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***Editor's note**—The charter of the city printed herein was approved by the voters of the city on September 10, 1949. In addition to annexation ordinances, ordinances amending the charter were adopted by referendum. Amendments to the charter are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citation to state statutes has been used. Additions made for clarity are indicated by brackets.

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ARTICLE I. INCORPORATION, FORM OF GOVERNMENT AND TERRITORY**Sec. 1. Incorporation.**

The inhabitants of the City of Alice, within the corporate limits as now established or as hereafter established in the manner provided by this charter, shall continue to be [a] municipal body politic and corporate in perpetuity, under the name of the "City of Alice."

Sec. 2. Form of government.

The municipal government provided by this charter shall be known as the "council-manager government." Pursuant to its provisions and subject only to the limitations imposed by the state constitution and by this charter, all powers of the city shall be vested in an elective council, hereinafter referred to as "the council," which shall enact local legislation, adopt budgets, determine policies and employ the city manager, who shall execute the laws and administer the government of the city within the limitations prescribed in this charter. All authority not expressly delegated to the city manager herein shall be reserved to and exercised by the council. All powers of the city shall be exercised in the manner prescribed by this charter, or if the manner is not prescribed, then in such manner as may be prescribed by ordinance.

State law references—Home rule, form of government, V.T.C.A., Local Government Code § 26.001 et seq.; city manager form of government, V.T.C.A., Local Government Code § 25.001 et seq.

ARTICLE II. CORPORATE AND GENERAL POWERS**Sec. 3. Boundaries.**

The bounds and limits of the City of Alice are hereby established and described as follows:

Beginning at a point where the centerline of the Southern Pacific Railroad tracks crosses the centerline of the San Diego Creek, from which point the intersection of the Southern Pacific Railroad tracks and the Tex-Mex Railroad tracks bears South 6688.4 feet; thence with the meanders of the San Diego Creek upstream to a point where said San Diego Creek crosses the west line of Goliad Street for the most northwest corner of this tract; thence south along the west boundary line of Goliad Street 743.3 feet to a point for the northeast corner of a 10.0 acre tract in the name of Humble Pipe Line Company for an inside corner of this tract; thence west along the north line of Humble Pipe Line Co. 10.0 acre tract 660 feet to an iron pipe set for an inside corner of this tract; thence south 5123.7 feet to a point in the centerline of the Tex-Mex Railroad for an inside corner of this tract; from whence the intersection of the Southern Pacific Railroad tracks and the Tex-Mex Railroad tracks bear north 79 deg. 08' east 3729 feet; thence south 79 deg. 08' west along the centerline of the Tex-Mex Railroad 233.9 feet to the beginning of a curve to the right for a corner of this tract; thence with said centerline of the Tex-Mex Railroad around a curve to the right as follows: south 80 degrees 21' west 100 feet; south 84 deg. 1' west 100 feet; north 89 deg. 53' west 100 feet; north 84 deg. 17' west 70.9 feet to a point for a lower northwest corner of this tract;

thence south along the west line of the Atkinson Addition 1256.7 feet to a point for the southwest corner of Block No. 1 of said Atkinson Addition for an upper southwest corner of this tract; thence east along the south line of Block No. 1 and Block No. 2 of Atkinson Addition 688.8 feet to a point in the west line of South Gulf Street for a corner of this tract; thence south along the west boundary line of South Gulf Street 116.7 feet to a point for an outside corner of this tract; thence east 1286.8 feet to a point in the western boundary line of State Highway No. 66 for an inside corner of this tract; thence south 33 deg. 35' east along the southwestern boundary line of State Highway No. 66, 790.85 feet to a concrete right-of-way marker for a corner of this tract; thence south 0 deg. 51' west along west boundary line of South Johnson Street 100.6 feet to a stake, the northeast corner of Herrera Addition No. 2, for a corner of this tract; thence west along the north boundary line of Herrera Addition No. 2, 841.5 feet to a stake for the northwest corner of Herrera Addition No. 2 for a corner of this tract; thence south 0 deg. 58' west along the west line of said Herrera Addition No. 2 and Herrera Addition No. 1, 772.5 feet to an iron rod set for the southwest corner of Herrera Addition No. 1, for a lower southwest corner of this tract; thence east along the south boundary line of Herrera Addition No. 1, 842.98 feet to an iron rod set in the west boundary line of South Johnson Street for the southeast corner of Herrera Addition No. 1 for an inside corner of this tract; thence south 0 deg. 51' west along said west boundary line of South Johnson Street 255.75' to a point in the north line of P.S. Joseph Oil and Gas Lease Subdivision for a corner of this tract; thence east along the south line of what was originally known as R.M. Moore Tract 516 feet to a point for a corner of this tract; thence south 33 deg. 35' east 1231.8 feet parallel to and 200 feet from State Highway No. 66, to a point for a corner of this tract; thence south 30 deg. 35' east 128.0 feet to a point for a westerly corner of this tract; thence east 340.8 feet to a point in the northeast boundary line of State Highway No. 66, which point also lies on the southwest boundary line of the Humble 0.43 acre tract for a corner of this tract; thence south 25 deg. 21' east 44.7 feet for a corner of this tract, a point on the southwest boundary line of Humble 0.43 acre tract; thence south 23 deg. 51' east 40 feet measured along the southwest boundary line of Humble 0.43 acre tract to the southwest corner of Humble 0.43 acre tract for a corner of this tract; thence east 75 feet measured along the south line of said Humble 0.43 acre tract to the southeast corner of said Humble 0.43 acre tract for a corner of this tract; thence north along the east boundary line of Humble Oil and Refining Company's 0.43 acre tract and the west boundary line of old State Highway No. 66 77.0 feet for an inside corner of this tract; thence east 120 feet passing the centerline of the Southern Pacific Railroad tracks at 735 feet a point in the existing city limit line for an inside corner of this tract; thence south 407.2 feet along the east line of the northwest quarter of Farm Block No. 130 to a point the southeast corner of the northwest quarter of Farm Block No. 130 for a corner of this tract; thence west along the north line of San Jose Addition and the south line of Aransas Pass Railroad 6.0 acre tract 615.0 feet to a point in the centerline of Southern Pacific Railroad for a corner of this tract; thence south along the centerline of said Southern Pacific Railroad 1505.5 feet to a point for a southwesterly corner of this tract; thence east along the south boundary line of a 60-foot street 615.0 [feet] to an inside corner of this tract; thence south 261.7 feet for a corner of this tract; thence east 625.0 feet to a point in the east boundary line of South

Reynolds Street and the west boundary line of [Jesus] Lopez Addition for an inner corner of this tract; thence south along the east line of South Reynolds Street and the west line of Jesus Lopez Addition 642.0 feet to a point, the southwest of Jesus Lopez Addition, the southwest corner of Farm Block 144, for a lower southwest corner of this tract; thence east along the south boundary line of Jesus Lopez Addition and the south boundary line of Farm Block No. 144, 1080.0 feet to a point, the southwest corner of Farm Block No. 145 for a lower southeast corner of this tract; said point being on the east boundary line of South Cameron Street. Thence north along the east boundary line of South Cameron Street at 479.4 feet passing the southeast corner of existing city limits at 3807.4 feet to the southwest corner of South Cameron Addition to an inner corner of this tract; thence east along the south boundary line of South Cameron Addition 971.0 feet to an iron pipe set for the southeast corner of said South Cameron Addition for a lower southeast corner of this tract; thence north along the east boundary line of South Cameron Addition 636.3 feet to an iron pipe set in the south boundary line of Farm Block 152 for the northeast corner of South Cameron Addition for an inside corner of this tract; thence east along the south line of Farm Block 152, 749.0 feet to the east line of Farm Block 152-K, the same being the east line of the La Vaca Grant and the west line of the Los Presenos Grant, for a lower southeast corner of this tract; thence north along the east line of Farm Block 152-K and the east line of the La Vaca Grant, the same being the west line of the Los Presenos Grant, 263.7 feet for an inside corner of this tract; thence north 79 deg. 3; min; east along the south line of Lot 7, Block S of the N.G. Collins Farm Lots 1138 feet to the southeast corner of Lot 7, Block S, being also the west boundary line of Nopal Street (unopened) for a southeast corner of this tract; thence north 10 deg. 58' west along the west boundary line of Nopal Street (an unopened 30 feet [sic] street) and the east lines of Lots 7, 8, and 9 in Block S of the N.G. Collins Farm Lots 2416 feet to a point for a corner. Thence west 61 feet to an iron pipe for the southeast corner of E. Buena Vista Addition for a corner of this tract in the east boundary line of Lot 5, Block V of the N.G. Collins Farm Lot Subdivision; thence north 10 deg. 58' west along the east boundary line of Lot 5, Block V, of the N.G. Collins Farm Lots at 1525 feet past the northeast corner of Lot 5, Block V of the N.G. Collins Farm Lots at 1575 feet the centerline of the Tex-Mex Railroad; thence north 79 deg. 8' east 2919.75 feet along the centerline of the Tex-Mex Railroad to a point for a southeast corner of this tract, from whence the intersection of the Tex-Mex Railroad tracks and the Southern Pacific Railroad tracks in the City of Alice bears south 79 deg. 8' west 7326.15 feet; thence north 10 deg. 57' west 1764.97 feet to a stake set in the north boundary line of State Highway No. 44; thence north 52 deg. 11' east along the north boundary line of State Highway No. 44 3218.0 feet to the southeast corner of Hillcrest Estates Addition to the City of Alice, Jim Wells County, Texas, for a southeast corner of this tract; thence north 12 deg. 47' west 1549.13 feet to an iron rod set for the northeast corner of this tract; thence south 70 deg. 3' west at 1461.6 feet to an iron rod set for the northwest corner of Hillcrest Estates Addition for a northwest corner of this tract; thence south 10 deg. 57' east along the west boundary line of Hillcrest Estates 1991.24 feet to a northeast corner of Lassiter Park Addition for an inside corner of this tract; thence south 79 deg. 3' west along the south boundary line of an unopened 40-foot road at 1355 feet the northwest corner of said Lot 9 Block 5 at 2045 feet intersecting the present boundary

line of the City of Alice for an inside corner of this tract; thence north 10 deg. 57' west 1366.2 feet to a point in the north line of Lot 4 Block 4 of the Adams-Presnall Farm Lot Subdivision for an upper northeast corner of this tract; thence south 79 deg. 3' west at 609.5 feet past an iron pipe set for the northeast corner of Lot 3 Block 4 for the northwest corner of Lot 3 Block 4 of the Adams-Presnall Farm Lot Subdivision, at 1735.8 feet to an iron pipe set in the east boundary line of Texas Boulevard for the northwest corner of Lot 3 Block 4 for an inside corner of this tract; thence north along the east boundary line of Texas Boulevard and the west boundary line of Lot 2 Block 4 of the Adams-Presnall Farm Lot Subdivision and the west boundary line of Lot 5 Block 3 Adams-Presnall Farm Tracts, 2057.36 feet to a stake set for the southwest corner of the Kathaleen Heights Addition to the City of Alice. Jim Wells County, Texas, according to the map thereof of record in Volume 3 page 72 of the map records of Jim Wells County, Texas; thence north 79 deg. 3' east 755.0 feet to a stake set for the southeast corner of Lot 5, Block 2, of said Kathaleen Heights Addition for an upper southeast corner of this tract; thence north 10 deg. 57' west 360 feet to a stake set in the north line of Gramercy Drive, for a corner of this tract; thence north 79 deg. 3' east 69.65 feet to a stake set for the southeast corner of Lot 5 Block 1 Kathaleen Heights Addition for a corner of this tract; thence north 10 deg. 57' west 300 feet to a stake set for the northeast corner of Lot 5 Block 1 Kathaleen Heights Addition, also being the north line of Lot No. 6 Block 3 Adams-Presnall Farm Tracts for an upper northeast corner of this tract; thence south 70 deg. 3' west along the north line of said Kathaleen Heights Addition 697 feet to a stake set for the northwest corner of Kathaleen Heights Addition, also being the northwest corner of Lot 5, Block 3 Adams-Presnall Farm Tracts; thence west 100 feet across Texas Boulevard to a stake set in the west boundary line of Texas Boulevard for an upper northwest corner of this tract, also being the east boundary line of Farm Block No. 51; thence south along the west boundary line of Texas Boulevard 886.46 [feet] to a stake set for the northeast corner of Smith Addition to the City of Alice, Jim Wells County, Texas, for a corner of this tract, from whence the northeast corner of Farm Block No. 50 bears south 336.0 feet; thence west along the north line of Smith Addition, 1615.5 feet to an iron rod set in the east boundary line of North Cameron Street for a corner of this tract; thence north along the east boundary line of Cameron Street 137.0 feet to a point in the center of San Diego Creek for the most northeast corner of this tract; thence with the meanders of the San Diego Creek in a westerly direction to a point where the centerline of Southern Pacific Railroad crosses said San Diego Creek for the place of beginning. All of said land is located in Jim Wells County, Texas.

