



Dear City of Van Alstyne Registered Voter:

Enclosed with this letter is a copy of the proposed City of Van Alstyne City Charter, which was recently drafted and approved by the Van Alstyne Charter Commission. The Charter Commission was a group of fifteen members appointed by the City Council that met in public meetings throughout the fall and winter. A City Charter is the basic document that defines the organization, powers, functions and essential procedures of the city government. It is comparable to the Constitution of the United States or the state's constitution. The City Charter is, therefore, the most important legal document of any city. The enclosed Charter is the end result of the Commission's labors.

Van Alstyne has reached a population threshold such that the citizens of our city now have the option to adopt a City Charter and move from the current general-law city status to a home-rule city, governed by the proposed Charter. The decision on Charter adoption will be made by the voters at the May 7, 2022 election. You are receiving this in compliance with the Texas Local Government Code, section 9.003(b) which requires the City Secretary to send a copy of the proposed Charter to each registered voter in the city.

Please review the proposed Charter and participate in the May 7, 2022 election as this important moment in the City's history takes place!

Sincerely,

A handwritten signature in blue ink that reads "Jim Atchison".

Jim Atchison  
Mayor

**HOME RULE CHARTER**  
**CITY OF VAN ALSTYNE, TEXAS**

Adopted by Election: \_\_\_\_\_

Final Draft submitted to City Council on February 10, 2022

# Home Rule Charter City of Van Alstyne, Texas

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# **CHAPTER ONE**

## **INCORPORATION AND BOUNDARIES**

### **SECTION 1.01 INCORPORATION**

All inhabitants of the City of Van Alstyne, Grayson and Collin Counties, Texas, as the boundaries and limits of said City have heretofore been established and now exist, or may hereafter be established, shall constitute a municipal body politic incorporated under and known by the name “City of Van Alstyne” with such powers, rights, duties, privileges, and immunities as are herein provided.

### **SECTION 1.02 BOUNDARIES AND LIMITS**

The boundaries and limits of the City of Van Alstyne shall be those as established and described in ordinances duly passed by the City Council of the City of Van Alstyne in accordance with state law. The City Secretary shall at all times keep a correct and complete description and official map of the City’s boundaries on file, with recent annexations and disannexations being shown on said map.

### **SECTION 1.03 ANNEXATIONS AND DISANNEXATIONS**

The City may from time to time alter its boundaries by annexing or disannexing territory in any size or shape desired in any manner provided by state law, with or without consent of the owners of such territory or the inhabitants thereof. Any additional territory annexed to the City shall be a part of the City for all purposes, and the property situated therein shall bear its pro rata part of the taxes levied by the City as provided by state law. The inhabitants thereof shall be entitled to all rights and privileges of all citizens and shall be bound by the acts, ordinances, and resolutions of the City. Whenever, in the opinion of the City Council, there exists within the corporate limits of the City any territory, either inhabited or uninhabited, not suitable or necessary for City purposes, or upon a petition signed by a majority of the qualified voters residing in said inhabited territory, the Council may, upon a public hearing and by ordinance duly passed, discontinue said territory as part of the City. The City shall comply with all applicable procedural rules and notice requirements set forth in state law.

## **CHAPTER TWO**

### **FORM OF GOVERNMENT AND POWERS**

#### **SECTION 2.01 FORM OF GOVERNMENT**

Municipal government for the City of Van Alstyne shall be a “council-manager government.” Except as otherwise provided by this Charter and the Constitution and laws of the State of Texas, all powers conferred on the City shall be exercised by a City Council to be composed of a Mayor and six (6) Council Members in places 1, 2, 3, 4, 5 and 6 elected by qualified voters for a term of three (3) years, unless otherwise specified herein. The Mayor and Council Members in places 1 through 6 shall be elected by the qualified voters of the City at-large. Beginning with the election in May, 2022, places 1, 2, and 3 shall be for a term of two (2) years until the election in May 2024, after which time places 1, 2 and 3 shall be for a term of three (3) years from that election going forward. Beginning with the election in May, 2023, places 4 and 5 shall be for a term of two (2) years until the election in May, 2025, after which time places 4 and 5 shall be for a term of three (3) years from that election going forward. Place 6 shall remain vacant until the election in May, 2023. Place 6 and the Mayor’s position will be up for election in 2023 and shall be for three (3) year terms from that election and going forward.

#### **SECTION 2.02 POWERS OF THE CITY**

The City of Van Alstyne shall be a Home Rule City under the Constitution and laws of the State of Texas and shall have all powers, functions, rights, privileges and immunities of every kind and nature granted to a Home Rule City under Article XI, Section 5, of the Constitution of the State of Texas, known as the Home Rule Amendment, and all other laws passed by the Legislature of the State of Texas relating thereto, or which may hereafter be passed by said Legislature in relation to such matters including, but not limited to, the following powers:

- (1) To assess, levy, and collect taxes for general and special purposes on all lawful subjects of taxation.
- (2) To fix and regulate the rates of gas, water, electricity, and other utilities, and to regulate and fix the fares, tolls, and charges of local telephones and exchanges, public carriers and motor vehicles where they are transporting passengers, freight or baggage, and generally to fix and regulate the rates, tolls, or charges and the kind of service of all public utilities of every kind, unless otherwise required by state law.
- (3) To sue and be sued, to contract and be contracted with, to buy, sell, lease, mortgage, hold, manage, and control such property as its interests require.
- (4) To make and enforce all police, health, sanitary and other regulations, and



pass such ordinances as may be expedient for maintaining and promoting the peace, good government and welfare of the City, for the performance of the functions thereof, for the order and security of its inhabitants, and to protect the peace, lives, health, and property of such inhabitants, and to provide suitable penalties for the violation of any ordinance enacted by the City.

- (5) To borrow money on the faith and credit of the City by the issue or sale of bonds, warrants, certificates of obligation, notes or other securities and instruments authorized by the laws of the State of Texas.
- (6) To acquire, by purchase, gift or devise, or by the exercise of the right of condemnation, and own, in fee simple or otherwise, either public or private property located inside or outside of the corporate limits of the City, for the extension, improvement and enlargement of its waterworks system, including riparian rights, water supply reservoirs, stand pipes, watersheds, dams, the laying, building, maintenance and construction of water mains, rights-of-way in connection therewith, and the laying, erection, establishment or maintenance of any necessary appurtenance or facilities which will furnish to the inhabitants of the City an abundant supply of wholesome water; for sewerage plants and systems; right-of-way for water and sewer lines; parks, playgrounds, fire stations, police stations, incinerators or other garbage disposal plants; streets, boulevards, and alleys or other public ways; municipal buildings, garages and parking facilities, or any rights-of-way needed in connection with any property used for any purpose hereinabove named; for the straightening or improving of the channel of any stream, branch or drain or for any other municipal or public purpose.
- (7) To institute and prosecute suits without giving security therefore, and appeal from judgments of the courts without giving supersedeas or cost bonds, other bonds or security whatever.
- (8) To have the exclusive right to erect, own, maintain and operate a waterworks and sanitary system for the use of said City and its inhabitants and to regulate the same, including the right to prescribe rates for water and sanitary sewer services, and to make such rules and regulations as the City Council may deem expedient, including the power to extend water and sanitary sewer lines and assess a portion or all of the cost therefore and affix a lien against the property and the owner thereof, and do anything whatsoever necessary to operate and maintain said waterworks and to compel the owners of all property and the agents of such owners to pay all charges for water and sanitary sewer services furnished.
- (9) To acquire property within or without its boundaries or within boundaries of other municipalities for any public purpose, in fee simple or lesser interest or estate, by purchase, gift, devise, lease or condemnation when necessary or desirable to carry out any of the powers conferred upon it by this Charter or by

the Constitution and the laws of the State of Texas.

