over all meetings of the City Council. He may participate in the discussion of matters coming before the City Council and shall be entitled to a vote only in the event of a tie, but shall have no veto power. If the Mayor and the Mayor Pro Tempore are absent, acting Mayor Pro Tempore may be appointed to preside.

#### **SECTION 2. Meetings**

Petitions and remonstrances may be presented to the City Council. The City Council shall hold stated meetings at such times and places as they shall by resolution direct. The Mayor, City Manager, or on the application of three Council Members, may call special meetings by notice to each member of said Council, the City Secretary and City Attorney, in accordance with state law.

#### **SECTION 3. Rules of the City Council**

The City Council shall determine its own rules of procedure and may compel the attendance of its members.

#### **SECTION 4. General Authority**

The City Council shall have power to pass, publish or amend or repeal all ordinances, rules, and police regulations, not contrary to the Constitution of this State, for the good government, peace and order of the City and the trade and commerce thereof, that may be necessary or proper to carry into effect the powers vested by this Charter in the City, the City government or in any department or office thereof; to enforce the observance of all such rules, ordinances and police regulations, and to punish violations thereof.

#### **SECTION 5. Powers**

Any powers given to the City that are not specifically placed in the City Manager, Mayor or some other official, either by statutes or this Charter, shall be exercised in behalf of the City by the City Council. All powers so exercised shall be by ordinance or resolution duly passed.

#### **SECTION 6. Quorum**

The Mayor and three Council Members shall constitute a quorum for the transaction of all business of the City Council. In the absence of the Mayor, the Mayor Pro Tempore and three Council Members shall constitute a quorum. In the absence of the Mayor and Mayor Pro Tempore, the acting Mayor Pro Tempore and three Council Members shall constitute a quorum. Except where a larger number of votes are required by State statute to pass a specific ordinance,

no ordinance, resolution, or other action of the City Council shall be effective unless it receives at least three affirmative votes.

### **SECTION 7. Legislative Procedure**

All meetings of the City Council shall be public, except when otherwise authorized by state law, and minutes of all open proceedings 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. The vote upon the passage of all ordinances and resolutions shall be taken by the “ayes” and “nays” and entered upon the minutes, and every ordinance or resolution, upon its final passage, shall be recorded and shall be authenticated by the signature of the presiding officer and the person performing the duties of City Secretary. Every ordinance hereafter adopted shall be systematically numbered and it shall only be necessary to record the number and caption or title of ordinances in the minutes of the City Council meeting.

### **SECTION 8. Style of Ordinances**

The style of all ordinances of the City shall be: “Be it ordained by the City Council of the City of Alamo Heights, Texas,” but the same shall be omitted when the ordinances of the City are codified and published in book or pamphlet form by the City, or under the authority of its governing body.

### **SECTION 9. Ordinances Now in Effect**

All ordinances of the City now in existence and not inconsistent with the provisions of this Charter shall remain in full force and effect until altered, amended or repealed by the City Council.

### **SECTION 10. Ordinances, Publication Thereof**

Every ordinance shall become effective upon adoption or at any later time(s) specified in the ordinance, except that every ordinance imposing any penalty, fine or forfeiture shall become effective only after having been published in its entirety, summary form or brief description after adoption, in a newspaper of general circulation of the City in accordance with state law.

### **SECTION 11. Ordinances, Pleading of, and Admissibility in Evidence**

It shall be sufficient in all judicial proceedings to plead any ordinance of the City by caption without embodying the entire ordinance in the pleadings, and all pleaded ordinances or codes of ordinances shall be admitted in evidence in any suit and shall have the same force and effect as the original ordinance. Certified copies of the ordinances may also be used in evidence in lieu of original ordinances.

## ARTICLE VII GENERAL POWERS

### SECTION 1. Enumerated Powers Not Exclusive

The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive, but, in addition to the powers enumerated therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the City shall have, and may exercise, all powers of local self-government, and all powers enumerated in the Constitution and laws of the State of Texas, it would be competent for this Charter specifically to enumerate. All powers of the City, whether expressed or implied, shall be exercised in the manner prescribed herein, or when not prescribed herein, then in the manner provided by the general laws of Texas relating to cities.

### SECTION 2. Fire Prevention

The City Council shall have power by ordinance or otherwise to provide means for protection against conflagrations and for guarding against fires. It may prescribe fire limits, stipulate and provide for minimum requirements for construction of buildings within such fire limits, regulate or prohibit the erection, building, replacing or repairing of buildings within such limits; may prescribe that the buildings within such fire limits be made or constructed of fire-resistant material; and may further prescribe limits within which only fire-resistant roofing may be used; it may also by ordinance regulate, prescribe, govern or forbid the storage of lumber, building material of any kind or inflammable or explosive goods, wares and merchandise of any and every kind within certain limits and prescribe limits within which such materials may be stored, housed or carried.