Editor's note—The territory of the city at the present time is as described in the above section, as subsequently changed according to law. A table of annexations is found below:

TABLE OF ANNEXATIONS

<i>Amount Annexed</i>	<i>Requested By</i>	<i>Planning and Zoning Commission</i>	<i>Call Hearing</i>	<i>Legal Notice</i>	<i>Public Hearing</i>	<i>Ordinance No. /Date</i>
(1) 16.5 acres Low Rise					01-09-1967	01-09-1967

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<i>Amount Annexed</i>	<i>Requested By</i>	<i>Planning and Zoning Commission</i>	<i>Call Hearing</i>	<i>Legal Notice</i>	<i>Public Hearing</i>	<i>Ordinance No. /Date</i>
(2) 4.492 acres	Fred Erck 10-16-1968 (Fee pd. 11-06-1968)	10-17-1968	10-28-1968	11-07-1968	11-25-1968	11-25-1968
(3) 6.40 acres Hillcrest #5	Atkinson Estate				10-13-1969	10-13-1969
(4) 6.227 acres Hillcrest #6	Ray Tolson 04-08-1971	04-13-1971	04-26-1971 05-06-1971	04-29-1971	05-10-1971	05-10-1971
(5) 443.55 acres	City	08-19-1971	08-23-1971	08-26-1971 09-02-1971	09-13-1971 recessed 09-20-1971 09-27-1971 tabled 10-11-1971 approved	10-25-71
(6) 113.17 acres	City (part of #5 annexation, was left off ordinance)	08-19-1971	12-13-1971	12-26-1971 01-02-1972	01-10-1972	01-24-1972
(7) 11.20 acres				07-30-1978	08-14-1978	09-11-1978
(8) 8.7485 acres Stonegate #1	Mar-Bren Corp. 08-29-1979	08-15-1979			11-12-1979	11-26-1979
(9) 991 acres	City		01-21-1980 recessed 01-28-1980 02-11-1980	02-14-1980 02-24-1980	02-25-1980	03-10-1980
(10) 8.993 acres Stonegate #2	Mar-Bren Corp. 08-07-1980	08-19-1980	09-08-1980	10-17-1980	10-30-1980	11-24-1980
12.4561 acres Stonegate #3	Mar-Bren Corp. 08-07-1980	08-19-1980		10-17-1980	10-30-1980	11-24-1980
(11) 3.24 acres Wal-Mart	Enviro-Tech- nics ltd.	2-17-1981	2-23-1981	(10—20 days) 2-26-1981	(20-40 days) 3-09-1981	3-26-1981
(12) 10.6227 acres	Mar-Bren (Stonegate #4)	4-21-1981	5-11-1981	5-22-1981 ta- bled 6-26-1981	7-13-1981	7-27-1981
(13) 7.09 acres	Smith En- ergy	11-17-1981	11-23-1981	12-20-1981 12-27-1981	1-04-1982 1-11-1982	2-08-1982
(14) 18.0070 acres	Rex Lee Blado (Future Es- tates)	12-15-1981	1-11-1982	1-21-1982 1-24-1982	2-01-1982 2-08-1982	3-22-1982
(15) 4.00 acres	Gregorio E. Gonzalez Triple G Sub- division	1-18-1983	2-28-1983	3-09-1983 3-16-1983	3-21-1983 3-28-1983	4-25-1983
(16) 5.0407 acres	James Dean (Stonegate #5)	1-17-1984	1-23-1984	1-27-1984	2-13-1984	3-12-1984

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<i>Amount Annexed</i>	<i>Requested By</i>	<i>Planning and Zoning Commission</i>	<i>Call Hearing</i>	<i>Legal Notice</i>	<i>Public Hearing</i>	<i>Ordinance No./Date</i>
(17) 1.017 acres	Newell Atkinson, III (Golden Rule)	8-21-1984	8-27-1984	8-29-1984	9-10-1984	10-08-1984
(18) 0.9230 acres	Pool Company	1-15-1985	1-14-1985	1-18-1985	1-28-1985	2-25-1985
0.9647 acres	Alice Farming Corp (Alice Energy Park)	1-15-1985	1-14-1985	1-18-1985	1-28-1985	2-25-1985
(19) 0.37 acres	Newell Atkinson, III	2-4-1986	2-11-1986	2-12-1986	2-24-1986	3-25-1986
3.07 acres	Alice Five Joint Venture					
(20) 1,547 acres				9-6-1987, 9-16-1987	9-21-1987, 9-28-1987	10-27-1987
(21) 57 acres				9-6-1987, 9-16-1987	9-21-1987, 9-28-1987	10-27-1987
(22) 2.0719 acres	Newell Atkinson, III					1471-590 5-29-1990
(23) 39.469 acres						1591-1097 10-13-1997
(24) 22.8271 acres	Newell Atkinson, III					1709 2-24-2003
(25) 0.9339 acres	Vinod Kasan					1710 2-24-2003
(26) 1.9339 acres						1726 5-27-2003
(27) 10.8917 acres	Newell Atkinson, III AFLP Alice Investments, Ltd.					1757 5-17-2004

Sec. 4. Power of the city.

The city shall have all of the powers granted to municipal corporations and to cities by the constitution and laws of the State of Texas, together with all of the implied powers necessary to carry into execution all of the powers granted. The city may acquire property within or without its corporate limits for any city purposes, in fee simple or any lesser interest or estate, by purchase, gift, devise, lease or condemnation, and may sell, lease, mortgage, hold, manage and control such property as its interests may require; and, except as prohibited by the constitution of this state or restricted by this charter, the city shall and may exercise all municipal powers, functions, rights, privileges, and immunities of every name and nature whatsoever. The city may use a corporate seal; may sue and be sued, may contract and be contracted with; may implead and be impleaded in all courts in all matters whatsoever; may cooperate with the government of the State of Texas or any agency thereof, the federal government or any agency thereof, or any political subdivision of the State of Texas, to accomplish any lawful purpose for the advancement of the interest, welfare, health, morals,

comfort, safety and convenience of the city [or] its inhabitants; and may pass such ordinances as may be expedient for maintaining and promoting the peace, welfare and government of the city, and for the performance of the functions thereof. The enumeration of particular powers by this charter shall not be deemed to be exclusive, and in addition to the powers enumerated therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the City of Alice shall have, and may exercise, all powers of local self-government, and all powers enumerated in Chapter 13, Title 28, Revised Civil Statutes of the State of Texas, 1925, and the acts amendatory thereof and supplementary thereto, now or hereafter enacted, or any other powers which, under the constitution and laws of the State of Texas, it would be competent for this charter specifically to enumerate, and also such further powers as may hereafter be granted under the constitution and laws of Texas.

Sec. 5. Extension of city limits upon petition.

Whenever a majority of the qualified voters under the laws of Texas who are citizens of the State of Texas and inhabitants of any territory adjoining the City of Alice, as said territory may be designated by the city council, or in case there are not qualified voters in said territory, then when persons owning fifty (50) percent of the land in an area in said territory, desire the annexation of such territory to the City of Alice, they may present a written petition to that effect to the city clerk. The signatures to the petition need not be appended to one paper, but each signer shall sign his or her name in ink or indelible pencil, and each signer signing the petition as a voter shall sign his or her name as it appears on the official copy of the current poll list or an official copy of the current list of exempt voters and each voter shall note on such petition his or her residence address and the precinct number and serial number that appear on his or her poll tax receipt, exemption certificate, or such other voter registration certificate that may be provided for by law. Each landowner signing the petition shall note thereon opposite his or her name the approximate total acreage he or she owns within the territory. The petition shall describe the territory to be annexed and have attached to it a plat of the territory. Prior to circulating the petition for annexation among the voters and landowners, notice of the petition shall be given by means of posting for ten (10) days a copy of the petition in three (3) public places in the territory and by publishing it for one (1) issue in a newspaper of general circulation serving the territory at least fifteen (15) days prior to the circulation of the petition. Proof of posting and publication of the notice shall be made by attaching to the petition presented to the city secretary or clerk: (1) The sworn affidavit of any voter who signed the petition, stating the places where and the dates when the petition was posted; and (2) the sworn affidavit of the publisher of the newspaper setting forth the name of the newspaper and the issue and date when the notice was published; (3) in addition, there shall be attached to the petition the sworn affidavit of three (3) or more voters signing the petition, if there be that many, stating the total number of voters residing in the territory and the approximate total acreage within the territory. Thereafter, the city council shall provide an opportunity for all interested persons to be heard at a public hearing to be held not more than twenty (20) days nor less than ten (10) days prior to institution of annexation proceedings. Notice of such hearing shall be published in a newspaper having general circulation in the city and in the territory proposed to be annexed. The notice shall be published at least once in such newspaper

not more than twenty (20) nor less than ten (10) days prior to the hearing. Additional notice by certified mail should be given to railroad companies then serving the City of Alice and on said city's tax roll where the right-of-way thereof is included in the territory to be annexed. Annexation of such territory shall be brought to completion within ninety (90) days of the date of [on] which the city council institutes annexation proceedings or be null and void. Provided, however, any period of time during which the City of Alice may be restrained or enjoined from annexing any such territory by a court of competent jurisdiction shall not be computed in such ninety-day limitation period. After hearing as above provided, the city council at regular or special session may by ordinance annex such territory to the City of Alice and thenceforth said territory shall be a part of the City of Alice, and the inhabitants thereof shall be entitled to all rights and privileges of other citizens and shall be bound by the acts, ordinances, regulations and resolutions of said city.

(Referendum of 3-11-1968, § 1)

State law reference—Authority to annex, V.T.C.A., Local Government Code § 43.021 et seq.

Sec. 6. Extension of city limits by city council.

The city council shall have power by ordinance to fix the boundary limits of Alice and to provide for the extension of said boundary limits and the annexation of additional territory lying adjacent to said city, with or without the consent of the territory and inhabitants annexed. The city council shall provide an opportunity for all interested persons to be heard at a public hearing to be held not more than twenty (20) days nor less than ten (10) days prior to the institution of annexation proceedings. Notice of such hearing shall be published in a newspaper having general circulation in the city and in the territory proposed to be annexed. The notice shall be published at least once in such newspaper not more than twenty (20) days nor less than ten (10) days prior to the hearing. Additional notice by certified mail should be given to railroad companies then serving the city and on the city's tax roll where the right-of-way thereof is included in the territory to be annexed. Any citizen of Alice or of the territory to be annexed shall have the right to contest said annexation by filing with the city council a written petition setting out his reasons for said contest and after such citizen shall have been given an opportunity to be heard, said ordinance, in original or amended form, as said city council in its judgment may determine, shall be finally passed, and the territory, if annexed shall be part of Alice and the inhabitants thereof shall be entitled to all rights and privileges of other citizens and shall be bound by the acts, ordinances, resolutions and regulations of said city. Annexation of territory by the city shall be brought to a completion within ninety (90) days from the date on which the governing body of such city institutes annexation proceedings or be null and void. Provided, however, any period of time during which the City of Alice may be restrained or enjoined from annexing any such territory by a court of competent jurisdiction shall not be computed in such ninety-day limitation period.