- (10) To lay out, open, close, establish, alter, widen, lower, extend, grade, supervise, maintain, and improve streets, alleys, and parks, and to regulate the use thereof and require removal of all obstructions or encroachments of every nature and character upon said public streets, sidewalks or other public property.
- (11) To create offices, determine the method for selection of officers, and prescribe the qualifications, duties, and tenure of office for officers.
- (12) To appropriate the money of the City for all lawful purposes to create, provide for, construct, regulate and maintain public works, public improvements of any nature, economic development and to furnish municipal services as may be provided by resolution or ordinance of the City Council, or as required by law.

### **SECTION 2.03 POWERS - GENERAL**

The enumeration of particular powers in the Charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated herein, implied thereby or appropriate to the exercise thereof, the City shall have and may exercise all other powers that exist now or may be granted to municipalities by the Constitution and laws of the State of Texas, together with all of the implied powers necessary to carry into execution such powers.

## **CHAPTER THREE**

### **CITY COUNCIL**

#### **SECTION 3.01 MAYOR**

The person elected Mayor shall be the presiding officer of all meetings of the City Council. The Mayor shall be the official head of the City government, and beginning at the first regular City Council meeting following the May 2023 election where the Place 6 Councilmember is seated, shall be able to vote on all matters coming before the Council (unless otherwise subject to recusal or disqualification under this Charter or state law), and shall be authorized to sign all contractual agreements and documents approved by the Council. Until the first regular City Council meeting following the May 2023 election where the Place 6 Councilmember is seated, the Mayor shall vote on matters coming before the City Council only in the event of a tie.

#### **SECTION 3.02 QUALIFICATIONS**

Each candidate for election to the City Council or office of Mayor shall be a qualified voter of the City, shall be not less than eighteen (18) years of age, shall have resided in the

City not less than twelve (12) months immediately preceding election day, shall meet the requirements of the Texas Election Code; shall not be within one (1) year of a discharge of an inability to vote by reason of felony and shall not, after notice of any delinquency, be in arrears in the payment of any taxes or other liabilities due the City. Each Council Member and the Mayor must continually reside within the City during such officer's term of office, and any removal of the officer's residence from the City during his or her term of office shall constitute a vacation of his or her office, and such vacancy shall be filled as provided in Section 3.05.

### **SECTION 3.03    LIMITATION ON CONSECUTIVE TERMS**

No person shall serve as Mayor for more than four (4) consecutive terms, and no person shall serve as Council Member for more than four (4) consecutive terms. A term of office shall be for a period of three (3) years or any portion thereof. Terms of office served prior to the adoption of this Charter shall not count towards the limitation on consecutive terms.

### **SECTION 3.04    REIMBURSEMENT AND COMPENSATION**

Members of the City Council shall be entitled to reimbursement of all necessary and reasonable expenses incurred in the performance of their official City Council duties as may be authorized by the City Council. No Council Member shall be otherwise compensated for holding office.

### **SECTION 3.05    VACANCIES IN THE CITY COUNCIL; FILLING OF VACANCIES**

- A. The office of a Council Member or office of the Mayor shall become vacant upon the official's death, resignation, or removal from office in any manner authorized by law, removal of the official's residence from the City of Van Alstyne or forfeiture of the official's office.
- B. A Council Member or the Mayor shall forfeit his or her office if the official lacks at any time during the official's term of office any qualification for the office prescribed by this Charter or by State law, or if the official violates any express prohibition of this section or any other provision of this Charter, or if the official fails to attend three (3) consecutive regular City Council meetings without being excused by the City Council. The City Council shall be the final authority to resolve matters involving forfeiture of office by a Council Member or the Mayor.
- C. If there is a vacancy in the office of Mayor or Council Member, such vacancy shall be filled by special election within one hundred twenty (120) days after such vacancy occurs, in accordance with the Texas Constitution, and the Texas Election Code, as amended.

### **SECTION 3.06 MEETINGS; QUORUM**

Regular meetings of the City Council shall be held at such times as may be prescribed from time to time by resolution of the City Council. Special meetings shall be called by the City Secretary upon the written request of the Mayor, the City Manager or two (2) Members of the City Council. Notice of any regular or special meetings of the City Council shall state the subject to be considered at the meeting. All official meetings of the Council and of all committees thereof shall be open to the public except as provided by state law. Those meetings involving an attorney and client relationship, and other matters that state law has provided may be discussed in closed session, need not be open to the public. A majority of the City Council shall constitute a quorum for the purpose of transaction of business. No action of the City Council, except as specifically provided in this Charter, shall be valid or binding unless adopted by the affirmative vote of a majority of the City Council present and qualified to act. The City Council shall determine its own rules of procedure and shall establish and adopt a Mayor and Council Code of Ethics within one (1) year of the adoption of this Charter by election. The City Council may censure its Members for misconduct, and may compel the attendance of absent Members. Should any number of Members of the City Council be recalled pursuant to Chapter 13 of this Charter, and are no longer qualified to act, a majority of the remaining Members of the City Council shall constitute a quorum for the purpose of transaction of business.

### **SECTION 3.07 ABSTENTION**

Should any person on the City Council choose to abstain from voting on any question before the City Council, where no conflict of interest exists, the person's vote shall be registered as an abstention.

### **SECTION 3.08 MAYOR PRO TEM**

Annually, at the June regular meeting of the City Council, (or at the next meeting thereafter if the June regular meeting does not occur), the City Council shall elect one of its Members as Mayor Pro Tem, who shall perform the duties of Mayor in the case of the absence, refusal, or inability of the Mayor to perform the duties of the Mayor's office, and who shall, during that time, be vested with all the powers belonging to the Mayor.

## **CHAPTER FOUR**

### **CITY MANAGER**

#### **SECTION 4.01 CITY MANAGER - QUALIFICATIONS, APPOINTMENT AND REMOVAL; DUTIES; COMPENSATION**

The City Manager shall be the chief administrative and executive officer of the City. The City Manager is appointed by and serves at the will of the City Council. The City Manager shall be required to have suitable executive management experience (as determined by the City Council), and shall be appointed on the basis of the City Manager's administrative ability, experience, and training. The City Manager shall administer the business of the City, and the City Council shall ensure that such administration is efficient. The City Council may by ordinance delegate to the City Manager any additional powers or duties it considers proper for the efficient administration of City affairs. The City Manager shall execute a bond, paid for by the City, conditioned that the City Manager will faithfully perform the duties of City Manager. The amount of such bond shall be as prescribed by ordinance adopted by the City Council. The City Council shall be authorized to enter into a Contract of Employment with the City Manager and to prescribe such compensation therein as it may fix. The action of the City Council in suspending or removing the City Manager shall require a super-majority vote (2/3) of the City Council, and any such decision shall be final, it being the intention of this Charter to vest all authority and responsibility for such suspension or removal in the City Council.

#### **SECTION 4.02 CITY MANAGER - DIRECTION AND SUPERVISION OF EMPLOYEES, NONINTERFERENCE BY COUNCIL; APPOINTMENTS AND REMOVALS OF DEPARTMENT HEADS**

Except for the purpose of inquiries and investigations as provided by this Charter or otherwise by law, the City Council or its Members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and no Member of the City Council shall give orders to any subordinate of the City Manager, either publicly or privately. Neither the City Council nor any of its Members shall direct or request the appointment of any person to, or his or her removal from, office by the City Manager or by any of the City Manager's subordinates. Except as otherwise provided for in this Charter, the City Manager shall be responsible for, and have the power to appoint, suspend, and/or remove all or any one of the directors of the departments of the City.