### SECTION 3. Health Regulations

- A. **Regulations:** The City shall have the power to provide for the health, safety, and welfare of its inhabitants by establishing all necessary rules and regulations protecting the health, safety and welfare of the City.

1. The City Council shall have the power by ordinance or otherwise to regulate, license and inspect public or private persons, firms, institutions, corporations, common carriers, or associations operating, managing, or conducting any activities, but not limited to, any of the following:

(a) Place of public accommodation, hotel or any other public sleeping or eating place;

(b) Place or vehicle where food or drink of any kind is manufactured, prepared, stored, packed, served, sold or otherwise handled within the City or limits of said City; all food and beverage vendors and samplers must have a health permit which must be obtained prior to an event;

(c) Any and all health conditions; and

(d) Sanitary wastewater disposal system.

2. The City shall have the power to;

(a) Define all nuisances and prohibit the same within the City and outside the City limits for a distance in accordance with State law; and

(b) Have the power to police in all parks or grounds, streets right-of-way owned by the City or under lease to the City and lying both outside and inside said City; and

B. **Penalties or Fines:** The City shall have the power to provide for the 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 the powers expressly enumerated in this section but all other powers reasonably necessary for the protection of the health of the City and its citizens.

#### **SECTION 4. Other Enumerated Powers**

The City may assess, levy and collect any and all character of taxes for general and special purposes on all subjects or objects, including occupation taxes, license taxes and excise taxes, which the City may lawfully assess, levy and collect under the Constitution and Laws of the State of Texas; may borrow money on the faith and credit of the City by the issuance of bonds or notes of the City, and may issue warrants in payment of lawful obligations of the City; may create, provide for, construct, regulate and maintain all things of the nature of public works and improvements whether for pleasure or otherwise; may define, prohibit, abate, suppress and prevent all things detrimental to the health, morals, comforts, safety, convenience and welfare of the inhabitants of the City, and all nuisances and cause thereof; may regulate and restrict the construction, height, and the material used in all buildings and maintenance and occupancy thereof; may license any lawful business, occupation or calling that is susceptible to the control of the police power; may license, regulate, control or prohibit the erection of signs or billboards within the corporate limits of said City; may provide for public library and maintenance thereof; may provide that gas companies, bus companies, telephone companies, telecommunication companies, and electric light companies, or any other companies or individuals furnishing public utility service, to make and furnish extension of their service to such territory within the corporate limits as may be prescribed from time to time by ordinances; may provide for the issuance of permits for erecting all buildings, for the inspection of the construction of buildings, in respect to proper wiring for electric lights and other electric appliances, piping for gas flues, chimneys, fire escapes, plumbing and sewer connections, and to enforce proper regulations in regard thereto; may provide for the enforcement of all ordinances enacted by the City, by a fine as authorized by state law; provided that no ordinance shall prescribe a greater or less penalty than is prescribed for a like offense by the laws of this State.

**ARTICLE VIII**  
**DEPARTMENTS**

**SECTION 1. General**

The City Manager, with the approval of the City Council, may create or establish, abolish or consolidate, as many departments or offices as it may deem necessary for the best interest of the City.

**SECTION 2. Police Department**

The City shall have a police department which will be under the general supervision of the Chief of Police. The City Council shall by the budget ordinance provide for the number of police officers and shall establish the budget. The Chief of Police, with the approval of the City Manager, shall establish the qualifications for all officers; shall make provisions for their removal from office; shall provide for the giving of bonds for faithful performance of their duties in office; and shall make such other regulations as might be deemed necessary for the control and operation of the police department. Such officers shall have like powers, rights and authorities as are vested under the Statutes of Texas.

**SECTION 3. Fire Department**

The City shall have a fire department which will be under the general supervision of the Fire Chief. The City Council by budget ordinance shall provide for a fire department consisting of paid firefighters and the City Council shall provide by ordinance for the number of firefighters and establish the budget. The Fire Chief, with the approval of the City Manager, shall establish the qualifications for all firefighters, shall make provisions for removal of firefighters and such other provisions as might be necessary for supervision and control of firefighters. The Fire Chief shall establish such other rules and regulations for a fire department as might be necessary for the proper control and operation of same.

**SECTION 4. Recreation Department**

The City shall have the right to establish a recreation department and appropriate necessary funds for the operation of the same.

The City shall have the authority to enter into contracts or agreements with other municipalities or political subdivisions in carrying out a joint recreational program for the City and adjoining political subdivisions.