(Referendum of 2-23-1981, § 1)

Sec. 7. Eminent domain.

The city shall have the full right, power and authority to exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this

charter, or by the constitution and laws of the State of Texas. The city may exercise the power of eminent domain in any other manner now or hereafter authorized or permitted by the constitution and laws of this state, or in the manner and form that may be provided by ordinance of the governing body of the city. The power of eminent domain hereby conferred shall include the right of the city to take the fee in the lands so condemned and such power and authority shall include the right to condemn public property for such purposes. The city shall have and possess this power of condemnation of property within or without the corporation limits [for] any municipal or public purpose, even though not specifically enumerated in this charter.

Sec. 8. Establishment and control of streets.

The City of Alice shall have the power to lay out, establish, open, alter, widen, lower, extend, grade, abandon, discontinue, abolish, close, care for, pave, supervise, maintain and improve streets, alleys, sidewalks, parks, squares, public places and bridges, and to regulate the use thereof and require the removal from streets, sidewalks, alleys and other public property or places of all obstructions and all fruit stands, showcases and encroachments of every nature or character upon any of said streets and sidewalks.

Sec. 9. Street improvements.

The City of Alice shall have exclusive dominion, control and jurisdiction in, upon, over and under the public streets, avenues, alleys and highways of the city, and may provide for improvement thereof by paving, repaving, raising, draining or otherwise. The provisions of Article 1105b, Revised Civil Statutes of Texas, 1925, together with existing amendments and all such amendments as hereafter may be made, and acts supplementary thereto, now or thereafter enacted are expressly adopted and are made a part of this charter. Such exclusive dominion, control and jurisdiction in, upon, over and under the public streets, avenues, 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.

Sec. 10. Garbage disposal.

The city council shall have the right by ordinance to adopt and prescribe rules and regulations for the handling and disposition of all garbage, trash and rubbish within the City of Alice, and shall further have the right to fix charges and compensation to be charged by the city for removal of garbage, trash and rubbish, and to provide rules and regulations for the collection thereof.

Sec. 11. Corporation [Municipal] court.

There shall be a court for the trial of misdemeanor offenses known as the Corporation [Municipal] Court of the City of Alice, which shall have the jurisdiction, powers and duties given and prescribed by the laws of the State of Texas.

State law reference—Municipal courts, V.T.C.A., Government Code § 29.001 et seq.

Sec. 12. Hospital; operation.

The city shall have the authority to acquire, establish and own, either by purchase, donation, bequest or otherwise, all property that may be useful or necessary for the purpose of establishing and maintaining a municipal hospital. Such hospital shall be operated by a hospital board, to be appointed by the city council, subject only to such direction and supervision as shall be contained in any ordinance or ordinances duly enacted by the governing body of said city.

The city shall also have the authority to participate in public health facilities in cooperation with the county, state and United States.

Sec. 13. Hospital; finances.

All funds belonging to said hospital, whether classed as funds received in course of operation or otherwise, shall be kept in a separate hospital fund, and shall be used only for the operation and maintenance of said hospital and for no other purpose, except that such funds may be used by the city for general operating purposes with the express consent of the hospital board. The hospital board shall submit a quarterly operating statement to the council, and the hospital's books shall be audited at least once each year by the auditors retained to perform the annual post audit for the City of Alice, unless otherwise ordered by the council.

For budget purposes the hospital shall be considered as a department of the city and appropriations therefor shall comply with all budgetary requirements outlined in this [charter] and as may be prescribed from time to time by the city council. Annual appropriations for the hospital will not be continuing but will revert to the general fund in the same manner as the unspent appropriations of the other departments.

ARTICLE III. THE COUNCIL**Sec. 14. Number, selection, form.**

(a) The city council shall be composed of a mayor and four (4) councilmen, who shall be elected in the manner set forth. A majority of the duly elected and acting city council (being three (3) councilmen not including the mayor) shall constitute a quorum for the transacting of business. Except where applicable state law provides differently, the vote of the majority of the councilmen shall be controlling and any councilman abstaining shall be counted as voting with the majority.

(b) On the first Saturday in April, 1983, and [the first Saturday in May] every two (2) years thereafter on the same date, there shall be elected a mayor and four (4) councilmen, who possess the qualifications prescribed by this charter. The term of office of the mayor and councilmen shall be two (2) years. The members of the city council shall hold office until their successors shall have been elected and qualified.

(c) All elections shall be held and governed by the general laws of the State of Texas, except as herein otherwise provided.

(Referendum of 2-23-1981, § 1)

State law reference—Election date change, V.T.C.A., Election Code § 41.001.

Sec. 15. Qualifications.

Each member of the city council shall be a citizen of the United States of America and a qualified voter of the State of Texas; shall have resided for at least two (2) years next preceding the election at which he is a candidate within the corporate limits of Alice; and shall not be disqualified by reason of any provisions of any other section of this charter. A member of the council ceasing to possess any of the qualifications specified in this section, or convicted of a felony while in office, shall immediately forfeit his office.

(Referendum of 2-23-1981, § 1)

State law reference—Residency requirement not more than 12 months, V.T.C.A., Election Code § 141.003.

Sec. 16. Compensation of members.

The city council may fix the salaries to be received by the mayor and councilmen for their services not [to] exceed one hundred dollars (\$100.00) per month for the mayor and not to exceed fifty dollars (\$50.00) per month for each councilman. Each member of the city council shall be entitled also to all necessary expenses incurred in the performance of his official duties.

Sec. 17. Presiding officer: Mayor.

The mayor shall preside at meetings of the council and 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 shall be entitled to vote upon matters considered by the council only in case of a tie, but shall not be counted as a member of the whole council for purposes of voting requirements prescribed by the applicable state laws. The mayor shall have no veto power. The council shall elect a mayor pro tem who shall act as mayor during the absence or disability of the mayor, and, if a vacancy should occur, shall become mayor until the next regular election.

(Referendum of 2-23-1981, § 1)

Sec. 18. Vacancies.

A vacancy in the office of mayor or in the city council shall be filled by a majority vote of the remaining members of the council, by the selection of a person possessing all of the qualifications prescribed by this charter. Where more than one vacancy shall develop at any one time, a special election shall be called within forty-five (45) days and any vacancy filled in the same manner as herein provided for general elections; provided, however, if such vacancies occur within ninety (90) days of a general election, no special election shall be called.

(Referendum of 2-23-1981, § 1)

Sec. 19. Powers.

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 city council by Chapter 4 of Title 28, Revised Civil Statutes of Texas, 1925, and acts amendatory thereof and supplementary thereto, now or hereafter granted by any other laws of the State of Texas to the city council. Without limitation of the foregoing and among the other powers that may be exercised by the council, the following are hereby enumerated for greater certainty:

- (1) Appoint and remove the city manager.
- (1a) Fix a tax rate.
- (2) Establish other administrative departments and distribute the work of divisions.
- (3) Adopt the budget of the city.
- (4) Authorize the issuance of bonds by a bond ordinance.
- (5) Inquire into the conduct of any office, department or agency of the city and make investigations as to municipal affairs.
- (6) Provide for a planning commission, a zoning commission and a zoning board of adjustment, and appoint the members of all such commissions and boards, and as well the members of the hospital board, if a hospital is established. The planning and zoning commissions may be combined. Such boards and commissions shall have all powers and duties now or hereafter conferred and created by this charter, by city ordinances or by law.
- (7) Adopt plats.
- (8) Adopt, and modify the official map of the city.
- (9) Adopt, modify and carry out plans proposed by the planning commission for the clearance of slum districts and rehabilitation [of] blighted areas.
- (10) Adopt, modify and carry out plans proposed by the planning commission for the replanning, improvement and redevelopment of neighborhoods, and the replanning, reconstruction or redevelopment of any area or district which may have been destroyed in whole or in part by disaster.
- (11) Regulate, license and fix the charges or fares made by any person owning, operating, or controlling any vehicle of any character used for the carrying of passengers for hire or the transportation of freight 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, and provide for the erection of fireproof buildings within certain limits, and for the condemnation of dangerous structures or buildings or dilapidated buildings or buildings calculated to increase the fire hazard, and the manner of their removal or destruction.

- (13) Establish, maintain, and operate an aircraft or airports within or without the city limits and landing fields, radio beams, beacons and other apparatus necessary [therefor] and make suitable charges for their use.

(Referendum of 2-23-1981, § 1)

Sec. 20. Appointment and removal of city manager.

The council shall appoint an officer of the city who shall have the title of city manager and who shall have the powers and perform the duties provided in this charter. No councilman shall receive such an appointment during the term for which he shall have been elected, nor within one year after the expiration of his term.

The salary of the city manager shall be fixed by the city council, and he shall hold office at its will. The action of the council in removing the city manager shall be final, it being the intention of this charter to vest all authority and fix all responsibility for such removal in the city council. During the absence or disability of the city manager, the council shall designate some properly qualified person to perform the duties of the office, except [sic] in case of his temporary absence or disability.

Sec. 21. Council not to interfere in appointments or removals.

Neither the council nor any of its members shall direct the appointment of any person to, or his removal from, office by the city manager or by any of his subordinates; provided, however, that the appointment of department heads shall be subject to the approval of the council. Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the city manager and neither the council nor any member thereof shall give orders to any subordinates of the city manager.

Sec. 22. Rights of the city manager and other officers in council.

The city manager and such other officers of the city as may be designated by vote of the council, shall be entitled to seats in the council, but shall have no vote therein. The city manager shall have the right to take part in the discussion of all matters coming before the council, and other officers shall be entitled to take part in all discussions of the council relating to their respective offices, departments or agencies.

Sec. 23. Administrative departments.

There are hereby created the following administrative departments: Finance, police, fire, public recreation, public works and such other departments as may be established by the council as hereinafter provided.

The council may, if it deems it advisable, consolidate into one department not more than two (2) of the departments hereby established. The council by ordinance may create, change and abolish offices, departments, or agencies established by this charter.

Sec. 24. City clerk.

The city manager shall designate, subject to approval by the council an officer of the city who shall serve as clerk of the council. The clerk shall give notices of its meetings, shall keep the journal of its proceedings, shall authenticate by said clerk's signature and record in full, in a book kept and indexed for the purpose, all ordinances and resolutions, and shall perform such other duties as the city manager shall assign to said clerk and those elsewhere provided for in this charter.

(Referendum of 2-23-1981, § 1)

Sec. 25. City judge.

There shall be a magistrate of the municipal court known as the city judge who shall be appointed by the city council and who shall hold his office at the will of the city council or until his successor is appointed.

The city judge shall be an attorney admitted to the State Bar of Texas and shall have been admitted to the state bar for a period of not less than two (2) years, and shall have resided in the city for a period of not less than six (6) months. He shall receive such salary as may be fixed by the council from time to time. In the event of the failure of the city judge to act for any reason or in the event his services have been terminated and no successor appointed the mayor or mayor pro tem may act in the place and stead of the city judge. The mayor or mayor pro tem while acting as city judge shall receive no compensation. The council may, in addition to appointing a city judge, appoint an alternate city judge to hold office at the will of the council, who may act in the place and stead of the city judge in the event the city judge is for any reason unable to act or in the event the city judge has been removed from his office by the city council. The alternate judge if one is appointed shall receive such compensation for his services as the city council may fix by resolution or ordinance from time to time. All costs and fines imposed by the corporation [municipal] court or by any court in cases appealed from judgments of the corporation [municipal] court, shall be paid into the city treasury for the use and benefit of the city. The corporation shall have twelve (12) terms per year, a new term commencing on the first day of each calendar month and ending on the last day of that calendar month.