## **SECTION 4.03 CITY MANAGER - SPECIFIC POWERS AND DUTIES**

The City Manager shall be responsible to the City Council for the proper administration of the affairs of the City and shall have the power and duty to:

- 1) Exercise control over all departments and subdivisions thereof created by this Charter or by ordinance.
- 2) Supervise the preparation of and recommend items for inclusion in the official agenda of all City Council meetings and meetings of the Boards and Commissions as established by this Charter or ordinance.
- 3) Prepare and submit to the City Council the annual budget and capital program, and administer the budget as adopted by the City Council. The City Manager shall have the authority to make intra-departmental transfers of budgeted funds as he or she determines; inter-departmental transfer of budgeted funds shall be subject to City Council approval.
- 4) Be responsible for the proper administration of all City affairs placed in his or her hands.
- 5) See that all terms and conditions imposed in favor of the City or its inhabitants in any public utility franchise are faithfully kept and performed.
- 6) See that all laws and ordinances are enforced.
- 7) Keep the City Council at all times fully advised as to the financial condition and needs of the City, and prepare and submit to the City Council an annual report on the finances and administrative activities of the City.
- 8) Appoint, suspend, and/or remove employees not otherwise provided for in this Charter. Appointments made by the City Manager shall be on the basis of executive and administrative experience and ability, and of training fitness and efficiency of such appointees in the work which they are to administer.
- 9) Attend all City Council meetings and take part in the discussion of any City business, except such limited executive session items as the City Council may designate, or unless otherwise excused by City Council.
- 10) Recommend to the City Council for adoption such measures as the City Manager may deem necessary or expedient; to execute deeds, deeds of trust, easements, releases, contracts, and all other legal instruments on behalf of the City when authorized by ordinance or resolution of the City Council.
- 11) Perform such other duties as are specified in this Charter, or as may be required by the City Council by ordinance or resolution, not inconsistent with this Charter.

## **CHAPTER FIVE**

### **CITY SECRETARY**

#### **SECTION 5.01 APPOINTMENT; REMOVAL; COMPENSATION**

The City Manager shall appoint, suspend, and/or remove the City Secretary. The City Secretary shall receive such compensation as shall be fixed by the City Manager.

#### **SECTION 5.02 DUTIES OF THE CITY SECRETARY**

The City Secretary shall:

- 1) Attend all meetings of the City Council and keep accurate records of all actions taken by the Council, unless otherwise excused by City Council;
- 2) Maintain the official records and files of the City;
- 3) Administer oaths as required by law;
- 4) Attest contracts, assessment certificates, ordinances, resolutions, and other legal instruments when executed by the authorized officers of the City;
- 5) Serve as the election official for all City elections;
- 6) Hold and maintain the City Seal and affix it to all appropriate documents as required;
- 7) Perform such other duties as may be required by the City Council, the City Manager, this Charter, or the laws of the State of Texas.

## **CHAPTER SIX**

### **MUNICIPAL COURT**

#### **SECTION 6.01 CREATION**

The City Council shall, by ordinance, create and provide for a Municipal Court to be known as the Municipal Court of the City of Van Alstyne, Texas, and may appoint one or more Municipal Judges to serve in such Court. The Court shall have all the powers and duties as are now or as may hereafter be prescribed by the laws of the State of Texas in connection with the trial of misdemeanor offenses within its jurisdiction.

#### **SECTION 6.02 MUNICIPAL COURT JUDGE**

The Judge of the Municipal Court, and all alternates, shall be competent, duly qualified, and licensed attorneys in the State of Texas. The Judge of the Municipal Court shall

be appointed to a term of two (2) years and may be appointed to additional and consecutive terms at the will and pleasure of the City Council. The Judge shall receive such compensation as may be determined by the City Council. This compensation shall be fixed, and be commensurate with the duties performed by the Judge.

### **SECTION 6.03 CLERK OF THE COURT**

There shall be a Clerk of the Municipal Court appointed by the City Manager. The Clerk of the Court and any Deputies appointed by the City Manager shall have the power to administer oaths and affidavits, make certificates, affix the seal of said Court as necessary and as required by law, and in general, do and perform any and all acts usual and necessary to be performed by clerks and deputy clerks of municipal courts of the State of Texas.

### **SECTION 6.04 JURISDICTION, POWER, AND FINES**

The Municipal Court shall have jurisdiction:

- 1) Over the forfeiture and collection of bonds given in proceedings therein, and to order the forfeiture of cash acceptance bonds upon the failure of the defendant to appear, and to accept the same in lieu of a fine;
- 2) Concurrent with the appropriate state Court on all criminal cases arising under the criminal laws of the state where the offense is committed within the City limits and the penalty does not exceed that which is established for Municipal Courts by state law;
- 3) Over all criminal cases arising under the ordinances of the City within the City limits and outside the City limits to the extent authorized by state law;
- 4) Punish for contempt, admit to bail, and forfeit bonds under such circumstances and as provided by law;
- 5) Enforce all process of the Courts in accordance with state law and City ordinances, punish witnesses for failing to obey subpoenas, and compel their attendance by process of attachment.
- 6) As otherwise specified by state statutes governing municipal courts.

### **SECTION 6.05 COST, FINES, AND PENALTIES**

All cost, fines, and penalties imposed by the Municipal Court shall be paid into the City Treasury for the use and benefit of the City, as may be consistent with present and future state laws.



## **CHAPTER SEVEN**

### **CITY ATTORNEY**

#### **SECTION 7.01 APPOINTMENT**

The City Council shall appoint a competent licensed attorney, practicing law in the State of Texas, of recognized ability who shall be known as the City Attorney. The City Attorney serves at the pleasure of the City Council and may be removed, without cause, by an affirmative vote of a majority of the full membership of the City Council.

#### **SECTION 7.02 COMPENSATION**

The City Attorney shall receive for his or her services such compensation as may be fixed by the City Council at the time of the City Attorney's appointment, and from time to time by appropriate resolution.

#### **SECTION 7.03 DUTIES OF CITY ATTORNEY**

The City Attorney shall be the legal adviser of, and attorney for, all of the offices and departments of the City, and shall represent the City in all litigation and legal proceedings, provided however, that the City Council may retain special counsel at any time it deems appropriate and necessary. The City Attorney shall perform other duties prescribed by the Charter, by ordinance or resolution of the City Council.

## **CHAPTER EIGHT**

### **CITY DEPARTMENTS AND FISCAL MATTERS**

#### **SECTION 8.01 ADMINISTRATIVE DEPARTMENTS**

There shall be such administrative departments as are established by this Charter and as may be established by ordinance and, except as otherwise provided in this Charter, such administrative departments shall be under the direction and supervision of the City Manager. The same individual may head two (2) or more departments, and the City Manager may head one (1) or more departments. Where this Charter is silent, the City Manager shall have full authority to create, re-organize, merge, or disband City Departments as he or she determines.

## **SECTION 8.02 POLICE AND FIRE DEPARTMENTS**

There is hereby created a Police Department of the City of Van Alstyne, at the head of which shall be the Chief of Police. There is hereby created a Fire Department of the City of Van Alstyne, at the head of which shall be a Fire Chief. The head of each department shall be a director-level position who shall be appointed by the City Manager, and such director shall have supervision and control over the director's department.