**ARTICLE IX**  
**PUBLIC UTILITIES**

**SECTION 1. City Ownership and Operation Thereof**

- A. In General. The City shall have power to build, construct, purchase, own, lease, maintain and operate, within or without the City Limits, light and power systems, water systems, sewer systems or sanitary disposal equipment and appliances, natural gas systems, parks and swimming pools, and any other public service or utility; power to mortgage and encumber such system or systems in the manner provided by state law; and all the powers which the City might exercise in connection with such public utilities and public services under state law, including the power to demand and receive compensation for service furnished for private purposes, or otherwise, and with full and complete power and right of eminent domain proper and necessary efficiently to carry out said objects.
- B. City Water System. The City shall have the exclusive right to own, erect, improve, enlarge, maintain and operate water works systems for the use of said City, its inhabitants and the public; shall regulate the same and have power to prescribe rates for water furnished, with power to levy higher rates for water sold for use outside the City Limits, and to acquire by purchase, donation, condemnation or otherwise, suitable grounds within the limits of the City, on which to erect any such works and the necessary right of way, and to acquire by purchase, donation, condemnation or otherwise, suitable grounds within or without the limits of the City on which to erect any such works and the necessary right of way in any outstanding franchise which may now or hereafter be owned by any individual, corporation, or other municipality, and to do and perform whatsoever may be necessary to operate and maintain such water works or water works system, and to compel the owners of all property and the agents of such owners or persons in control thereof to pay all charges for water furnished upon such property. The City shall have all the powers and privileges pertaining to water and water systems as are granted to home rule cities under state law including but not limited to the sale or lease of the system. The City shall have the right to use so much of the water and water facilities of said City as may be deemed necessary in connection with the operation of the fire department, City buildings, public parks, streets, swimming pools, and other public functions of the City.
- C. City Sewer System. The City shall have the exclusive rights to own, erect, maintain and operate sewer systems or sewage systems for the use of said City and its inhabitants; to regulate the same and to have power to prescribe rates for the service so furnished and to acquire by purchase, donation, condemnation or otherwise, suitable grounds, within or without the limits of the City, on which to erect any such sewer system or systems, sewage disposal plant or plants, and filtering beds and emptying grounds for sewage systems, and to compel owners of property and the agents of such owners or persons in control thereof, to pay all charges for sewer service furnished upon such property, and shall have power to compel owners of property and the agents or persons in control thereof to connect with such sewer systems, and to pass all ordinances necessary for the enforcement of this power, and shall have the power by ordinance to prohibit the use of

sewers for oil waste, chemicals or salt water disposal. The City shall have all the rights, powers and privileges pertaining to sewers as is given to home rule cities under state law including but not limited to the sale or lease of the system; the City may permit other municipalities to place connecting sewer lines through the City and to maintain them.

- D. Power to Contract for Public Utilities. The City is authorized to enter into contracts to sell, acquire or lease with individuals, corporations, partnerships, or other municipal corporations, for furnishing in whole or in part any public utility or portions of public utility systems that might be needed by the City or the citizens of the City. The consideration for such contracts or leases may in the discretion of the City Council be paid by the City or prorated to the individual users of the utility covered by such contractor lease; or to permit individuals, corporations, partnerships or other municipal corporations to furnish in whole or in part any public utility or portion of any public utility direct to the citizens of the City on such terms as the City may direct.
- E. Right to Purchase Commodities or Services Essential to City or its Citizens. The City shall have the power to purchase electricity, gas, oil, or any other article, commodity or service essential to a proper conduct of all the affairs of the City and of its inhabitants on such terms as the City Council may deem proper, for sale and distribution to the inhabitants of the City or adjacent territory.

## **SECTION 2. Regulation of Public Utilities**

- A. To the extent allowed by law, the City Council shall have the power by ordinance, after notice to the utility and hearing before the City Council, to fix and regulate the charges, fares or rates of compensation to be charged by any person, firm or corporation enjoying a franchise in the City, or engaged in furnishing a public utility service in the City, and shall in determining, fixing and regulating such charges, fares or rates of compensation, base the same upon the fair value of the property of such person, firm or corporation devoted to furnishing service to such City or the inhabitants thereof. The City Council may prescribe the character, quality and efficiency of service to be rendered, and shall have the power to regulate and require the extension of adequate lines or service of such public utility within such City by such person, firm or corporation, taking into consideration the cost to the utility, and from time to time may alter or change such rules, regulations, and compensation, provided that, in adopting such regulations and in fixing or changing such compensation or determining the reasonableness thereof, no stock or bonds authorized or issued by any corporation enjoying such franchise shall be considered unless on proof that the same have been actually issued by the corporation for money paid and used for the development of the corporate property, labor done or property actually received, in accordance with the laws and Constitution of this State applicable thereto. In order to ascertain all facts necessary for a proper understanding of what is or should be a reasonable rate or regulation, the City Council shall have full power to inspect the books of any such utility serving the inhabitants of the City and compel production of records and the attendance of witnesses for such purpose.

- B. Any company, corporation or person engaged in furnishing to the inhabitants of the City any light, power, gas, telephone, transit or other public utility services, may be required at any time by ordinance or resolution of the City Council to file with the City Council sworn written reports pertaining to their operations and business within the City, and such report shall contain such data, facts and information as may be required by such ordinance or resolution, which shall also fix the time within which the report shall be filed.
  