(Referendum of 3-11-1968, § 1; Referendum of 2-23-1981, § 1)

State law reference—Municipal judge, V.T.C.A., Government Code §§ 29.005, 29.011.

Sec. 26. City attorney.

The city council shall appoint a competent and duly licensed attorney practicing in the City of Alice, who shall be its city attorney. He shall receive for his services such compensation as may be fixed by the council and shall hold his office at the will of the city council and until his successor is appointed.

The city attorney shall represent the city in all litigation. He shall be the legal advisor of and attorney and counsel for the city and all officers and departments thereof.

The city attorney shall have power to appoint an assistant if deemed necessary by him, subject to the approval of the city council, at such compensation as may be fixed by the council, and more than one assistant if deemed necessary by the council; such assistant or assistants to hold office at the will of the city attorney, so long as he remains such.

Editor's note—As instructed by the city, the word "in" has been removed after "appoint" in the first line of the above section.

Sec. 27. Induction into office; meetings.

On the second Wednesday next following each regular municipal election held under this charter, or sooner, provided such election shall be held within the time period authorized by applicable statutes, or any special election for the purpose of filling vacancies in the council, the council shall meet at the usual time and place for holding meetings, and the newly elected members shall qualify and assume the duties of office. Thereafter the council shall meet regularly at such times as may be prescribed by its rules but not less frequently than once each month. All meetings of the council shall be open to the public, except to the extent permitted by the applicable state and federal laws and regulations; special meetings shall be called by the city clerk upon request of the mayor, city manager or a majority of the members of the council. (Referendum of 2-23-1981, § 1)

State law reference—Open meetings law, V.T.C.A., Government Code § 551.001 et seq.

Sec. 28. Council to be judge of qualifications of its members.

The council shall be the judge of the election and qualifications of its members and for such purpose shall have power to subpoena witnesses and require the production of records, but the decision of the council in any such case shall be subject to review by the courts.

Sec. 29. Rules of procedure: journal.

The council shall determine its own rules and order of business. It shall keep an indexed journal of its proceedings and the journal shall be open to public inspection.

State law reference—Public records, V.T.C.A., Government Code § 552.001 et seq.

Sec. 30. Ordinances.

In addition to such acts of the council as are required by statute or by this charter to be by ordinance, every act of the council establishing a fine or other penalty or providing for the expenditure of funds or for the contracting of indebtedness shall be by ordinance. The enacting clause of all ordinances shall be[:] "BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALICE."

Sec. 31. Procedure for passage of ordinances.

Every ordinance shall be introduced in written or printed form, and upon passage, shall take effect at the time indicated therein; provided that any ordinance imposing a penalty, fine or forfeiture for a violation of its provisions shall become effective not less than ten (10) days after the date of its passage. The city clerk shall give notice of the passage of every ordinance

imposing a penalty, fine or forfeiture for a violation of the provisions thereof, by causing the caption or title, including the penalty, of any such ordinance to be published in the official newspaper of the City of Alice at least twice within ten (10) days after the passage of said ordinance. He shall note on every ordinance, the caption of which is hereby required to be published and on the record thereof, the fact that same has been published as required by charter, and the date of such publication, which shall be prima facie evidence of the legal publication and promulgation of such ordinance; provided that the provisions of this section shall not apply to the correction, amendment, revision and codification of the ordinances of the city for publication in book or pamphlet form. Except as otherwise provided by Article XI of this charter, it shall not be necessary to the validity of any ordinance that it shall be read more than one time or considered at more than one session of the city council. Provided further that only the caption of an ordinance needs to be read if it details the ordinance sufficiently to give the public notice of its contents, including the penalty. Every ordinance shall be authenticated by the signature of the mayor and city clerk and shall be systematically recorded and indexed in an ordinance book in a manner approved by the council. It shall only be necessary to record the caption or title of ordinances in the minutes or journal of council meetings. The city council shall have power to cause the ordinances of the city to be corrected, amended, revised, codified and printed in code form as often as the council deems advisable, and such printed code, when adopted by the council, shall be in full force and effect without the necessity of publishing the same or any part thereof in a newspaper. Such printed code shall be admitted in evidence in all courts and places without further proof.

(Referendum of 2-23-1981, § 1)

State law reference—Codification, V.T.C.A., Local Government Code § 53.001 et seq.

Sec. 32. Investigation by council.

The council shall have power to inquire into the conduct of any office[,] department, agency, or officer of the city and to make investigations as to municipal affairs, and for the purpose may subpoena witnesses, administer oaths and compel the production of books, papers, and other evidence. Failure to obey such subpoena or to produce books, papers or other evidence as ordered under the provisions of this section shall constitute a misdemeanor and shall be punishable by fine not to exceed one hundred dollars (\$100.00).

Sec. 33. Independent annual audit.

As soon as practicable after the close of each fiscal year, the council shall designate a certified public accountant who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transactions.

(Referendum of 2-23-1981, § 1)

Sec. 34. Public library.

The city council shall have the authority to establish and maintain a free library within the city and to cooperate with any person, firm, association or corporation under such terms as the city council may prescribe for the establishment or maintenance of such free public library. For

budget purposes, the library shall be considered as a department of the city and the appropriations [therefor] shall comply with all the budgetary requirements as outlined in this charter and as may be prescribed from time to time by the city council. Annual appropriations for the library will not be continuing but will revert to the general fund in the same manner as the unspent appropriations of the other departments.

Sec. 35. Housing authority.

The city council may create a housing authority of such number, terms and compensation of members as the city council may determine and may delegate to the housing authority such powers relating to the planning, construction, reconstruction, alteration, repair, maintenance or operation of housing projects and housing accommodations as the council may determine.

Sec. 36. Disabled employees, pensions, and insurance.

The city council shall have authority to provide for rules and regulations for maintaining employees when injured and disabled while performing their duties, or it may provide for such plan of insurance, as it deems proper. The city council shall have authority to establish a pension and retirement system for any or all groups of officers and employees in the service of the city. Any such pension and retirement system shall be established on a jointly contributory basis, with the officers and employees sharing the costs equally with the city, if feasible, except as to prior service charges at the time of establishment, which shall be borne entirely by the city. The cost of the system shall be determined actuarially on the basis of such mortality and service table as the city council shall approve. The provisions of the ordinance establishing such a pension and retirement system shall require periodic actuarial evaluations, which shall serve as the basis of any changes in the rates of contributions, and shall also provide for the maintenance at all times of adequate reserves to meet all accrued liabilities. Any officer or employee of the city at the time of establishment of such system shall for ninety (90) days thereafter have the privilege of becoming a member of the system so established and sharing in its benefits. Officers and employees thereafter appointed in the classified service shall be required to join the system as a condition of employment. The city council shall have authority, on behalf of the City of Alice and its officers and employees[,] to join or participate in any district or statewide pension and retirement system which has been established by the legislature of the State of Texas.

When and if a pension and retirement system is established under the provisions of this section, the city council shall also make provision for its administration, either by the creation of a department of personnel, with a director and personnel board, or otherwise, as it may see fit, with such power and duties and compensation as the city council by ordinance may prescribe and delegate; and such administrative agent or agency shall also have charge of the collection, investment, payment and custody of funds of the pension and retirement system. If necessary to the maintenance of a financially sound system, the city council may by ordinance provide for as much as three-fourths of the cost of its maintenance to be borne by the city.

Sec. 36A. Recall.

Any elected official of the city may be removed from office by recall. Any ten (10) qualified voters may initiate a petition for recall by their affidavit naming the officials whose removal is sought. Then the city secretary shall prepare and deliver to the ten (10) petitioners' petition forms demanding such recall, and the city council shall be notified of this action. A copy of the petition shall be entered in the city's record book. To be effective a recall petition must be returned to the city secretary within sixty (60) days after issuance, bearing the signatures of qualified voters equal in number to at least five (5) % of the number of voters who cast their ballot in the last city election or a minimum of 100 valid signatures.

If the petition forms are returned with adequate signatures, the petition shall be submitted, duly certified by the city secretary, to the city council within four (4) days. If the city official does not resign within two (2) days after such notice, the city council shall set within five (5) days a recall election, to be held as a special election not less than thirty (30) nor more than thirty five (35) days after the petitions was presented to the city council, except that a recall election may be scheduled with a general election not less than ten (10) days nor more than ninety (90) days after presentation of the petition to the city council.

The city secretary shall certify to the city council the results of the election. If a majority of the votes cast on the questions of recalling a city official are against, the official, regardless of any defect in the recall petition, shall be deemed removed from office. The vacancy may be filled as provided by the city charter.

(Ord. No. 1616, § 2, 3-8-1999/5-1-1999)

ARTICLE IV. THE CITY MANAGER**Sec. 37. Qualification.**

The city manager shall be chosen by the council solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office as hereinafter set forth. At the time of his appointment he need not be a resident of the city or state, but during his tenure of office he shall reside within the city.

Sec. 38. Powers and duties.

The city manager shall be the chief executive officer and the head of the administrative branch of the city government. He shall be responsible to the council for the proper administration of all affairs of the city, and to that end he shall have power and shall be required to:

- (1) Appoint and, when necessary for the good of the service, remove all employees of the city except as otherwise provided by this charter and except as he may authorize the head of a department to appoint and remove subordinates in such department.

- (1a) Appoint, subject to approval by the council, the city clerk.

- (2) Prepare the budget annually and submit it to the council and be responsible for its administration after adoption.
- (3) Prepare and submit to the council at the end of the fiscal year a complete report on the finances and administrative activities of the city for the preceding year.
- (4) Keep the council advised of the financial condition and future needs of the city and make such recommendations as may seem to him desirable.
- (5) Perform such other duties as may be prescribed by this charter or required of him by the council, not inconsistent with this charter.

(Referendum of 2-23-1981, § 1)

Sec. 39. Absence of city manager.

To perform his duties during the temporary absence or disability, the city manager, subject to the approval of the city council, may designate by letter filed with the city clerk a qualified administrative officer of the city, but if no such designation is made then the city council shall designate some qualified administrative officer of the city to perform such duties.

Sec. 40. Directors of departments.

At the head of each administrative department shall be a director, who shall be an officer of the city and shall have supervision and control of the department subject to the city manager. The supervision and control of two (2) or more departments may be by one individual.

Sec. 41. Departmental divisions.

The work of each administrative department may be distributed among such divisions thereof as may be established by ordinance upon the recommendation of the city manager. Pending the passage of an ordinance or ordinances distributing the work of departments under the supervision and control of the city manager among specific divisions thereof, the city manager shall establish temporary divisions.

ARTICLE V. THE BUDGET

Sec. 42. Fiscal year.

Beginning in the calendar year of 1968 A.D. and continuing thereafter, the fiscal year of the City of Alice shall begin on the first day of October and shall end on the last day of September in the next succeeding calendar year. Such fiscal year shall also constitute the budget and accounting year.

(Referendum of 3-11-1968, § 1)

Sec. 43. Preparation and submission of budget.

The city manager, between sixty (60) and ninety (90) days prior to the beginning of each fiscal year, shall submit to the council a proposed budget, which shall provide a complete financial plan for the fiscal year, and shall contain the following:

- (1) A budget message, explanatory of the budget, which message shall contain an outline of the proposed financial policies of the city for the fiscal year, shall set forth the reasons for salient changes from the previous fiscal year in expenditure and revenue items, and shall explain any major changes in financial policy.
 - (2) A consolidated statement of receipts and expenditures for all funds including beginning and ending balances.
 - (3) An analysis of property valuations.
 - (4) An analysis of the tax rate including distribution of tax.
 - (5) Tax levies and tax collections by years for at least five (5) years or, if records for five (5) years are not available, for as many years as are available.
 - (6) General fund resources in detail.
 - (7) Summary of proposed expenditures by function, department and activity.
 - (8) Summary of proposed expenditures by character and object.
 - (9) Detailed estimates of expenditures shown separately for each activity to support the summaries [in] No. (7) and (8) above. Such estimates of expenditures are to include an itemization of positions showing the number of persons having each title and rate of pay.
 - (10) A revenue and expense statement for all types of bonds.
 - (11) A description of all bond issues outstanding, showing rate of interest, date of issue, maturity date, amount authorized, amount issued and amount outstanding.
 - (12) A schedule of requirements for the principal and interest of each issue of bonds.
 - (13) A special funds section.
 - (14) The appropriation ordinance.
 - (15) The tax levying ordinance.
- (Referendum of 2-23-1981, § 1)

Sec. 44. Anticipated revenues compared with other years in budget.