## **SECTION 8.03 TAX ADMINISTRATION**

- A. The City Council shall have the power, and is hereby authorized to levy, assess, and collect annual taxes not to exceed the maximum limit set by the Constitution and laws of the State of Texas, as they now exist or as they may be amended, on each one hundred dollars (\$100.00) assessed valuation of all property having a location within the corporate limits of the City and not exempt from taxation by the Constitution and laws of the State of Texas.
- B. All taxes due the City shall be payable at the office of the City Assessor and Collector and may be paid at any time after the tax rolls for the year have been completed and approved, which completion and approval shall be not later than October 1. City Assessor duties may be assigned by the City Council to the respective assessors of Grayson and Collin counties, or as the City Council may otherwise designate. Taxes shall be paid before February 1 of each year succeeding the year for which the taxes are levied, and all such taxes not paid prior to such date shall be deemed delinquent and shall be subject to such penalty and interest as may be provided by law. Failure to levy and assess taxes through omission in preparation of the approved tax rolls shall not relieve the person, firm or corporation so omitted from the obligation to pay such current or past due taxes shown to be payable by recheck of the rolls and receipts for the years in questions, unless otherwise provided by law.
- C. All property having its location in the City on the first day of January of each year shall stand charged with a lien in favor of the City from said date for the taxes due thereon. The lien provided hereby shall be superior to all other liens except other tax liens, regardless of when such other liens were created. All persons purchasing any of said property on or after the first day of January in any year shall take the same subject to the lien herein provided. In addition to the lien herein provided on the first day of January of any year, the owner of property subject to taxation by the City shall be personally liable for the taxes due thereon for such year. The City shall have the power to sue for and recover personal judgment for taxes without foreclosure, or to foreclose its lien or liens, or to recover both personal judgment and foreclosure. In such suit where it appears that the description of any property in the City assessment rolls is insufficient to identify such property, the City shall have the right to plead a good description of the property to be assessed, to prove the same, and to have

its judgment foreclosing the tax lien and/or for personal judgment against the owner for such taxes as such ownership and property appears on the approved tax rolls furnished by the Grayson or Collin Central Appraisal Districts, as appropriate.

#### **SECTION 8.04 FINANCE DEPARTMENT**

There shall be a Department of Finance, the director of which shall be appointed by the City Manager. The head of the Department of Finance shall be known as the Finance Director who shall also be the City Treasurer. The Finance Director shall provide a bond with such surety and in such amount as the Council may require and the premiums on such bond shall be paid by the City. The Finance Director shall have knowledge of municipal accounting and taxation and shall have experience in budgeting and financial control. The Finance Director shall have the custody of all public monies, funds, notes, bonds, and other securities belonging to the City. The Finance Director, under the direction of the City Manager, shall oversee the financial operations and procedures that are implemented in each of the City's departments. The Finance Director shall make payments out of City funds upon order of the City Council or other authorized City Officer as provided herein. The Finance Director shall render a full and accurate statement to the City Manager and the City Council of his or her receipts and payments at such times as the City Manager or City Council may require. The Finance Director shall perform other such acts and duties as the City Manager may prescribe.

#### **SECTION 8.05 FISCAL YEAR**

The fiscal year of the City shall begin on the first day of October and end on the following September 30<sup>th</sup>, but the fiscal year may be changed by the City Council by ordinance.

#### **SECTION 8.06 ANNUAL BUDGET**

It shall be the duty of the City Manager to submit an annual budget not later than thirty (30) days prior to the end of the current fiscal year to the City Council for its review, consideration and revision. The City Council shall call a public hearing or hearings on the budget in accordance with state law. The City Council may adopt a budget with or without amendments. The City Council may increase or decrease amounts or programs and may delete any programs or amounts except expenditures required by law or for a debt service. At the close of each fiscal year, the unencumbered balance of each appropriation shall revert to the fund from which it was appropriated and shall be subject to future appropriations, but appropriations may be made in furtherance of improvements or other objects of work of the City which will not be completed within the current year.

#### **SECTION 8.07 FAILURE TO ADOPT ANNUAL BUDGET**

If the City Council fails to adopt the budget by the 30<sup>th</sup> of September, the amounts

appropriated for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis with all items in it prorated accordingly until such time as the City Council adopts a budget for the ensuing fiscal year. The property tax levy will be set to equal the total current fiscal year tax receipts, unless the ensuing fiscal year budget is approved by September 30<sup>th</sup> of the current fiscal year.

## **SECTION 8.08 BONDS AND OTHER EVIDENCES OF INDEBTEDNESS**

The City shall have the right and power to borrow money on the credit of the City for public purposes by whatsoever method it may deem to be in the public interest. The City shall further have the power to borrow money on the credit of the City and to issue general obligation bonds and other evidences of indebtedness for permanent public improvements or for any other public purpose not prohibited by the Constitution and laws of the State of Texas and to issue refunding bonds to refund outstanding bonds and other evidences of indebtedness of the City previously issued. All such bonds shall be issued in conformity with the laws of the State of Texas. The City shall further have the power to borrow money for the purpose of constructing, acquiring, improving, extending or repairing or public utilities, recreational facilities or any other self-liquidating municipal functions not prohibited by the Constitution and laws of the State of Texas, and to issue revenue bonds to evidence the obligations created thereby. Such bonds shall be a charge upon and payable from the properties, or interest therein pledged, or the income therefrom, or both. The holders of the revenue bonds of the City shall never have the right to demand payment thereof out of monies raised or to be raised by taxation. All such bonds shall be issued in conformity with the laws of the State of Texas. The City shall have the power to borrow money for public improvements or any public purpose in any other manner provided by law, including certificates of obligation as authorized by Chapter 271 of the Texas Local Government Code or other applicable laws. All bonds and evidences of indebtedness of the City having been approved by the Attorney General and registered by the Comptroller of Public Accounts shall thereafter be incontestable in any court or other forum for any reason, and shall be valid and binding obligations of the City in accordance with their terms for all purposes.

## **SECTION 8.09 PURCHASING**

- A. The City Council may by ordinance give the City Manager general authority to contract for expenditures without further approval of the City Council for all budgeted items not exceeding limits set by the City Council within the ordinance.
- B. All contracts for expenditures or purchases involving more than the limits must be expressly approved in advance by the City Council. All contracts or purchases involving more than the limits set by the City Council shall be awarded by the City Council, in accordance with state law.

- C. Emergency contracts as authorized by law and this Charter may be negotiated by the City Council or City Manager if given authority by the City Council, without competitive bidding, and in accordance with state law. Such emergency shall be declared by the City Manager and approved by the City Council, or may be declared by the City Council.

## **CHAPTER NINE**

### **BOARDS AND COMMISSIONS**

#### **SECTION 9.01 PLANNING AND ZONING COMMISSION**

The City Council shall create a Planning and Zoning Commission of the City of Van Alstyne and shall appoint such members as it shall deem suitable by ordinance, each member of the Planning and Zoning Commission shall be a citizen of City of Van Alstyne unless otherwise provided for by ordinance. Members shall be appointed for such terms as may be set forth for the Planning & Zoning Commission by ordinance; provided, however, that members of the Planning and Zoning Commission serve at the pleasure of the City Council and may be removed, without cause, by an affirmative vote of the majority of the full membership of the City Council. Such appointees shall serve without compensation and may not hold any elective office of the State of Texas or any other political subdivision thereof during their terms. A vacancy in an unexpired term shall be filled by the City Council for the remainder of the term. The majority of the appointed members shall constitute a quorum, and decisions may only be made with the affirmative vote of a majority of these members present and voting. The Planning and Zoning Commission shall select from any of its members a Chairman and Vice Chairman.