- C. In addition to the foregoing powers, the City shall have all the powers and privileges provided for by state law in regulating public utilities.

## **ARTICLE X**

### **CONTRACTS**

#### **SECTION 1. General**

All contracts that the City has at the time of the adoption of this Charter shall remain in full force and effect. This provision shall include, but not be limited to, all bonded indebtedness, contracts for professional services, contracts for improvements, lease contracts, or any other agreement binding upon the City of Alamo Heights, Texas, immediately prior to the adoption of this Charter.

#### **SECTION 2. Personal Services**

No employment contract shall ever be made which binds the City for personal services or be rendered for any stated period of time unless recommended by the City Manager and approved by the City Council. All appointive employees shall be subject to peremptory discharge, and when discharged shall be entitled to compensation up to and including the date of their discharge, any provision to the contrary in this Charter notwithstanding.

#### **SECTION 3. Goods, Materials, Services or Supplies**

The City or any agent of the City acting for it shall not make any contract for goods, materials, services, or supplies for the current use of any department of the municipality for more than one year, except as in this Charter provided, unless said contract and the cost thereof has been included in the annual budget of the City and unless an appropriation has been made therefore, and no contracts or purchase shall exceed the amount appropriated. All contracts in excess of the state law requirement shall be made upon specifications or qualifications, and no contract shall be binding until it has been signed by a designated representative of the City. Whenever the costs of any contracts charged to any appropriation equal the amount of such appropriation, no person representing the City shall sign or make any additional contracts chargeable to such appropriation. Any contract for current expenditures exceeding the amount set up in the budget or the appropriation therefore shall be void unless approved by the City Council.

#### **SECTION 4. Competitive Bidding**

The City shall comply with state law in awarding contracts requiring competitive bidding.

### **ARTICLE XI**

#### **OWNERSHIP OF REAL OR PERSONAL PROPERTY**

##### **SECTION 1. Acquisition of Property**

The City shall have the power and authority to acquire by purchase, gift, devise, deed, condemnation, or otherwise, any character of property, within or without its municipal boundaries, including any charitable or trust funds.

##### **SECTION 2. Real Estate, Etc. Owned by the City**

All real estate owned in fee simple title, or held by lease, sufferance, easement or otherwise; all public buildings, fire stations, parks, streets and alleys, and all property, whether real or personal, of whatever kind, character or description, now owned or controlled by the City, shall vest in, inure to, remain, and be the property of said City under this Charter; and all causes of action, rights or privileges of every kind and character, and all property of whatsoever character or description which may have been held, and is now held, controlled or used by said City for public uses, or in trust for the public, shall vest in and remain and inure to the City under this Charter, and all contracts, suits and pending actions to which the City was or now is a party, plaintiff or defendant, shall not be affected or terminated by the adoption of this Charter, but shall continue unabated.

##### **SECTION 3. Parks, Playgrounds, Etc.**

The City shall have exclusive control of all City parks and playgrounds, whether within or without the City Limits, and to control, regulate and remove all obstructions and prevent all encroachments thereupon; to provide for raising, grading, filling, terracing, landscape gardening, erecting buildings, swimming pools and wading pools, and other structures, providing amusement therein for establishing walks and paving driveways around, in and through said parks, playgrounds, and other public grounds, speedways or boulevards owned by it, and lying both outside and inside the municipal boundaries.

### **ARTICLE XII**

#### **STREETS AND ALLEYS**

##### **SECTION 1. Street Powers**

The City shall have exclusive control of all alleys, streets, gutters and sidewalks situated within the City, and the power to lay out, establish, open, alter, extend, widen, straighten, abandon and

close, lower, grade, narrow, care for, supervise, maintain and improve any public street, alley, avenue, or boulevard, and for any such purposes to acquire the necessary lands and to appropriate the same under the power of eminent domain. The City shall also have the power to name or rename, vacate and abandon and sell and convey in fee that portion of any street, alley, avenue, boulevard or other public thoroughfare or public grounds, and to convey in fee the same in exchange for other lands, over which any street, alley, avenue or boulevard may be laid out, established and opened; and the City's right to sell and dispose of in fee any part of a street, alley, avenue or boulevard so vacated and abandoned, or the City's right to convey same in exchange for other lands to be used in laying out, opening, widening and straightening any street, shall never be questioned in any of the Courts of this State. The procedure for closing streets and alleys shall be in conformity with due process of law and shall be particularly prescribed and provided for by ordinance passed in the usual manner by the City Council.

### **SECTION 2. Street Improvements**

The City shall have the power to improve any street or highway within its limits by filling, grading, raising, paving or repaving the same in a permanent manner, or by the construction or reconstruction of sidewalks, curbs and gutters or necessary appurtenances thereto, including sewers and drains.