In preparing the budget, the city manager shall place in parallel columns opposite the several items of revenue the actual amount of each item for the last completed fiscal year, the estimated amount for the current fiscal year and the proposed amount for the ensuing fiscal year.

Sec. 45. Proposed expenditures compared with other years.

The city manager in the preparation of the budget shall place in parallel columns opposite the various items of expenditures for [sic] the actual amount of such items of expenditures for the last completed fiscal year, the estimate for the current fiscal year and the proposed amount for the ensuing fiscal year.

Sec. 46. Budget a public record.

The budget and all supporting schedules shall be filed with the city clerk when submitted to the council and shall be a public record for inspection by anyone. The city manager shall cause a reasonable number of copies to be made for distribution to all interested persons upon request with adequate time allowed for the preparation of copies.

(Referendum of 2-23-1981, § 1)

Sec. 47. Notice of public hearing on budget.

At [the] meeting of the council at which the budget is submitted, the council shall fix the time and place of a public hearing on the budget and shall cause to be published a notice of the hearing setting forth the time and place thereof at least five (5) days before the date of the hearing.

State law reference—Charter provisions regarding budget, V.T.C.A., Local Government Code § 102.011.

Sec. 48. Public hearing on budget.

At the time and place set forth in the notice required by section 47, or at any time and place to which such public hearing shall from time to time be adjourned, the council shall hold a public hearing on the budget submitted and all interested persons shall be given an opportunity to be heard for or against any item or the amount of any item therein contained.

Sec. 49. Proceedings on budget after public hearing amending or supplementing budget.

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

Sec. 50. Vote required for adoption.

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

Sec. 51. Date of final adoption: Failure to adopt.

The budget shall be finally adopted not later than the fifteenth day of the last month of the fiscal year. Should the council take no final action on or prior to such day, the budget as submitted by the city manager shall be deemed to have been finally adopted by the council.

Sec. 52. Effective date of budget; certification; copies made available.

Upon final adoption, the budget shall be in effect for the fiscal year. A copy of the budget, as finally adopted, shall be filed with the city clerk, the county clerk of Jim Wells County, and the state comptroller of public accounts at Austin. The final budget shall be printed, mimeographed or otherwise reproduced and a reasonable number of copies shall be made available for the use of all offices, departments and agencies, and for the use of interested persons and civic organizations.

Sec. 53. Budget establishes appropriations.

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes therein named.

Sec. 54. Budget establishes amount to be raised by property tax.

From the effective date of the budget the amount stated therein as the amount to be raised by property tax shall constitute a determination of the amount of the levy for the purposes of the city in the corresponding tax year.

Sec. 55. Contingent appropriation.

Provision shall be made in the annual budget and in the appropriation ordinance for a contingent appropriation in an amount not more than three (3) percentum of the total general fund expenditure, to be used in case of unforeseen items of expenditure. Such contingent appropriations shall be under the control of the city manager and distributed by him, after approval by the city council. Expenditures from this appropriation shall be made only in case of established emergencies and a detailed account of such expenditures shall be recorded and reported. The proceeds of the contingent appropriation shall be disbursed only by transfer to other departmental appropriations, the spending of which shall be charged to the departments or activities for which the appropriations are made.

Sec. 56. Estimated expenditures shall not exceed estimated resources.

The total estimated expenditures of the general fund and debt service fund shall not exceed the total estimated resources of each fund (prospective income plus cash on hand). The classification of revenue and expenditure accounts shall conform as nearly as local conditions will permit to the uniform classification as promulgated by the National Committee on Municipal Accounting, or some other nationally accepted classification.

Sec. 57. Emergency appropriations.

The city budget may be amended and appropriations altered in accordance therewith in cases of public necessity, the actual fact of which shall have been declared by the city council.

ARTICLE VI. ISSUANCE AND SALE OF BONDS**Sec. 58. Power to borrow.**

The City of Alice shall have the right and power to borrow money on the credit of the city for permanent public improvements or for any other public purpose consistent with the constitution and laws of the State of Texas. The city shall also have the power to borrow money against the revenues of any municipally owned utility and to pledge such revenues for said purpose, and to mortgage the physical properties of such utilities in payment of such debt. In no event, however, shall revenue bonds be considered an indebtedness of the City of Alice nor repair with funds secured by taxation.

Sec. 59. Bond ordinance election.

The city shall authorize the issuance of bonds by a bond ordinance, passed by an affirmative vote of a majority of all members of the city council and approved by a majority of the qualified property taxpaying voters voting at an election called for the purpose of authorizing the issuance of such bonds. The bond ordinance shall provide for proper notice, the calling of the election, and the propositions to be submitted. The latter shall distinctly specify:

- (1) The purpose for which the bonds are to be issued and, where possible[,] the probable period of usefulness of the improvements for which the bond funds are to be expended.
- (2) The amount thereof.
- (3) The rate of interest.
- (4) The levy of taxes sufficient to pay interest and sinking fund.
- (5) That the bonds to be issued shall mature serially within such period of time as authorized by applicable statute.

The bond ordinance and the manner of conducting the election shall in all respects conform to the general laws of this state.

(Referendum of 2-23-1981, § 1)

Sec. 60. Issuance of bonds.

All bonds shall be serial bonds and shall specify for what purpose they are issued. Such bonds shall never draw interest in excess of six (6) percentum per annum and shall never be sold at less than par value and accumulated interest, exclusive of commissions. All bonds shall contain a redemption provision making them callable at the option of the city upon or after the expiration of fifteen (15) years from the date of issuance, or such redemption provision may be for a lesser period than fifteen (15) years if the city council shall so determine.

Sec. 61. Advertising and sale of bonds.

All bonds which the city council proposes to issue shall, before being printed, be advertised once a week for two (2) consecutive weeks, the first publication to be at least fourteen (14) days prior to the day set for sale and shall be sold at public sale at the best bid, upon sealed bids, and upon such other terms and conditions, not inconsistent with the express provisions of law and of this charter, as the city council may order. The city council shall have the right to reject any and all bids.

Sec. 62. Creation of sinking fund and investments.

The ordinance authorizing any bonds to be issued shall provide for the creation of a sinking fund sufficient to pay the bonds or warrants at maturity, and make provision for payment of the interest thereon as it matures, and any surplus in any sinking fund or any general fund may be invested in bonds of the State of Texas, or in securities of the United States, or such funds may be used for the purchase of the bonds or warrants of the City of Alice which are not yet due; provided, however, that the price paid for said bonds or securities shall not exceed the market value at the time of purchase and the accrued interest provided for in said bonds or securities and provided that no such bonds or securities shall be purchased which, according to their terms, mature at a date subsequent to the time of maturity of the bonds for the payment of which such sinking fund was created. Neither interest nor sinking fund shall be devoted to any other purpose whatsoever.

Sec. 63. Liability for diverting interest or sinking fund.

Any officer of the city who shall divert or use the interest or sinking fund for any purpose except that for which the fund is created or is expressly authorized to be invested, shall be liable and responsible to the City of Alice in the full amount of such diversion and/or use, with lawful interest; and in case such diversion or use is made or participated in by more than one officer of the city the liability and responsibility [therefor] shall be joint and several.

ARTICLE VII. FINANCE ADMINISTRATION**Sec. 64. Director of finance; appointment.**

There shall be a department of finance, the head of which shall be the director of finance, who shall be the city manager or be appointed by the city manager, with the approval of the city council. The city manager, with the approval of the city council, may appoint a deputy director of finance, who may be the city assessor and collector of taxes.

Sec. 65. Director of finance; qualifications.

The director of finance shall have the proper knowledge of municipal accounting and financial control to properly perform the duties of the office.

Sec. 66. Director of finance; power and duties.

Subject to the approval of the city manager, the director of finance shall have charge of the administration of the financial affairs of the city and to that end he shall have authority and shall be required to:

- (1) Supervise and be responsible for the disbursement of all moneys and have control over all expenditures to ensure that budget appropriations are not exceeded;
- (2) Maintain a general accounting system for the city government and each of its offices, departments and agencies; keep books for and exercise financial control over each office, department and agency; keep separate accounts for the items of appropriation contained in the city budget, each [of] which accounts shall show the amount of the appropriation, the amounts paid therefrom, the unpaid obligations against it and the unencumbered balance; require reports of receipts and disbursements from each receiving and spending agency of the city government to be made daily or at such intervals as he may deem expedient;
- (3) Submit to the council through the city manager a monthly statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the city, including beginning and ending balances;
- (4) Prepare, as of the end of each fiscal year, a complete financial statement and report;
- (5) Supervise and be responsible for the assessment of all property within the corporate limits of the city for taxation, make all assessments for the city government, prepare tax maps and give such notices of taxes and special assessments as may be required by law;
- (6) Collect all taxes, special assessments, license fees and other revenues of the city or for whose collection the city is responsible and receive all money receivable by the city from the state or federal government, or from any court, or from any office, department or agency of the city;
- (7) Have custody of all public funds belonging to or under control of the city, or any office, department, or agency of the city government, and deposit all funds coming into his hands in such depository or depositories as may be designated by the city council, subject to the requirements of law in force from time to time as to the furnishing of bond or the deposit of securities and the payment of interest on deposits. All such interest shall be the property of the city and shall be accounted for and credited to the paper [proper] account;
- (8) Have custody of all investments and invested funds of the city government, or in possession of such government in a fiduciary capacity, and have the safekeeping of all bonds and notes of the city and the receipt and delivery of city bonds and notes for transfer, registration or exchange;

- (9) Supervise and be responsible for the purchase, storage and distribution of all supplies, materials, equipment and other articles used by any office, department or agency of the city government;
 - (10) Approve all proposed expenditures; unless he shall certify that there is an unencumbered balance of appropriation and available funds, no expenditure shall be made.
- (Referendum of 2-23-1981, § 1)

Sec. 67. Transfers of appropriations.

The city manager may at any time transfer any unencumbered appropriation balance or portion thereof between general classifications of expenditures within an office, department or agency. At the request of the city manager and within the last three (3) months of the fiscal year, the council may by resolution transfer any unencumbered appropriation balance or portion thereof from one office, department or agency to another.

Sec. 68. Accounting supervision and control.

The director of finance shall have power and shall be required to:

- (1) Prescribe the forms of receipts, vouchers, bills or claims to be used by all the offices, departments and agencies of the city government;
- (2) Examine and approve all contracts, orders and other documents by which the city government incurs financial obligations, having previously ascertained that moneys have been appropriated and allotted and will be available when the obligations shall become due and payable;
- (3) Audit and approve before payment all bills, invoices, payrolls and other evidences of claims, demands or charges against the city government and with the advice of the city attorney determine the regularity, legality and correctness of such claims, demands, or charges;
- (4) Inspect and audit any accounts or records of financial transactions which may be maintained in any office, department or agency of the city government apart from or subsidiary to the accounts kept in his office.

Sec. 69. Lapse of appropriations.

All appropriations shall lapse at the end of the fiscal year to the extent that they shall not have been expended or lawfully encumbered.

Sec. 70. Fees shall be paid to city.

All fees received by any officer or employee shall belong to the city government and shall be paid to the department of finance at such times as required by the director of finance.