#### **SECTION 9.02 OTHER BOARDS AND COMMISSIONS**

The City Council shall have the power and is hereby authorized to create, abolish, establish, and appoint such other City and corporate boards, commissions and committees, which shall be composed of the citizens of the City of Van Alstyne except as otherwise required by law, or provided for by ordinance, as the City Council deems necessary to carry out the functions of the City, and to prescribe the purpose, functions, and tenure of each board, commission, or committee. Unless otherwise provided for by ordinance, each such Board and Commission shall elect its Chairman, Vice-Chairman, and such other officers as each Board may designate.

## **CHAPTER TEN**

### **ORDINANCES**

#### **SECTION 10.01 PROCEDURE FOR PASSING ORDINANCES AND RESOLUTIONS**

The City Council shall evidence its official actions by written ordinances, resolutions, or oral motions. The style of all ordinances shall be: "Be it ordained by the City Council of The City of Van Alstyne, Texas" and the style of all resolutions shall be "Be it resolved by the City Council of the City of Van Alstyne, Texas." Each proposed ordinance shall not be amended or repealed except by adoption of another ordinance. All ordinances and resolutions passed by the City Council shall become effective immediately from and after passage except where publication of a caption is required or where the ordinance, state law, or other provisions of this Charter provide otherwise, in which case the effective date shall be as prescribed in the ordinances.

#### **SECTION 10.02 PUBLICATION OF ORDINANCES**

The descriptive caption or title of each ordinance containing a penalty shall be published at least once in the official newspaper of the City, unless otherwise provided by state law or this Charter.

#### **SECTION 10.03 CODE OF ORDINANCES**

The City Council shall have the power to cause the ordinances of the City to be printed, in code form, and shall have the same arranged and digested as often as the City Council may deem advisable, provided that failure to print the ordinances as herein provided shall not affect the validity of the same.

#### **SECTION 10.04 ORDINANCES AND RESOLUTIONS NOW IN EFFECT**

All ordinances, portions thereof, resolutions, contracts, bonds, obligations, rules and regulations now in force under the City government of the City of Van Alstyne, and not in conflict with the provisions of this Charter, shall remain in force under this Charter until altered, amended, or repealed by the City Council in the manner required by law.

## **CHAPTER ELEVEN**

### **ELECTIONS**

#### **SECTION 11.01 CITY ELECTIONS**

At the election held on the 1st Saturday in May, 2022, each qualified voter shall be entitled to vote for the offices of Council Members for Places 1, 2, and 3. The Council Members elected in Places 1, 2, and 3 shall serve for an initial term of two (2) years, or until the regular election in May, 2024. The Council Members for Places 4, 5, and 6, and the Mayor shall be elected in May, 2023. The Council Members for Places 4 and 5 shall serve for an initial term of two (2) years, and the Council Member for Place 6 and the Mayor shall serve for a term of three (3) years. Thereafter, all Council Members shall be elected for a term of three (3) years, starting with the election of Places 1, 2, and 3 in 2024, Places 4 and 5 in 2025, and Place 6 and the Mayor in 2026. All qualified voters of the state who reside within the City of Van Alstyne shall have the right to vote in the City elections.

#### **SECTION 11.02 SPECIAL ELECTIONS**

The City Council, by ordinance or resolution, may call such special elections as are authorized by the state law or this Charter, fix the time and place of holding the same, and provide all means for holding such special elections, provided that every special election shall be called and held as nearly as practicable according to the provisions governing regular elections.

#### **SECTION 11.03 REGULATION OF ELECTIONS**

All City elections shall be governed by the Constitution of the State of Texas, general laws of the state, this Charter, and by ordinance of the City regulating the holding of municipal elections. The City Council shall appoint the election judges and other election officials and shall provide for the compensation of all election officials in City elections and for all other expenses in holding said elections.

#### **SECTION 11.04 CANDIDATES: FILING FOR OFFICE**

Any qualified person as prescribed by Section 3.02 may make application to have his/her name placed on the official ballot for the position of Council Member or Mayor. The application shall be made in accordance with all applicable laws and shall state that the candidate agrees to serve if qualified and elected. Each candidate shall execute such oath and other official form of affidavit as may be required by the City Secretary pursuant to Texas Election Code. The City Secretary shall review the application and notify the candidate whether or not the application satisfies the requirements of this Charter and the Texas Election Code. If an application is insufficient, the City Secretary shall deliver to the

candidate within two (2) business days of receipt, a statement of such insufficiency. The candidate may file a new application within the regular time for filing applications. The City Secretary shall keep on file all applications at least until the expiration of the term of office for which such candidates filed.

## **SECTION 11.05 OFFICIAL BALLOT**

The order on the ballot of the names of the candidates shall be determined by the City Secretary in accordance with the procedures set out in the Texas Election Code. The name of each candidate seeking an elective office, except those who have withdrawn, died, or become ineligible prior to the time permitted for withdrawal, shall be printed on the official ballot in the name designated by the candidate in accordance with the Texas Election Code. Provision for early and absentee voting shall be made as provided by the Texas Election Code.

## **SECTION 11.06 CANVASSING AND ELECTION RESULTS**

Returns of every municipal election shall be delivered forthwith by the Election Judges to the City Secretary, with a copy of the returns being sent to the Mayor. The City Council shall canvass the returns, investigate the qualifications of the candidates and declare the official results of the election not less than two (2) days nor more than six (6) days after the date of the election, or as may be otherwise provided by the Texas Election Code.

## **SECTION 11.07 RUNOFF ELECTION**

- A. The candidates for Mayor and Council Members in Places 1, 2, 3, 4, 5 and 6 receiving a majority of all votes cast for the office of Mayor and Council Members for Places 1, 2, 3, 4, 5 and 6 shall be declared elected.
- B. In the event a candidate for the office of Mayor or Council Member in Places 1, 2, 3, 4, 5 or 6 fails to receive a majority of all votes cast for that office, a runoff election for that office shall be conducted. If more than two (2) candidates tie for the highest number of votes for either the office of the Mayor or Council Members, the tied candidates shall draw by lots (or such other method as to which they may otherwise agree to in writing) to determine which two (2) are to be in a run-off election. The City Secretary shall supervise the drawing of lots under this section.
- C. Not later than the fifth (5) day after the date of counting of the returns, the City Council shall order a runoff election to be held consistent with the Texas Election Code.



## **CHAPTER TWELVE**

### **FRANCHISES**

#### **SECTION 12.01 POWER TO GRANT FRANCHISE**

The City Council shall have the power, subject to the provisions hereof, by ordinance to confer upon any person, firm, corporation, or other legal entity the franchise or right to use the public property of the City for the purpose of furnishing to the public any general public service or benefit, including, but not limited to, heat, light, power, telephone service, transportation, or other telecommunication providers for compensation or hire. No franchise shall be granted by the City to any person, firm, corporation, or other legal entity to own, control or operate a waterworks therein. The City shall have the power by ordinance to grant, renew, and extend all franchises of all public utilities of every character operating within the City. No such franchise shall be granted until after a public meeting shall have been called and held and until such ordinance shall have been passed and accepted by the franchisee. No such ordinance shall become effective until thirty (30) days after its passage.

#### **SECTION 12.02 TRANSFER OF FRANCHISE**

No public utility or other franchise shall be transferable except with the approval of the City Council, expressed by ordinance. This restriction shall not be construed to prevent the franchise holder from pledging the franchise as security for a valid debt.

#### **SECTION 12.03 OWNERSHIP, USE AND CONTROL OF STREETS**

No franchise or easement involving the right to use the same either along, over, across, under, or upon the streets, alleys, highways, parks, and public ways shall be valid unless granted in compliance with the terms of this chapter. No granting of a franchise by ordinance pursuant to this chapter shall convey any ownership or interest in any property of the City other than the right to use the public property for purposes of such franchisee's operations as expressed in the ordinance granting such franchise.