### **SECTION 3. Regulation of Vehicles**

The City Council shall have all the authority given cities under state law, and the power by ordinance to control the operations of all character of vehicles using public streets, including motorcycles, motor-scooters, bicycles, automobiles, taxicabs, trucks, trailers, tractors, buses, house moving dollies, or any type vehicle; and to prescribe the speed of the same, the qualifications of the operators of the same, the routing of the same, and the lighting of same by night; and to provide for the giving of bond or other security for the operation of same.

### **SECTION 4. Established Speed Zones and Parking Areas**

The City Council shall have the authority to limit the speed of vehicles in school zones, near churches, hospitals, and dangerous corners, and such other places as it may deem advisable, and to limit or prohibit the parking of vehicles near schools, churches, business or other congested areas, or where the limiting or restricting of the parking of vehicles is required in providing the safe movement of traffic for the protection of life or property.

## **ARTICLE XIII**

### **MISCELLANEOUS**

#### **SECTION 1. Public Property Exempt from Exemptions**

No public property, or any other character of property owned or held by said City, shall be subject to any execution of any kind or nature.

## **SECTION 2. City Funds Not Subject to Garnishment**

No funds of the City shall be subject to garnishment and the City shall never be required to answer in any garnishment proceedings except as required by state law.

## **SECTION 3. Notice of Claims**

Before the City shall be liable for damages for the death or personal injury of any person or for damages to or destruction of property of any kind, the City Manager shall be given notice in writing of such death, injuries, damages or destruction within ninety (90) days after the same has been sustained, stating when, where, and how the death, injury, damage or destruction occurred and the apparent extent thereof, and an estimate of the damages sustained. Such notice shall be filed with the City Secretary, and such filing will constitute notice to the City. The City Council is hereby authorized and directed to make and fix by ordinance such additional rules and regulations governing the City's liability for damages as the City Council may deem advisable.

## **SECTION 4. Right of Eminent Domain**

The City shall have the right of eminent domain and the power to condemn and appropriate private property for public purposes, whether said property be within or without the City Limits, in such cases as is now or may hereafter be provided by state law. This shall apply also to fee simple titles. The City may exercise the power of eminent domain in any manner authorized or permitted by the Constitution and/or laws of this State.

## **SECTION 5. May Accept Governmental Aid, Etc.**

The City may accept monetary aid or other character of aid or benefit from the Federal Government, the State Government, the County Government, and from any agency thereof, and/or any individual, and/or a private agency; and shall have the full right, power and authority to do the things and perform the acts necessary to permit the City to receive such aid.

## **SECTION 6. City Not Required to Give Bond**

It shall not be necessary in any suit or proceeding in which the City is a party for any bond, undertaking or other security to be demanded or executed by or on behalf of the City in any of the State Courts, but all such actions, suits, appeals or proceedings shall be conducted in the same manner as if such bond had been given, and the City shall be liable as if the security or bond had been duly executed.

## **SECTION 7. Franchises and Special Privileges**

- A. The right to control, easement, use and ownership and title to the streets, highways, public thoroughfares and property of the City, its avenues, parks, bridges and all other public places and property, are hereby declared to be inalienable except by ordinance duly passed by four affirmative votes of the City Council, and no grant of any franchise or lease, or right to use the same, either on, through, along, across, under or over the same, by any private corporation, association or individual shall be granted by the City

Council for a longer period than thirty (30) years unless submitted to the vote of the legally qualified votes of the City in the manner provided for in the Texas Transportation Code. .

- B. The City Council may, of its own motion, submit all of such applications to an election at which the people shall vote upon the proposition therein submitted, the expense of such election in all cases to be borne by the applicant.
- C. No franchise shall ever be granted until it has been approved by the City Council, after having been considered at two (2) regular meetings of the City Council, nor shall any such franchise, grant or privilege ever be made unless it provides for adequate compensation or consideration thereafter to be paid to the City.
- D. Every such franchise or grant shall make adequate provision, by way of forfeiture of the grant or otherwise, to secure efficiency of public service at reasonable rates and to maintain the property devoted to the public service in good repair throughout the term of grant of said franchise.
- E. No franchise grant shall ever be exclusive.
- F. The City Council may prescribe the forms and methods of the keeping of accounts of any grantees under franchise, provided that the forms and methods of keeping such accounts have not already been prescribed by a State or Federal Law or Agency.

## **SECTION 8. Retirement or Pensions for Employees**

The City shall have the right to grant to its employees benefits of the Texas municipal retirement system, or any other pension or retirement system available to cities.

## **ARTICLE XIV**

### **FINANCES**

#### **SECTION 1. Fiscal Year**

The fiscal year of the City shall be established by the City Council.