Sec. 71. Sale of city property.

Before the city makes any sale or contract for sale of any property belonging to the city, either in the form of land, real estate or other properties, having an estimated value of one thousand dollars (\$1,000.00) or more, opportunity shall be given for open competitive bids under such rules and regulations as the city council may prescribe. In the sale of property valued at more than one thousand dollars (\$1,000.00), the property shall be advertised for sale and bids in a local newspaper, [and] the contract of sale shall be awarded to the highest responsible bidder, either at auction or upon sealed bids, after such public notice and competition as may be prescribed, and upon such other terms and conditions not inconsistent with express provisions of law and of this charter, as the city council may order; provided the city council shall have the power to reject all bids and advertise again. This same procedure shall be used whenever the city acts as transfer agent.

Sec. 72. Purchase procedure.

The director of finance shall have authority to make expenditures without the approval of the city council for all budgeted items not exceeding such sum authorized by applicable statutes, and any expenditure exceeding said sum must be expressly approved in advance by the city council. All contracts or purchases exceeding said sum authorized by applicable statutes to be made with approval of the city council, shall be let to the lowest and best bid by a reasonable [sic] bidder after there has been an opportunity for competitive bidding. Notice of the time and place, [and] when and where such contract shall be let shall be published in a newspaper in the City of Alice once a week for two (2) consecutive weeks prior to the time for making such purchase or letting such contract, the time of the first publication to be at least fourteen (14) days prior to the time for making such purchase or letting such contract; provided, however, that the city council shall have the right to reject any and all bids; and provided further that nothing herein shall apply to contracts for personal or for professional services nor to work done by the city and paid for by the day as such work progresses. (Referendum of 2-14-1977, § 2; Referendum of 2-23-1981, § 1)

State law reference—Competitive bid procedure and limits, V.T.C.A., Local Government Code § 252.001 et seq.

Sec. 73. Contracts for improvements.

Any city improvement costing more than two thousand five hundred dollars (\$2,500.00) shall be executed by contract except where such improvement is authorized by the council to be executed directly by a city department in conformity with detailed plans, specifications and estimates. All such contracts for more than two thousand five hundred dollars (\$2,500.00) shall be awarded to the lowest responsible bidder after such public notice and competition as may be prescribed by ordinance, provided the city council shall have the power to reject all bids and advertise again. Alterations in any contract may be made when authorized by the council upon the written recommendation of the city manager when and only when such alterations do not increase the cost to the city more than ten (10) percentum of the original amount.

Editor's note—The city has instructed that the amount in the above section was amended to two thousand five hundred dollars (\$2,500.00), by charter change of 1977.

Sec. 74. Disbursement of funds.

Checks, vouchers or warrants for the withdrawal of such sums of money as authorized by applicable statutes or ordinance from the city depository shall contain the signature of the director of finance or his deputy and shall be countersigned by the city manager or assistant city manager, provided further that in all other cases checks, vouchers or warrants for withdrawal of money from the city depository may contain the signature stamp reflecting the signature of the director of finance or his deputy and countersigned by the city manager or assistant city manager.

(Referendum of 2-23-1981, § 1)

Sec. 75. Accounting control of purchases.

All purchases made shall be pursuant to a written requisition from the head of the office, department or agency whose appropriation will be charged, and no contract or order shall be issued to any seller unless and until the director of finance certifies that there is to the credit of such office, department or agency a sufficient unencumbered appropriation balance to pay for the supplies, materials, equipment or contractual services for which the contract or order is to be issued.

Sec. 76. Borrowing in anticipation of property taxes.

In any fiscal year, in anticipation of the collection of the property tax for such year, whether levied or to be levied in such year, the council may by resolution authorize the borrowing of money by the issuance of negotiable notes of the city, each of which shall be designated "tax anticipation note for the year 19____" (stating the budget year). Such notes shall mature and be payable not later than the end of the fiscal year following the fiscal year in which the original notes shall have been issued.

(Referendum of 2-23-1981, § 1)

Sec. 77. Borrowing in anticipation of other revenues.

In any fiscal year, in anticipation of the collection or receipt of other revenues of that budget year, the council may by resolution authorize the borrowing of money by the issuance of negotiable notes of the city, each of which shall be designated "special revenue note for the year 19____" (stating the budget year). Such notes may be renewed from time to time, but all such notes, together with the renewals, shall mature and be payable not later than the end of the fiscal year following the fiscal year in which the original notes shall have been issued.

(Referendum of 2-23-1981, § 1)

Sec. 78. Sale of notes; report of sale.

All notes issued pursuant to this article may be sold at not less than par and accrued interest at private sale by the director of finance without previous advertisement, but such sale shall be authorized by the council.

Sec. 79. Surety bonds.

The directors of all administrative departments whose duties include the handling of moneys, and all employees whose duties include the handling of moneys, belonging to the City of Alice, shall before entering upon the duties of their office or employment make bond in some responsible surety company, acceptable to the city council[,] for such amount as the council may prescribe, the premium on which bond shall be paid by the city, and the city council may also require any such surety bond to be further conditioned that the principal thereon will faithfully perform and/or discharge the duties of his office, and if there are provisions of state law bearing upon the functions of his office under which the execution of a surety bond is required, it shall be further conditioned to comply therewith.

ARTICLE VIII. TAX ADMINISTRATION**Sec. 80. Division of taxation.**

There shall be established in the department of finance, a division of taxation, to assess and collect taxes, the head of which shall be the city assessor and collector.

Sec. 81. Power to tax.

The city council shall have the power under the provisions of state law to levy, assess and collect an annual tax upon taxable property within the city to the maximum provided by the constitution and general laws of the State of Texas.

Sec. 82. Property subject to tax; method of assessment.

All property, real, personal or mixed, lying and being within the corporate limits of the City of Alice on the first day of January, not expressly exempt by law, and any property of any kind or character whatsoever subject to taxation by the City of Alice under the laws of the State of Texas, shall be subject annual taxation at its true market value. Each person, partnership, corporation, association or other legal entity so owning property subject to taxation by the City of Alice shall, between the first day of January and the thirtieth day of April of each year, hand to the city assessor-collector a full and complete sworn inventory of the property possessed or controlled by him, her, it or them, within said limits on the first day of January of the current year and of any property of any kind or character whatsoever subject to taxation by the City of Alice under the laws of the State of Texas. In all cases of failure to obtain a statement of real and personal property from any cause, the assessor-collector shall ascertain the amount and value of such property and assess the same as he believes to be the true and full value thereof; and such assessment shall be as valid and binding as if such property had been rendered by the owner thereof.

Sec. 83. Board of equalization; appointment; qualifications.

The city council shall, each year, after the adoption of this charter, prior to the first day of June, appoint not less than three (3) residents, who shall be qualified voters and property

owners, as the board of equalization. Such board shall choose from its membership a chairman. The city tax assessor-collector shall be ex officio secretary of the board; provided the city tax assessor-collector, with the consent of the city council, may designate some other officer or employee to act in his stead. A majority of said board shall constitute a quorum for the transaction of business. Members of the board while serving shall receive such compensation as may be provided for them by the city council.

Sec. 84. Board of equalization; public hearing; notice to owner.

At the same meeting that the council appoints the board of equalization it shall by ordinance fix the time of the first meeting of the board, which shall be on the first day of June or as soon thereafter as practicable. After such first meeting, the board may reconvene and adjourn from time to time, and as long thereafter as may be necessary it shall hear and determine the complaint of any persons in relation to the assessment roll. Whenever said board shall find it their duty to raise the value of any property appearing on the tax lists or tax records of the city, it shall, after having examined such lists and records and corrected all errors appearing therein, adjourn to a day not less than ten (10) or [nor more than] fifteen (15) days from the date of adjournment, and shall cause the secretary of said board to give written notice to the owner of such property or to the person rendering same of the time to which said board has adjourned, and that such owner or person rendering said property may at that time appear and show cause why the value of said property should not be raised. Such notice may be served by depositing the same, properly addressed, and postage paid, in the city post office.

Sec. 85. Board of equalization; power and duties.

It shall be the duty of such board to examine and, if necessary, revise the assessments as returned by the city assessor-collector to the end that all property within the city shall be assessed as fairly and as uniformly as possible. The board of equalization shall also have the power to:

- (1) Review on complaint of property owners assessments of both real and personal property subject to taxation made by the city assessor-collector;
- (2) Administer oaths;
- (3) Take testimony;
- (4) Hold hearings;
- (5) Adopt regulations regarding the procedure of assessment review;
- (6) Compel the production of all books, documents, and other papers pertinent to the investigation of the taxable values of any person, firm, or corporation having or owning property subject to taxation by the city.

Sec. 86. Board of equalization; records; approval of rolls.

The board shall be required to keep an accurate record of all its proceedings, which shall be available for public inspection. Immediately upon completion of its work the board shall certify

its approval of the assessment rolls, which shall be returned to the city council, which shall thereupon approve the said rolls as returned to it if found correct and thereupon adopt the same as the assessment rolls to be used for the collection of taxes for the current year.

Sec. 87. Taxes; when due and payable.

All taxes due to the City of Alice shall be payable at the office of the city assessor-collector and may be paid at any time after the tax rolls for the year have been completed and approved, which shall be not later than October 1. The city council may by ordinance provide that current taxes paid prior to December 31st of the tax year shall be subject to discounts as follows: Three (3) percent if paid on or before October 31, two (2) percent if paid after October 31st and on or before November 30, one percent if paid after November 30 and on or before December 31.

The city council may by ordinance provide that all taxes, either current or delinquent, due the city, may be paid in installments (as to current taxes over a period not exceeding one year). Taxes which are not delinquent on the date of the first installment payment shall not be deemed delinquent so long as each installment is paid on the date due, failing in which such taxes shall at once, without grace, demand or notice, be subject to such penalty and interest as are imposed by state law (in case of delinquent state and county taxes) and be deemed and become delinquent as of February 1 of the year following assessment. Delinquent taxes paid in installments shall as to time, amount, prematurity in event of default and all other pertinent matters be governed by the ordinance providing for installment payment of taxes, except to the extent otherwise controlled by state law.

Sec. 88. Seizure and sale of personal property.

The assessor-collector of taxes shall, by virtue of the tax rolls of the city, have power and authority to seize and levy upon all personal property and sell the same to satisfy all delinquent taxes together with all penalty, interest and costs due on said personal property to the city. When he seizes personal property for such purposes he shall keep the same at the expense of the owner until the sale is made, and shall give notice of the time and place of sale of same by posting a written notice at the city hall door and one at another public place with the city at least ten (10) days before the date of sale. He shall sell the same to the highest bidder for cash for all taxes, interest, cost and expenses of caring for said property, and shall make an entry in the book of sales of the amount realized. All such sales shall be made at the front door of the city hall. A sale of personal property for delinquent taxes shall convey with it an absolute title, and the owner shall have no right to redeem the same.

Sec. 89. Tax liens.

The tax levied by the city is hereby declared to be a lien, charge and encumbrance upon the property upon which the tax is due, which lien, charge and encumbrance the city is entitled to enforce and foreclose in any court having jurisdiction over the same, and the lien, charge and encumbrance on the property in favor of the city, for the amount of the taxes due on such property is such as to give the state courts jurisdiction to endorse 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 [a] nonresident. All taxes upon real estate shall especially be a lien and a charge upon the property upon which the taxes are due, which lien may be foreclosed in any court having jurisdiction. The city's tax lien shall exist from January first in each year until the taxes are paid. Such lien shall be prior to all other claims, and no gift, sale, assignment or transfer of any kind, or judicial writ of any kind, shall ever defeat such lien.

All persons or corporations owning or holding personal property or real estate in the City of Alice or any property of any kind or character whatsoever subject to taxation by the City of Alice under the laws of the State of Texas on the first day of January of each year shall be liable for all municipal taxes levied thereon for such year.