#### **SECTION 12.04 RIGHT OF REGULATION**

In granting, amending, renewing and extending public service and utility franchises, the City shall retain the right to:

- (1) Repeal such franchise by ordinance for failure to comply with the terms thereof, such power to be exercised only after due notice and hearing;
- (2) Require an adequate extension of plant and service as is necessary to provide

adequate service to the public, and maintenance of the plant and fixtures at the highest reasonable standard of efficiency;

- (3) Establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates;
- (4) Impose regulations to ensure safe, efficient and continuous service to the public. The franchise holder in opening and refilling all earth openings shall relay the pavement and do all other work necessary to complete restoration of streets, sidewalks or grounds to a condition equally as good as or better than when disturbed; and
- (5) To regulate, locate, or prohibit the erection of any and all poles, wires, or other utility equipment, conveyance, or structure, on the streets, alleys and public places of said City, and to cause the same to be changed, removed, altered, increased, diminished, placed underground, or be supported by poles of such material, kind, quality and class as may be determined by the City Council, whether the same be telegraph, telephone, electric, cable television or otherwise, and to enforce the provisions hereof by appropriate action in any court of competent jurisdiction.

## **SECTION 12.05 COMPENSATION FOR FRANCHISE**

All persons, corporations, or association of persons, to whom a franchise or privilege may hereafter be granted shall pay to the City for such privilege such compensation as may be fixed by the City Council in the grant of such franchise or privilege. Such compensation as fixed by contract or provided by any Texas statute or statutes and any amendments thereto shall become due and payable at such time as the City Council shall fix in the grant of such franchise or privilege. The failure of any franchisee to pay compensation to the City when due shall result in forfeiture of the franchise or privilege.

## **SECTION 12.06 COUNCIL TO FIX AND REGULATE CHARGES, FARES, OR RATES**

If applicable state law so provides, the City Council shall determine, fix, and regulate the charges, fares or rates of any person, firm, or corporation enjoying a franchise or privilege granted under the provisions of this chapter, and shall prescribe the kind of service to be furnished to the public by such person, firm or corporation, and the manner in which it shall be rendered and may, from time to time, alter or change such rules, regulations, and compensation after reasonable notice and public hearing, provided that the rates, charges and fares so fixed shall at all times be reasonable and permit a reasonable net return on the actual value of the physical properties and equipment of such utilities. In this connection, the City Council may require any utility or franchise holder to furnish such financial reports and information as the City Council may request, including reports of actual operating costs and the financial

condition of its operations within the City, and the City Council may employ, at the expense of such franchisee, necessary outside experts to examine and audit the accounts and records of the franchisee to determine the reasonableness of such charges, fares, and rates.

## **CHAPTER THIRTEEN**

### **INITIATIVE, REFERENDUM, AND RECALL**

#### **SECTION 13.01 SCOPE OF RECALL**

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

#### **SECTION 13.02 PETITIONS FOR RECALL**

Before the question of recall of such officer shall be submitted to the qualified voters of the City of Van Alstyne, a petition demanding such questions to be submitted shall first be filed with the City Secretary. If recall is sought for a Mayor or Council Member, the petition must be signed by qualified voters of the City equal to twenty (20%) percent of the votes cast at the last general election for such office, or 250, whichever is greater.

Each signer of such recall petition shall personally sign his or her name thereto in ink or indelible pencil, and shall write after signer's name his or her place of residence, giving the name of the street and number, or place of residence, and shall also write thereon the day, the month, and the year his or her signature was affixed.

#### **SECTION 13.03 FORM OF RECALL PETITION**

The recall petition mentioned above must be addressed to the Council of the City of Van Alstyne, must be distinctly and specifically pointed to the grounds upon which such petition for removal is predicated, and, if there is more than one ground, said petition shall specifically state each ground with such certainty as to give the officer sought to be removed notice of the matters and things with which the officer is charged. The signature shall be verified by oath in the following form:

“State of Texas”

County of \_\_\_\_\_

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

\_\_\_\_\_  
Signature

Sworn and subscribed before me this \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

Signed \_\_\_\_\_  
Notary Public in and for the State  
of Texas

## **SECTION 13.04 VARIOUS PAPERS CONSTITUTING PETITION**

The petition may consist of one or more copies, or subscription lists, circulated separately, and the signatures thereto may be upon the paper or papers containing the form of petition, or upon other paper attached thereto. Verifications provided for in the preceding section of this Chapter may be made by one or more petitioners, and the several parts of copies of the petition may be filed separately and by different persons, but no signatures to such petition shall remain effective to be counted which were placed thereon more than forty-five (45) days prior to the filing of such petition or petitions with the City Secretary. All papers comprising a recall petition shall be filed with the City Secretary who shall immediately notify, in writing, the officer sought to be removed, by mailing such notice to the officer’s Van Alstyne address within two (2) business days.

## **SECTION 13.05 PRESENTATION OF PETITION TO THE COUNCIL**

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

## **SECTION 13.06 PUBLIC HEARING TO BE HELD**

The officer whose removal is sought may, within seven (7) days after such recall petition has been presented to the Council, request that a public hearing be held to permit the officer to present the facts pertinent to the charges specified in the recall petition. In this event,

the City Council shall order such public hearing to be held, not less than five (5) days nor more than fifteen (15) days after receiving such request for a public hearing.

### **SECTION 13.07 CALLING OF RECALL ELECTION**

If the officer whose removal is sought does not resign, then the City Council shall order an election and set the date for holding such a recall election within one hundred and twenty (120) days, if consistent with the Texas Election Code. The date selected for the recall election shall be in accordance with the Texas Election Code. If after the recall election is established, the officer vacates his or her position, the election shall be cancelled. Any election order so issued shall comply fully with the Texas Election Code.

### **SECTION 13.08 BALLOTS IN RECALL ELECTION**

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

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

"Shall \_\_\_\_\_ be removed from the office of \_\_\_\_\_ by recall?"

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

"Yes"

"No"

### **SECTION 13.09 RESULT OF RECALL ELECTION**

If a majority of the votes cast at a recall election shall be "No," that is against the recall of the person named on the ballot, the officer shall continue in office for the remainder of the officer's unexpired term, subject to recall as before. If a majority of the votes cast at such election be "Yes," that is for the recall of the person named on the ballot, the officer shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy be filled by the City Council as provided in this Charter.

### **SECTION 13.10 RECALL, RESTRICTIONS THEREON**

No recall petition shall be filed against any officer of the City of Van Alstyne within six (6) months after the officer's election, no more than twice within an officer's term, and not within six (6) months after an election for such officer's recall.

## **SECTION 13.11 FAILURE OF THE COUNCIL TO CALL AN ELECTION-RECALL**

If all the requirements of this Charter shall have been met and the City Council shall fail or refuse to receive the recall petition, or order such recall election, or discharge any other duties imposed on the City Council by the provisions of this Charter with reference to such recall, then any petitioning citizen may file with the appropriate court for a writ of mandamus to direct the City to call the election.

## **SECTION 13.12 GENERAL POWER OF INITIATIVE AND REFERENDUM**

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

- (A) Initiative: Such power shall not extend to the budget or capital program or any ordinance not subject to initiative as provided by state law, relating to appropriation of money, issuing of bonds, levy of taxes or salaries of City officers or employees.
- (B) Referendum: Such power shall not extend to the budget, or capital program, or any emergency ordinance, or ordinance not subject to referendum as provided by state law, relating to appropriation of money, issuing of bonds, levy of taxes, or zoning.