#### **SECTION 2. Budget**

The City Manager shall prepare a budget to cover all proposed expenditures of the City for the succeeding year and such budget shall be presented to the City Council for consideration and approval. Such budget shall be prepared in conformity with state law. No public money shall ever be spent or appropriated, except in case of an emergency, or public calamity, unless funds are currently in the possession of the City to cover said expenditures or appropriation.

### **SECTION 3. Depository**

The City Council is authorized to select one or more depositories for City funds in accordance with state law.

### **SECTION 4. Bonds, Warrants, Etc.**

- (a) The City Council shall have the power and authority by ordinance duly passed, and it is hereby expressly authorized to issue bonds for the purpose of refunding bonds of the City previously issued.
- (b) In keeping with the Constitution of Texas, and not contrary thereto, the City shall have the power to issue all tax bonds, revenue bonds, funding and refunding bonds, warrants, time warrants, revenue warrants, notes, and other evidence of indebtedness as now authorized or as may be hereafter authorized to be issued by cities and towns in accordance with state law.
- (c) In all elections to determine the expenditures of money or the assumption of debt of any nature, qualified voters shall be deemed to be those who are qualified under the general laws of Texas, or by the General Laws of the State of Texas.
- (d) Ordinances authorizing any bonds, warrants, revenue warrants, notes or other evidences of indebtedness to be issued shall provide for the creation of a sinking fund sufficient to pay the principal and interest of such bonds when and as the same become due and payable. Such sinking fund, in excess of the amount necessary to pay the principal and interest of the bonds when and as the same become due and payable, may each year be invested, in accordance with state law.
- (e) Any officer or agent of the City who shall unlawfully or knowingly divert or use said funds or cause or permit same to be diverted or used for any other purpose except that for which the fund is created or herein expressly authorized to be invested shall be deemed guilty of a felony and subject to prosecution as provided under the general laws of the State of Texas.
- (f) What is known as "Bond and Warrant Law," the same being Article 2368a of Vernon's Civil Statutes of Texas, and being the Acts of 1931 Legislature, Page 269, Chapter 163, and all amendments thereafter made or that may be hereafter made, which are applicable to cities and towns, are hereby adopted by the City.

### **SECTION 5. Audit and Examination of City Books and Accounts**

The City Council shall cause an annual audit to be made of the books of accounts of each and every department of the City in accordance with state law. Such audit shall be made by certified public accountants who shall be selected by the City Council, and a contract entered into from year to year; and such contract shall provide that the books of the City shall be audited at least

annually, and such auditors' report to the City Council shall be accessible to the public or for publication.

## **ARTICLE XV.**

### **TAXES AND TAXATION**

#### **SECTION 1. Tax Administration**

- A. The City may require the Finance Director to assess and collect taxes. The Finance Director shall be the City Tax Assessor and Collector and shall be appointed by the City Manager. The Tax Assessor and Collector shall provide a bond with such sureties and in such amount as the City may require. The City shall pay the premiums on such bond. The City Council may provide for such services by contract.
- B. The City Council shall have the power, and is hereby authorized, to levy, assess, and collect annual taxes not to exceed the maximum limit set by the Constitution and laws of the State of Texas, as they now exist or as they may be amended, on each One Hundred Dollars (\$100.00) assessed valuation of all property having a location within the corporate limits of the City and not exempt from taxation by the Constitution and laws of the State of Texas.
- C. All taxes due the City shall be payable to the City and may be paid at any time after the tax rolls for the year have been completed and approved. All such taxes not paid prior to the due date shall be deemed delinquent and shall be subject to such penalty and interest as may be provided by law.
- D. Failure to levy and assess taxes through omission in preparation of the approval tax rolls shall not relieve the person, firm or corporation so omitted from the obligation to pay such current or past due taxes shown to be payable by recheck of the rolls and receipts for the years in question, unless otherwise provided by law.

#### **SECTION 2. Tax Liens, Liabilities and Suits**

- A. All property having its location in the City on January 1<sup>st</sup> of each year shall stand charged with a lien in favor of the City from said date for the taxes due thereon. The lien provided hereby shall be superior to all other liens except other tax liens, regardless of when such other liens were created. All persons purchasing any of said property on or after January 1<sup>st</sup> in any year shall take the property subject to the lien herein provided. In addition to the lien herein provided on January 1<sup>st</sup> on any year, the owner of property subject to taxation by the City shall be personally liable for the taxes due thereon for such year. The City Council shall have the power to contract for the collection of delinquent taxes owing to the City.
- B. 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 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 to be assessed, to prove the same, and to have its judgment foreclosing the tax lien and/or for personal judgment against the owner for such taxes as such ownership and property appears on the certified tax roll.

## **ARTICLE XVI.**

### **MUNICIPAL COURT**

#### **SECTION 1. Creation and Jurisdiction**

The City Council shall establish and cause to be maintained a Municipal Court. The Court shall have all the powers and duties as are now, or as may be, prescribed by the laws of the State of Texas.