The personal property of all persons owing any taxes to the City of Alice is hereby made liable for all of said taxes, whether the same be due upon personal or real property, or upon both.

ARTICLE IX. PUBLIC RECREATION BOARD

Sec. 90. Public recreation board.

Upon the adoption of this amendment to the charter of the City of Alice, each member of the public recreation board, said board being composed of five (5) members, each serving a staggered five-year term so that each year the term of office of one member of said board terminates, shall continue to serve for the remainder of his or her respective terms; annually, after the adoption of this amendment, one member shall be appointed by the city council for a term of five (5) years to replace the member whose term has expired. The terms of office of the members of said board shall, however, be subject to the provisions relative to removal hereinafter provided.

(Referendum of 3-11-1968, § 1)

Sec. 91. Compensation.

Members of the public recreation board shall serve without compensation.

(Referendum of 3-11-1968, § 1)

Sec. 92. Duties.

The duties of the public recreation board shall be to study parks, parkways, lakes, municipal squares, any zoos, athletic fields, golf courses, swimming centers, indoor recreation centers and other recreation facilities owned, operated or maintained by the City of Alice (but not including privately owned and operated recreational facilities), and from time to time to make studies, together with recommendations in connection therewith, available as such studies are completed to the city council of said city through the city manager. Such board shall place special emphasis upon the recreational needs of the citizens of said city, and safety regulations in regard thereto.

(Referendum of 3-11-1968, § 1)

Sec. 93. Removal from board; vacancies; how filled.

The members of the public recreation board shall be subject to removal from office by the city council for any cause deemed by the council sufficient for this removal in the interest of the public service, and the decision of the city council shall be final. Any vacancy in membership of said board shall be filled by the city council for the unexpired term of the member whose place has become vacant either by removal or otherwise.

(Referendum of 3-11-1968, § 1)

Sec. 94. Organization.

The public recreation board will organize by electing one of its members president, one vice-president and one secretary. The secretary need not be a member of the board. The officers shall hold office for one year and until their successors are elected and qualified. The board shall hold regular meetings at least once a month, and shall establish rules and regulations for its government and for the performance of its duties.

(Referendum of 3-11-1968, § 1)

Sec. 95. Recreation bonds; authority of council to issue.

The city council of the City of Alice shall have the authority to issue and sell bonds for the purchase and improvement of playgrounds, athletic fields, neighborhood recreation parks; for the construction of swimming pools, recreation center buildings and such other places and facilities of a permanent nature deemed necessary for carrying out the provisions of this article of the charter; said bonds shall be issued and sold on such terms as may be prescribed by the city council and in accordance with the limitations prescribed by this charter and the constitution of the State of Texas.

(Referendum of 3-11-1968, § 1)

[Secs. 96—105. Reserved.]

ARTICLE X. NOMINATIONS AND ELECTIONS**Sec. 106. Municipal elections.**

The regular election for the choice of members of the council[,] as provided in Article III of this charter, shall be held the first Saturday in April, 1983, and the first Saturday in May every two (2) years thereafter. The council may by resolution order any special election which is required to be held under any provision of [this] charter, fix the time for holding same, and provide all means for holding such special election.

Editor's note—The city instructed to conform the election date in the above section to the date in section 14 as provided in V.T.C.A., Election Code § 41.001.

Sec. 107. Regulation of elections.

The council shall make all regulations which it considers needful or desirable, not inconsistent with this charter or the laws of the State of Texas, for the conduct of municipal elections, for the prevention of fraud in such elections and for the recount of ballots in case of doubt or fraud. Municipal elections shall be conducted by the appointed election authorities in accordance with the laws of the State of Texas, unless otherwise provided by this charter or regulations of the city council. In all city elections the city council shall provide for polling places and in no event shall there ever be less than two polling places.

Provisions for compliance with House Bill 357, passed by the Fifty-First legislature of the State of Texas, and any amendments thereof, providing for secret ballots shall be made by the city council in all elections held under this charter, insofar as they are applicable thereto.

Sec. 108. How to get name on ballot.

Any qualified person may have his or her name placed on the official ballot as a candidate for mayor or councilman at any election held for the purpose of electing a mayor and councilman, by filing with the mayor or city clerk at least thirty (30) days prior to the date of election a sworn application in substantially the following form: "I, _____, do hereby declare that I am a candidate for the office of _____ and request that my name be printed upon the official ballot for that particular office in the next city election. I am _____ years of age, a qualified voter of the State of Texas, and am and have been a bona fide resident of the City of Alice, within its corporate limits, for at least one year. I am not disqualified or ineligible to serve as _____ if elected. I reside at _____, Alice, Texas.

 (Signature of candidate)"

(Referendum of 2-23-1981, § 1)

Sec. 109. Council ballots.

The full names of all candidates for the council as hereinbefore provided, except such as may have withdrawn, died or become ineligible, shall be printed on the official ballots without party designations. If two (2) candidates with the same surnames, or with names so similar as to be likely to cause confusion are nominated, the addresses of their places of residence shall be placed with their names on the ballot. The official ballots shall be printed not less than twenty (20) days before the date of the election.

Sec. 110. Election of councilmen.

At a regular municipal election (or any special election held to fill vacancies on the city council) the candidates for the office of councilmen, to the number to be elected, and the candidates for the office of mayor, who shall have received the highest number of votes cast in such election for each office to be filled shall be declared elected.

In case of a tie vote a new election shall be ordered and held conformably to the following section of this charter. At said election the only persons eligible to have their names printed on the ballot shall be those whose votes were tied in the election at which they were candidates.

State law reference—Vote requirements, V.T.C.A., Election Code §§ 2.001, 2.002.

Sec. 111. Laws governing city elections.

All city elections shall be governed, except as otherwise provided by the charter, by the laws of the State of Texas governing general and municipal elections, so far as same may be applicable thereto; and in the event there should be any failure of the general laws or this charter to provide for some feature of the city elections, then the city council shall have the power to provide for such deficiency, and no informalities in conducting a city election shall invalidate the same, if it be conducted fairly and in substantial compliance with the general laws, where applicable, and the charter and ordinances of the city.

Sec. 112. Canvassing elections.

Returns of elections, general and special, shall be made by the election officers in the city council on the second Wednesday next following said election, or sooner, provided such returns shall be made within the time period authorized by applicable statutes, when the council shall meet at the customary time and place for its meetings, and canvass the returns and declare the results of such election.

(Referendum of 2-23-1981, § 1)

ARTICLE XI. FRANCHISE AND PUBLIC UTILITIES

Sec. 113. Control over and powers with reference to city property.

The ownership, right of control and use of streets, highways, alleys, parks, public places and all other real property of the City of Alice is hereby declared to be inalienable to said city except by ordinances passed by vote of the majority of the governing body of the city as hereinafter provided; and no franchise or easement involving the right to use same, either along, across, over and under the same, shall ever be valid, unless expressly granted and exercised in compliance with the terms hereof, and of the ordinances granting the same. No act or omission of the city, its governing body, officers or agents shall be construed to confer or extend by estoppel or indirection, any right, franchise or easement not expressly granted by ordinance.

The City of Alice shall have the power, subject to the terms and provisions hereof, by ordinance to confer upon any person or corporation, the franchise or right to use the property of the city, as defined in the preceding paragraph, for the purpose of furnishing to the public any general public service, including heat, light, power, telephone service, refrigeration, steam, and the carriage of passengers or freight, within the said city and its suburbs, over the streets, highways and property of said city, or for any other purposes whereby a general service is to be furnished to the public for compensation or hire, to be paid to [a] franchise holder, whereby a right to, in part, appropriate or use the streets, highways or other property of the

city [is] necessary or proper; and generally to fix and regulate the rates, tolls and charges of all public utilities of every kind operating within the corporate limits of the City of Alice, provided that no franchise shall be granted by said city to any person, firm or corporation to own, control or operate waterworks therein.

Sec. 114. Limitations.

No exclusive franchise or privilege shall ever be granted nor a franchise, nor a privilege to commence at any time after six (6) months subsequent to the taking effect of the ordinance granting the same and no franchise shall be, directly or indirectly, extended beyond the term originally fixed by the ordinance granting the same, except as provided by the terms of this charter.

Sec. 115. Procedure.

The City of Alice shall have the power by ordinance to grant any franchise or right mentioned in the preceding sections hereof, which ordinance shall not be passed finally until its third and final reading [and readings] shall be at three (3) separate regular meetings of the city council of the City of Alice. No ordinance granting a franchise shall pass any reading except by a vote of the majority of the city council and such ordinance shall not take effect until thirty (30) days after its adoption on its third and final reading.

Sec. 116. Terms and conditions.

(a) No determinate or fixed term franchise shall ever be granted for a longer term than thirty (30) years; nor shall any right, privilege or franchise now in existence be extended for longer than thirty (30) years. No holder of a franchise heretofore or hereafter granted shall have a right (unless such right is granted in the franchise) to transfer or assign its properties and franchise to any other person, firm or corporation without the consent of the city, nor shall any holder of a franchise merge with or consolidate with any other person [or] entity or contract with any other person or entity to furnish the service covered by the franchise or permit change in ownership of fifty-one (51) percent or more of its stock without the consent of the city, and such consent when given shall not operate as the granting of a franchise or as a new franchise.

(b) The city council shall have the power to compel all persons, firms, or corporations operating[,] whether operating under existing franchise, or franchises that may be hereafter granted, to extend their service, lines, pipes, etc., if the person to be benefited by such extension will pay the costs thereof, or if it can be shown that the revenue resulting from such extension will, within a reasonable time after same is made, pay a reasonable return on the investment, after making the customary allowance for depreciation.

(c) All franchises in the City of Alice shall be held, whether expressed in the ordinance or not, subject to the right of the city (each of the following being a condition):

- (1) To repeal the same 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.

- (2) To require an adequate extension of plant and service, and the maintenance of the plant and fixtures at the highest reasonable standard of efficiency.
- (3) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.
- (4) To prescribe the form of accounts kept by each such holder of franchise; provided, that if the holder of franchise shall keep its accounts in accordance with the uniform system of accounts prescribed by the National Association of Railroad and Public Utility Commissioners, the Federal Power Commission, the Federal Communications Commission, the Railroad Commission of Texas, their successor or successors, this shall be deemed sufficient compliance with this paragraph.
- (5) To examine and audit the accounts and other records of any such holder of franchise at reasonable times, and to require an annual and other reports, including reports on local operations by each holder of franchise and should any holder of franchise fail or refuse to permit the inspection of the accounts and other records of such holder of franchise by the council or by anyone designated by the council to make such inspection, the city council shall have the power by ordinance to declare the franchise in default and terminated.
- (6) To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare and accommodation of the public.
- (7) To fix and regulate the price and rates for the service to be performed under the franchise including the power to call a public hearing, giving reasonable notice to the holder of the franchise to determine whether or not the increase of rates to be charged for the services rendered are excessive. In this connection, the city council shall have the power to examine the books, papers and records of the franchise holder and to compel the attendance of all witnesses deemed necessary in connection with the inquiry. Failure to obey any subpoena to appear as a witness shall be punishable by the council for contempt by the appropriate proceedings permitted by law.
- (8) To require such compensation and rental as may be permitted by the laws of the State of Texas.

Every franchise hereafter granted shall be subject to the terms and conditions of this charter, whether such terms and conditions are specifically mentioned in the franchise or not. (Referendum of 2-23-1981, § 1)

Sec. 117. Utility rates and charges.

The city council shall have the power by ordinance to fix and regulate the price of water, gas, electric lights, electric power and steam heat, and to regulate and fix the fares, tolls, and charges of local telephone service and charges of all public busses, carriages, hacks and vehicles of every kind, whether transporting passengers, freight or baggage, and generally to fix and regulate the rates, tolls and charges of all public utilities of every kind operating within the corporate limits of the City of Alice.