## **SECTION 13.13 INITIATIVE**

Qualified voters of the City of Van Alstyne may initiate legislation by submitting a petition addressed to the City Council which requests the submission of a proposed ordinance to a vote of the qualified voters of the City. Said petition must be signed by qualified voters of the City equal to twenty (20%) percent of the votes cast at the last general election for Mayor or Council, or 250, whichever is greater, and each copy of the petition shall have attached to it a copy of the proposed legislation. The petition shall be signed in the same manner as recall petitions are signed, as provided in this Chapter, and shall be verified by oath in the manner and form provided for recall petitions in this Chapter. The petition may consist of one or more copies as permitted for recall petitions. Such petition shall be filed with the City Secretary. Within seven (7) business days after filing of such petition, the City Secretary shall present said petition and proposal ordinance to the Council. Upon presentation to it, it shall become the duty of the Council, within ten (10) days after the receipt thereafter, to set the matter for vote at an election within one hundred and twenty (120) days, if consistent with the Texas Election Code, at which the qualified voters of the City of Van Alstyne shall vote on the question of adopting or rejecting the proposed legislation. However, if any other municipal election is to be held within one hundred and twenty (120) days after the filing of the petition, the question may be voted on at such election. Any election order so issued shall comply fully

with the Texas Election Code.

## **SECTION 13.14 REFERENDUM**

Qualified voters of the City of Van Alstyne may require that any ordinance, with the exception of ordinances appropriating money or levying of taxes, passed by the City Council be submitted to the voters of the City for approval or disapproval, by submitting a petition for this purpose within thirty (30) days after final passage of said ordinance or resolution, or within thirty (30) days after its publication. Said petition shall be addressed, signed, and verified as required in Section 13.13 of this Charter and shall be submitted to the City Secretary. Within seven (7) business days after the filing such petition, the City Secretary shall present said petition to the City Council. Thereupon, the City Council shall reconsider such ordinance at the next available meeting consistent with the posting requirements of the Texas Open Meetings Act and, if the City Council does not entirely repeal the same, shall submit it to popular vote as provided in Section 13.07 of this Charter. Pending the holding of such election, each ordinance shall be suspended from taking effect and shall not later take effect unless a majority of the qualified voters thereon at such election shall vote in favor thereof.

## **SECTION 13.15 VOLUNTARY SUBMISSION OF LEGISLATION BY THE COUNCIL**

The Council, upon its own motion and by a majority vote of its Members, may submit to popular vote at any election for adoption or rejection any proposed ordinance or resolution or measure, or may submit for repeal any existing ordinance in the same manner and the with same force and effect as provided in this Chapter for submission of petition, and may at its discretion call a special election for this purpose.

## **SECTION 13.16 FORM OF BALLOTS**

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

"For the Ordinance" or

"Against the Ordinance"

## **SECTION 13.17 PUBLICATION OF PROPOSED ORDINANCES**

The City Secretary of the City of Van Alstyne shall publish at least twice in the official newspaper of the City the proposed or referred ordinance within fifteen (15) days before the date of the election, and shall give other such notices and do other such things relative to said

election as required in the general municipal election or by the ordinance or resolution calling said election.

### **SECTION 13.18 ADOPTION OF ORDINANCES**

If a majority of the qualified voters voting on any proposed ordinance shall vote in favor thereof, it shall thereupon or any time fixed therein, become effective as a law or as a mandatory order of the Council.

### **SECTION 13.19 INCONSISTENT ORDINANCES**

If the provisions of two or more proposed ordinances approved at the same election are inconsistent, the ordinance receiving the highest number of votes shall prevail.

### **SECTION 13.20 ORDINANCES PASSED BY POPULAR VOTE, REPEAL, OR AMENDMENT**

No ordinance which may have been passed by the City Council upon a petition or adopted by popular vote under the provisions of this Chapter shall be repealed or amended except by the City Council in response to a referendum petition or by submission as provided by Section 13.15 of this Charter.

### **SECTION 13.21 FURTHER REGULATIONS BY THE COUNCIL**

The City Council may pass ordinances providing further regulations for carrying out the provisions of this Chapter consistent herewith.

### **SECTION 13.22 FRANCHISE ORDINANCES**

Nothing contained in this Chapter shall be construed to be in conflict with any of the provisions of this Charter, pertaining to ordinances granting franchises when valuable rights shall have accrued thereunder.



## **SECTION 13.23 FAILURE OF THE COUNCIL TO CALL AN ELECTION - INITIATIVE OR REFERENDUM**

If all the requirements of this Charter shall have been met and the City Council shall fail or refuse to receive the initiative or referendum petition, or order such initiative or referendum election, or discharge any other duties imposed on the City Council by the provisions of this Charter with reference to such initiative or referendum, then any petitioning citizen may file with the appropriate court for a writ of mandamus to require the City to call the election.

## **CHAPTER FOURTEEN**

### **GENERAL AND TRANSITIONAL PROVISIONS**

#### **SECTION 14.01 EFFECT OF CHARTER ON EXISTING LAW**

All ordinances, resolutions, rules and regulations in force in the City on the effective date of this Charter and not in conflict with this Charter shall remain in full force and effect until altered, amended, or repealed. All taxes, assessments, liens, encumbrances, obligations and demands of or against the City, fixed or established before such date, shall be valid if properly fixed or established either under the law in force at the time of such proceedings or under the law after the adoption of this Charter.

#### **SECTION 14.02 CONTINUATION OF PRESENT OFFICES**

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

#### **SECTION 14.03 NEPOTISM**

No officer of the City of Van Alstyne shall appoint, vote for, or confirm the appointment to any office, position, clerkship, employment or duty, of any person related within the second degree by affinity or within the third degree by consanguinity to any Member of the City Council or Mayor, when the salary, fees, or compensation of such appointee is to be paid for, directly or indirectly, out of or from public funds or fees of office of any kind or character whatsoever. However, this provision shall not prevent the appointment, voting for, or confirmation of any person who shall have been continuously

employed in any such office, position, clerkship, employment or duty for at least thirty (30) days, if the officer is appointed, or at least six (6) months, if the officer is elected.

When a person is allowed to continue in any such position, the officer related shall not participate in the deliberation or voting upon the appointment, reappointment, employment, confirmation, re-employment, change in status, compensation, or dismissal of such person, unless such action is taken with respect to a bona fide class or category of employees.

#### **SECTION 14.04 OFFICIAL NEWSPAPER**

The City Council shall have the power to designate by resolution a newspaper of general circulation in the City as the City's official newspaper. All ordinances, captions of ordinances, notices and other matters required to be published by this Charter, by ordinance, or by state law, shall be published in the official newspaper.

#### **SECTION 14.05 JUDICIAL NOTICE**

This Charter shall be recorded in the City Secretary's office in a book kept for that purpose. As soon as practicable after its adoption, an authenticated copy of the Charter shall be certified to the Secretary of State of Texas, the Charter becomes a public act. Such Charter provisions may be read in evidence without pleading or proof of their provisions, and judicial notice shall be taken thereof in all courts and places.