- A. The City Council shall appoint, by the affirmative vote of a majority of the membership of the City Council, such Municipal Judges of the Municipal Court, as may be necessary, all of whom shall be competent, duly qualified attorneys licensed and practicing for at least five (5) years in the State of Texas. In the event a duly qualified attorney is not available, the City Council shall then select a qualified person to be the Municipal Judge. The Municipal Judge(s) of the Municipal Court(s) shall be appointed to a term in accordance with state law. The Municipal Judge(s) shall receive compensation as may be determined by the City Council.
- B. Municipal Judge shall have the power to punish for contempt to the same extent and under the same circumstance as the Justice of the Peace may punish for contempt of criminal cases.
- C. The Clerk and Deputy Clerks of the Municipal Court(s) shall have the power to administer oaths, certify affidavits, make certificates, affix the seal of the Court and perform all usual and necessary acts in conducting the business of the Court(s), including but not limited to, the keeping of records and accounts of the Municipal Court(s).
- D. All special expenses and fines imposed by the Municipal Court(s) shall be paid into the City Treasury for the use and benefit of the City, as may be consistent with present and future laws.

## **ARTICLE XVII.**

### **BUILDING REGULATIONS**

#### **SECTION 1. General**

The City may regulate the erection, building, placing, moving or repairing of buildings or other structures, within such limits of the City as it may designate and prescribe, in order to guard against the calamities of fire, flood, or windstorm, and may within said limits prohibit the moving or putting up of any building or other structure from without said limits, and may also prohibit the removal of any building or other structure from one place to another within said limits, and may direct that all buildings or other structures within the limits so designated as aforesaid shall be made or constructed of fire-resistant materials, and may declare any dilapidated building or structure to be a nuisance and direct the same to be repaired, removed or abated in such manner as they shall direct; to declare all buildings and other structures in the fire limits which they deem dangerous to contiguous buildings, or in causing or promoting fires, to be nuisances, and require and cause the same to be removed in such manner as they shall prescribe.

#### **SECTION 2. Building Lines**

The City shall have the power, for the purpose of promoting the public health, safety, order, convenience, prosperity and general welfare, acting through its governing body, under the public power, to provide by suitable ordinance building lines on any street or streets, or any block of any street or streets, and to require their observance by suitable penalties.

## **ARTICLE XVIII.**

### **PLANNING AND ZONING**

#### **SECTION 1. In General**

The City Council shall have full power and authority to zone the City and to pass all necessary ordinances, rules, and regulations governing the same under and by virtue of the authority given to cities and legislative bodies thereof under state law. .

#### **SECTION 2. Zoning Ordinance**

The zoning ordinance of the City of Alamo Heights, Texas, which is in effect at the time of the adoption of this Charter, shall remain in effect. The City Council will have the authority to repeal, amend, modify, or rewrite the Zoning Ordinance in compliance with the provisions of the Texas Local Government Code.

### **SECTION 3. Planning and Zoning Commission**

The City Council shall pass appropriate ordinances establishing a Planning and Zoning Commission, which commission shall have the powers and authorities as set forth in the Texas Local Government Code, as amended, and such additional powers and privileges as given by this Charter and as may be given to it by the City Council. Such ordinances shall provide for rules and regulations governing the Planning and Zoning Commission.

The Mayor from time to time shall appoint up to twelve (12) persons to serve on the Planning and Zoning Commission, which appointments, shall be subject to the approval of the City Council. The persons so appointed shall serve for two years or until their successors are appointed and qualified or unless removed by the Council. Said persons serving on the Commission shall serve without pay.

### **SECTION 4. Board of Adjustment**

The City Council shall establish by ordinance a Board of Adjustment which shall have all the powers and privileges set forth in the Texas Local Government Code, and such additional powers and privileges as may be assigned to it by ordinance duly passed by the City Council.

The members of the Board of Adjustment shall be appointed by the Mayor, subject to the approval of the City Council in accordance to the Texas Local Government Code.

## **ARTICLE XIX.**

### **RECALL OF OFFICERS**

#### **SECTION 1. Scope of Recall**

The Mayor or any member of the City Council shall be subject to recall and removal from office by the qualified electors of the City as in this Charter provided.

#### **SECTION 2. Petitions for Recall**

Before the question of recall of such officer shall be submitted to the qualified electors of the City, a petition demanding such question to be so 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 twenty percent (20%) of the number of votes cast at the last regular municipal election of the City, but in no event less than 300 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 of place of residence, and shall also write thereon the day of the month and year his signature was affixed.

**SECTION 3. Form of Recall Petition**

The recall petition mentioned above must be addressed to the City Council of the City of Alamo Heights, and must distinctly and specifically point out the ground or grounds upon which such petition for removal is predicated, and if there be more than one 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 he is charged. The signatures shall be verified by oath in the following form:

“STATE OF TEXAS           §  
  
COUNTY OF BEXAR       §

“I, \_\_\_\_\_, being first duly sworn, on oath depose and say that I am one of the signers of the above petition; 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 whose name it purports to be.