Sec. 118. Applicable to streets and highways.

The right to use the public streets, highways, alleys and thoroughfares of this city, which necessitates the digging up, or displacement thereof, for the installation of equipment, appliances or appurtenances, either on, above or below the surface of same, to make the intended use thereof practicable, shall be deemed and considered a "franchise[.]" granting of which shall be governed and controlled in the manner herein provided.

The use of the said public streets, highways, alleys and thoroughfares of this city, which does not require the digging up or similar interference with said streets, alleys or highways for the installation of equipment, appliances or appurtenances, to make the intended use possible, shall be treated and considered as a "privilege" subject to the control and disposition of the city council, and such privilege over and upon said public streets, alleys, highways and thoroughfares of the city shall not be granted to any person or corporation except when public necessity and convenience may require such use and when given by ordinance passed by a two-thirds vote of the city council.

All franchises for the use and occupancy of public streets, highways, alleys and thoroughfares of this city shall, in event public necessity and convenience so require, be subject to cancellation by the city council, and the city reserves the right to require all public utilities holding franchise from the City of Alice to conform to street grades and alter or lower their underground structures to meet changing conditions.

Sec. 119. Public service corporations to file annual reports.

The city council may by ordinance require all public service corporations operating within the corporate limits of the city to file a sworn annual report of the receipts from the operation of the said business for the current year, how expended, how much [therefor] for betterments or improvements, the rate of tolls or charges for services rendered to the public, and any other facts or information that the council may deem pertinent for its use in intelligently passing upon any questions that may arise between the city and said public service corporations; said reports to be filed with the city clerk and preserved for the use of the city council.

Sec. 120. Option to purchase.

Any public utility franchise may be terminated by ordinance after ten (10) years after the beginning of operation in the event the city shall determine to acquire by condemnation or otherwise the property of such utility necessarily used in or conveniently useful for the operation thereof within the city limits.

Sec. 121. Consent of property owners.

The consent of abutting and adjacent property owners shall not be required for the construction, extension, maintenance or operation of any public utility; but nothing in this charter or in any franchise granted [hereunder] shall ever be construed to deprive any such property owner of any right of action for damage or injury to his property as now or hereafter provided by law.

Sec. 122. Extensions.

All extensions of public utilities within the city limits shall become a part of the aggregate property of the public utility, and shall be operated 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 charter. In case of an extension of a public 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.

Sec. 123. Other conditions.

All franchises heretofore granted are recognized as contracts between the City of Alice and the grantee, and the contractual right as contained in any such franchise shall not be impaired by the provisions of this charter, except that the power of the City of Alice to exercise the right of eminent domain in the acquisition of any utility property is in all things reserved, and except the general power of the city heretofore existing and herein provided for to regulate the rates and services of a grantee which shall include the right to require proper and adequate extension of plant and service and the maintenance of the plant and fixtures at the highest reasonable standard of efficiency. Every public utility franchise hereafter granted shall be held subject to all the terms and conditions contained in the various sections of this article whether or not such terms are specifically mentioned in the franchise. Nothing in this charter shall operate to limit in any way, as specifically stated, the discretion of the council in imposing terms and conditions [that] may be reasonable in connection with any franchise grant.

Sec. 124. Franchise records.

Within six (6) months after this charter takes effect, every public utility and every owner of a public utility franchise shall file with the city, as may be prescribed by ordinance, certified copies of all franchises owned or claimed, or under which such utility is operated in the City of Alice. The city shall compile and maintain a public record of public utility franchises.

ARTICLE XII. GENERAL PROVISIONS**Sec. 125. Publicity of records.**

All records and accounts of every office, department or agency of the city shall be open to inspection by any citizen, any representative of a citizen's organization or any representative of the press to the extent permitted by applicable state and federal laws and regulations at all reasonable times and under reasonable regulations established by the city manager.

(Referendum of 2-23-1981, § 1)

State law reference—Public records, V.T.C.A., Government Code § 552.001 et seq.

Sec. 126. Relatives of officer shall not be appointed or employed.

No person related within the second degree of affinity, or within the third degree of consanguinity, to members of the city council or city manager shall be appointed to any office, position or service in the city, but this provision shall not affect officers or employees who are already employed by the city at the time when any officer who may be related within the named degree takes office.

State law reference—Public records, V.T.C.A., Government Code § 513.001 et seq.

Sec. 127. Oath of office.

Every officer of the city shall, before entering upon the duties of his office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the city clerk: "I _____, do solemnly swear that I will faithfully execute the duties of the office of _____ of the City of Alice, State of Texas, and will to the best of my ability preserve, protect and defend the Constitution and laws of the United States and of this state and the charter and ordinances of this city; and I further solemnly swear that I have not, directly or indirectly, paid, offered or promised to pay, contributed or promised to contribute any money or valuable thing, or promised any public office or employment as a reward for the giving or withholding a vote at the election at which I was elected, or if the office is one of appointment, to secure my appointment. So help me God."

Sec. 128. Damage suits.

Before the city shall be liable to damage claim or suit for personal injury, or damage to property, the person who is injured or whose property is damaged or someone in his behalf shall give to the city manager or the city clerk notice in writing within thirty (30) days after the occurring of the alleged injury, or damage, stating specifically in such notice when, where and how the injury or damage was sustained, and setting forth the extent of the injury or damage as accurately as possible, and giving the names and addresses of all witnesses upon whose testimony such person is relying to establish the injury or damage. No action at law for damage shall be brought against the city for personal injury or damage to property prior to the expiration of sixty (60) days after the notice hereinbefore described has been filed with the city manager or the city clerk. After the expiration of the sixty (60) days aforementioned, the complainant may then have two (2) years in which to bring an action of [at] law. In case of injuries resulting in death, before the city shall be liable in damages [therefor], the person or persons claiming such damages shall, within thirty (30) days after the death of the injured person, give notice as above required in case of personal injury.

Sec. 129. Power to settle claims.

The city council shall have the power to compromise and settle any and all claims and lawsuits of every kind and character in favor of or against the city, including suits by the city to recover delinquent taxes.

Sec. 130. Service of process against the city.

All legal process against the city shall be served upon the mayor, clerk, secretary or treasurer.

(Referendum of 2-23-1981, § 1)

Sec. 131. City not required to give security or execute bond.

It shall not be necessary in any action, suit or proceeding in which the City of Alice is a party, for any 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, and said city shall be just as liable as if security or bond had been duly executed.

Sec. 132. Liens against city property.

No lien of any kind shall ever exist against any property, real or personal, owned by the city except that the same be authorized by or created under the provisions of this charter.

Sec. 133. Provisions relating to assignment, execution, and garnishment.

The property, real and personal, belonging to the city shall not be liable to be sold or appropriated under any writ of execution or cost bill. The funds belonging to the city, in the hands of any person, firm or corporation, shall not be liable to garnishment, attachment, or sequestration; nor shall the city be liable to garnishment on account of any debt it may own [owe] or funds or property it may have on hand or owing to any person. Neither the city nor any of its officers or agents shall be required to answer any such writ of garnishment on any account whatever. The city shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors.

Sec. 134. Power to remit penalties.

The city council shall have the right to remit in whole or part any fine or penalty which may be imposed under any ordinance or resolution passed in pursuance of this charter.

(Referendum of 2-23-1981, § 1)

Sec. 135. Church and school property not exempt from special assessments.

No property of any kind, church, school, or otherwise, in the City of Alice, shall be exempt from any of the special taxes and assessments authorized by this charter for local improvements unless the exemption is required by state law.

Sec. 136. Sale or lease of property other than public utilities or acquired by tax sale.

Any real property owned by the City of Alice may be sold or leased by the city council when in its [sic] best interests of the city in accordance with the city charter and the laws of the State of Texas; provided, however, the provisions of this section shall not apply to public utilities.

(Referendum of 2-23-1981, § 1)

Sec. 137. Effect of this charter on existing law.

All ordinances, resolutions, rules and regulations now in force under the city government of Alice and not in conflict with the provisions of this charter, shall remain in force under this charter until altered, amended or repealed by the council after this charter takes effect; and all rights of the City of Alice under existing franchise and contracts are preserved in full force and effect to the City of Alice. Upon adoption of this charter it shall constitute the charter of the City of Alice.

Sec. 138. Continuance of contracts and succession of rights.

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. All bonds, warrants, checks and vouchers of and issued by the City of Alice prior to the taking effect of this charter, are assumed by and shall constitute valid obligations of the City of Alice under this charter. 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 of Alice, shall belong to and be vested in and shall be prosecuted by and for the use and benefit of the corporation hereby created, and shall not in anywise be diminished, affected or prejudiced by the adoption and taking effect of this charter.

The board of equalization for the year 1949 appointed by the city commission of the City of Alice prior to the adoption of this charter shall constitute the board of equalization under this charter for 1949, and its acts and report shall be acted upon and approved as though the board had been appointed under this charter. Taxes for the year 1949 shall be assessed, levied and collected by the city council upon the acts and report of said board of equalization.

Sec. 139. Construction and separability clause.

This charter shall be liberally construed to carry out its intents and purposes. 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 of section to which such holding shall directly apply. It is intended that the charter and the Code of the City of Alice, Texas, as originally adopted and as it may be amended from time to time, shall in its various terms and provisions not be in conflict with the applicable laws of the State of Texas, and in the event there at any time exists a conflict between the terms and provisions of this charter and Code and the applicable provisions of the laws of the State of Texas, then

in such event the laws of the State of Texas shall control to the extent of such conflict, but otherwise all provisions of this charter and Code not in conflict with such laws of the State of Texas shall not be affected or be rendered invalid.

(Referendum of 3-11-1968, § 1)

Sec. 140. Amending the charter.

Amendments to this charter may be framed and submitted to the electors of the city by a charter commission in the manner provided by law for framing and submitting a new charter. Amendments may also be proposed and submitted by ordinance, passed by a majority vote of the full membership of the council, or by a petition signed by not less than ten (10) percentum of the qualified voters of the city. When a charter amendment petition shall have been filed with the council, the council shall forthwith provide by ordinance for submitting such proposed amendment to a vote of the electors. Any ordinance for submitting a charter amendment to the electors shall provide that such amendment be submitted at the next regular municipal election if one shall occur not less than thirty (30) nor more than ninety (90) days after passage of the ordinance; otherwise, it shall provide for the submission of the amendment at a special election to be called and held within the time aforesaid. Notices of said election shall be given by publication of said amendments in a newspaper of general circulation published in said City of Alice, on the same day in each of two (2) successive weeks, the date of the first publication to be not less than fourteen (14) days prior to the date set for said election. If a proposed amendment be approved by a majority of the electors voting thereon it shall become a part of the charter at the time fixed therein. Each amendment shall be confined to one subject; and, when more than one amendment shall be submitted at the same time, they shall be so submitted as to enable the electors to vote on each amendment separately.

(Referendum of 3-11-1968, § 1; Ord. of 2-23-1981, § 1)

Sec. 141. Submission of the charter to electors.

The charter commission in preparing this charter finds and decides 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 construed 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 of Alice at an election to be held for that purpose on the tenth day of September, 1949. If a majority of the qualified voters voting in such election shall vote in favor of the adoption of this charter, it shall become the charter of the City of Alice and after the returns have been canvassed, the same shall be declared adopted.

An official copy of the charter shall be filed with the records of the city and the mayor shall as soon as practicable certify to the secretary of state an authenticated copy under the seal of the city, showing the approval by the qualified voters of such charter.

The two (2) councilmen to be elected under section 14 of this charter shall be voted on at the same time and at the same election at which this charter is submitted to the voters, and the candidates therefor shall be governed by this charter and take office as herein provided.

In not less than thirty (30) days prior to the election provided for under this section, the governing body of the City of Alice shall cause the city clerk to mail a copy of this charter to each qualified voter of the City of Alice as appears from the tax collector's rolls for the year ending January 31st preceding said election.