#### **SECTION 14.06 CLAIMS FOR DAMAGE OR INJURY**

The City of Van Alstyne shall never be liable for any personal injury or death or for claims for damages or injury to real or personal property alleged to have been caused by the negligent act or omission of any officer, agent or employee of the City unless the person who has been injured, the person whose property has been injured or damaged, or someone on his behalf, shall file a claim in writing with the City Secretary within six (6) months after said injury, death or damage has occurred, stating specifically when, where, and how the injury, death or damage occurred, the full extent thereof, the amount of damages claimed or asserted, and the basis claimed for liability on the part of the City. The person giving notice under this section shall give the address of every place that said person has resided at during the last six (6) months prior to the injury, death or damage and shall subscribe his or her name thereto. Neither the City Mayor, City Council Member, City Manager, City Secretary, City Attorney, or any other officer or employee of the City shall have authority to waive any of the provisions of this section, but the same may be waived only by resolution of the City Council made and passed before the expiration of said six (6) month period.

## **SECTION 14.07 PROPERTY NOT SUBJECT TO GARNISHMENT AND EXECUTION**

No property owned or held by the City shall be subject to any garnishment or execution of any kind or nature except as specifically provided by state law.

## **SECTION 14.08 CONFLICT OF INTEREST**

No Member of the City Council, the Mayor, or any other officer, whether elected, appointed, paid or unpaid, who exercises responsibilities beyond those that are advisory in nature, shall participate in a vote or decision on a matter involving a business entity in which such officer has a substantial interest if it is reasonably foreseeable that an action on the matter would confer an economic benefit on the business entity. If the officer or a person related to the officer within the second degree of affinity or consanguinity has a substantial interest in the business entity that would be pecuniary affected by an official action of the City Council, the officer, if a Member of the City Council, shall file an affidavit stating the nature and extent of the interest and abstain from further participation in the matter.

## **SECTION 14.09 PUBLIC MEETINGS AND RECORDS**

All meetings of the City Council and all boards appointed by the City Council shall be governed by the provisions of Chapter 551 of the Texas Government Code and any amendments thereto with regard to the posting of agenda and the holding of public meetings. All public records of every office, department or agency of the City shall be open to inspection by any citizen at all reasonable business hours, provided that records excepted from public disclosure by Chapter 552 of the Texas Government Code and any amendments thereto shall be closed to the public and not considered public records for the purpose of this section.

## **SECTION 14.10 INDEMNIFICATION OF OFFICERS**

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

## **SECTION 14.11 AMENDMENT OF CHARTER**

Amendments to this Charter may be submitted by the City Council to the qualified voters of the City for their approval at an election, no more often than once every two (2) years, held in accordance with Chapter 9, Texas Local Government Code, or its successor legislation.

## **SECTION 14.12 BOND OR SECURITY NOT REQUIRED**

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

## **SECTION 14.13 SEVERABILITY CLAUSE**

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

## **SECTION 14.14 MEANING OF WORDS**

The provisions of this Charter shall be liberally construed for the purpose of effecting the objects and ends thereof. Unless some other meaning is manifest, the word "City" shall be construed to mean the "City of Van Alstyne," and the word "and" may be read "or" or the "or" may be read "and" if the sense requires. Words in the present tense include future tense and, except when a more restrictive meaning is manifest, singular may mean plural. The word "Council" shall be construed to mean the City Council of the City of Van Alstyne. The gender of the wording as contained in this Charter shall always be interpreted to mean either sex.

## **SECTION 14.15 EFFECTIVE DATE**

This Charter shall take effect immediately following adoption by the voters and entry of the official order by the City Council declaring the same adopted as soon as practicable. After adoption, the City Mayor shall certify to the Secretary of State an authenticated copy of the Charter under the City's seal showing approval by the voters. The City Secretary shall record the Charter in a book kept for that purpose and keep and maintain the same as the official record of the City.

## **CHAPTER FIFTEEN**

### **ADOPTION OF CHARTER**

#### **SECTION 15.01 SUBMISSION AND ELECTION**

- A. This Charter shall be submitted to the qualified voters of the City of Van Alstyne for adoption or rejection on the 7th day of May, 2022, at which election, if a majority of the qualified voters voting in such election shall vote in favor of the adoption of this Charter, it shall then immediately become the governing law of the City of Van Alstyne, Texas, until amended or repealed.
- B. It being impracticable to submit this Charter so that each subject may be voted on separately, it is hereby prescribed that the form of ballot to be used in such election shall be as follows, to wit:

“FOR”

ADOPTION OF CHARTER

“AGAINST”

This Home Rule Charter for the City of Van Alstyne, Texas, is respectfully submitted to the City Council of the City of Van Alstyne for the purpose of calling an election on the question of adoption of the Home Rule Charter this 10th day of February, 2022. This proposed Charter represents the recommendation of the majority of the members of the Home Rule Charter Commission, whose membership and signatures are evidenced below.

#### **SECTION 15.02. CHARTER REVIEW COMMITTEE**

- A. The City Council may establish and appoint a Charter Review Committee to review and make recommendations regarding the City Charter. The Charter Review Committee shall be composed of not fewer than seven (7) residents of the City, and may be established and appointed by City Council seven (7) years from the date that the prior Charter Review Committee concluded its operations. The Charter Review Committee shall be established and appointed not less than nine (9) months before the selected election date at which any proposed Charter amendments may be considered.
- B. It shall be the duty of the Charter Review Committee to do the following:
  - 1. Inquire into the operation of the City government under the Charter provisions and determine whether any such provisions require revision. To this end, public hearings may be held; and the Charter Review

Committee shall have the power to compel the attendance of any officer or employee of the City and to require the submission of any non-privileged and non-confidential City records which the Charter Review Committee may determine is necessary to conduct such hearings.

2. Propose any recommendations to the City Manager and City Council that the Charter Review Committee may determine are desirable to ensure compliance with the provisions of this Charter by the City's departments.
  3. Propose amendments to the Charter to improve the effective application of the Charter to current conditions.
  4. Report the Charter Review Committee's findings and present its proposed amendments, if any, to the City Council. Any report of the Charter Review Committee shall be delivered to the City Attorney at least fifteen (15) days prior to its presentation to the City Council. Within such time, and no later than ten (10) days prior to its presentation to the City Council, the City Attorney shall advise the Charter Review Committee in writing of any changes in proposed amendments which the City Attorney deems necessary or desirable. A copy of the City Attorney's recommendations shall be attached to the report of the Charter Review Committee at the time of its presentation to the City Council.
- C. The City Council shall receive any Charter Review Committee report and have published in a newspaper of general circulation in the City all proposed amendments recommended by the final report of the Charter Review Committee.
- D. The term of office of the Charter Review Committee shall not exceed nine (9) months. If during such term, no report is presented to the City Council, then all records of the proceedings of the Charter Review Committee shall be filed with the City Secretary.

This proposed City Charter duly approved and respectfully submitted, this 10<sup>th</sup> day of February, 2022, by the City of Van Alstyne Charter Commission:

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Jim Atchison, Chairman

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Griff Servati

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Ryan Neal

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Jim DuBois

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Marla Butler

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Mike Drynan

---

Bruce Dawsey

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Christy Allen Wilson

---

Lee Thomas

---

Larry Cooper

---

Katrina Arsenault

---

Robert Hendricks, Vice-Chairman

---

Robert Jaska

---

Steve Deluna

---

Dusty Wells

---

Ryan Laing

## City of Van Alstyne Charter Commission

Jim Atchison	Chairman
Robert Hendricks	Vice-Chairman
Ryan Neal	Members
Marla Butler	
Bruce Dawsey	
Lee Thomas	
Katrina Arsenault	
Robert Jaska	
Dusty Wells	
Griff Servati	
Jim DuBois	
Mike Drynan	
Christy Allen Wilson	
Larry Cooper	
Steve Deluna	
Ryan Laing	Alternate Member

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Lane Jones	City Manager
Jennifer Gould	City Clerk
David Ritter	City Attorney