\_\_\_\_\_  
Notary Public in and for Bexar County, Texas”

**SECTION 4. Various Papers Constituting Petition**

The petition may consist of one or more copies, or subscription lists, circulated separately, and the signatures thereto may be upon the paper, or papers containing the form of petition, or upon other papers attached thereto. Verification provided for in the next preceding section of this Article may be made by one or more petitioners, and the several parts, or copies of the petition may be filed separately and by different persons; but no signatures to such petition shall remain effective to be counted which were placed thereon more than thirty days prior to the filing of such petition or petitions with the person performing the duties of City Secretary. All papers and documents comprising a single petition, that is, all papers comprising a recall petition, shall be filed with the person performing the duties of City Secretary on the same day, and said Secretary shall immediately notify, in writing, the officer so sought to be removed.

**SECTION 5. Certificate to Petition**

At the next regular meeting of the City Council after the date of the filing of the papers constituting the recall petition, the person performing the duties of City Secretary shall present such petition to the City Council of the City of Alamo Heights.

**SECTION 6. Election to be Called**

If the officer, whose removal is sought, does not resign within five (5) days after such recall petition shall have been duly presented to the City Council of the City of Alamo Heights as provided in the next preceding section of this Article, then it shall become the duty of said City Council to order an election and fix a date for holding such recall election; and the date of which election shall be in accordance with state law.

**SECTION 7. Recall Election Form of Ballot**

The form of ballot to be used at such recall election shall be as follows:

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

Immediately following the above question there shall be provided on the ballot, in separate lines, in the order here set out, the words:

“FOR the recall of (name of person).”

“AGAINST the recall of (name of person).”

Should a majority of the votes cast at such recall election be for the recall of such officer named on the ballot, he shall be deemed removed from office. Should a majority of the votes cast at such recall election, however, be against the recall of the officer named on the ballot, such officer shall continue in office for the remainder of his term.

**SECTION 8. Recall, Restrictions Thereon**

No recall petition shall be filed against any elective officer of the City of Alamo Heights within six months after his election, nor within six (6) months after an election for such officer’s recall.

**SECTION 9. Failure of City Council To Call An Election**

In case all of the requirements of this Charter shall have been met and the City Council shall fail or refuse to receive the recall petition, or order such recall election, or discharge any other duties imposed upon said City Council by the provisions of this Charter with reference to such recall, then the County Judge of Bexar County, Texas, shall discharge any of such duties herein provided to be discharged by the City Council.

**SECTION 10. One or More Officers May be Recalled at Same Election**

The Mayor and/or one or more Council Members may be recalled at the same election; and, if in such recall election there shall as a result of such election, remain the Mayor or one or more Council Members who are not recalled, then the Mayor, Council Member or Council Members not recalled shall discharge all of the duties incumbent upon the governing body of said City until the vacancy or vacancies created at such recall elections are filled by an election for that

purpose; but if in any proposed recall election it is proposed and submitted to recall all the members constituting said City Council, then there shall be submitted in the recall petition the names of candidates to fill the vacancies proposed to be created by such election and their names shall be placed upon the ballot; but the name of such officers proposed to be recalled shall not appear on the ballot as candidates.

#### **SECTION 11. Vacancies in City Council Due to Recall, How Filled**

If at any recall election it is not proposed and submitted to recall all of the members constituting said City Council, but only one or more and fewer than all, and such election shall result in favor of the recall of one or more of said officers proposed to be recalled, then it shall be the duty of the remaining member or members not recalled and constituting the governing body of the City, within five (5) days after such election is held, to meet, canvass the returns, declare the result of the election, and on the same date order an election to fill such vacancy or vacancies; which election shall be held in accordance with state law. No vacancy caused by recall shall be filled by the City Council of the City of Alamo Heights, but only by election.

### **ARTICLE XX.**

#### **SAVING CLAUSE, ETC.**

All powers granted heretofore to cities are hereby preserved. In case of any irreconcilable conflict between the provisions of this Charter and any superior law, the powers of the City and its officers shall be defined in such superior laws. In case of any insufficiency or omission by this Charter, which insufficiency or omission may be supplied by reference to the general laws, such provisions of the general laws are hereby adopted, and the City shall have and exercise all of the powers that it could have acquired by expressly adopting and incorporating into this Charter all of the provisions of such superior and general laws, it being the intent of this Charter that no lawful power of the City shall fall because of any omission, insufficiency or invalidity of any portion or portions of this Charter. The insufficiency or invalidity of any portion or portions of this Charter shall not in any wise affect the remainder of the Charter, but the same shall be construed as if adopted without such portion and/or portions so found invalid or impotent.