

# **CITY OF ALAMOGORDO CITY CHARTER**

## **PREAMBLE**

We, the citizens of Alamogordo, New Mexico, under the Constitution and Laws of New Mexico, ordain and establish this Charter for the City of Alamogordo, New Mexico.

## **ARTICLE I. - INCORPORATION AND POWERS**

The incorporated municipality known as Alamogordo, (hereinafter "City") existing within its present or future boundaries, shall exercise all powers and perform all functions not expressly denied.

## **ARTICLE II. - FORM OF GOVERNMENT**

The form of government for the City of Alamogordo is the Commission-Manager form of government.

## **ARTICLE III. - ELECTORS**

Any registered, qualified elector of the City may vote in any City election and may be a candidate for any City office for which he or she is qualified.

## **ARTICLE IV. - ELECTED OFFICERS**

The elected officers of the City are six (6) Commissioners, one (1) Mayor, and one (1) Municipal Judge.

(Amd. of 3-6-12)

## **ARTICLE V. - QUALIFICATIONS FOR CANDIDACY**

Candidates for elective office in the City shall be qualified electors with the following additional qualifications:

### **Section 1. - Candidates-at-Large.**

Candidates-at-Large must reside within the city.

(Amd. of 3-1-16)

### **Section 2. - Candidates for District Offices.**

Candidates for District Offices must reside in the District they seek to represent.

(Amd. of 3-1-16)

### **Section 3. - Disclosure.**

Each candidate for City office shall file a disclosure statement with the City Clerk, at the time of filing for the office. This statement shall identify all real property and businesses in New Mexico in which the candidate has a financial interest.

## **ARTICLE VI. - ELECTIONS**

### **Section 1. - Regular City Elections.**

- A. Regular City elections to elect City officers, as required, shall be held on the first Tuesday in March of even-numbered years.
- B. Unless specifically inconsistent with this Charter, New Mexico law governing the manner of conducting City elections shall govern elections in the City.

### **Section 2. - Elections.**

- A. In the regular City election for Commissioners ~~representing districts~~, the candidate receiving the greatest number of votes in each district represented is elected.
- B. In the regular City Election for Mayor, the candidate receiving the greatest number of votes is elected unless that candidate fails to receive more than 50% of the vote. In that case, there shall be a special run-off election between the two candidates receiving the greatest number of votes. The run-off election shall be held within 45 days after the date that the final canvass is completed. The city commission shall by resolution set the date of the run-off election and specify the names of the candidates. The resolution shall be published once at least seven days prior to the run off election.
- C. If a tie exists after the certification of the results of any election, the determination as to which of the tied candidates is elected shall be decided by lot.

(Amd. of 3-7-00; Amd. of 3-1-16)

### **Section 3. - Vacancies.**

- A. A vacancy occurs upon an elected officer's death, recall, resignation, or, as to Commissioners, upon termination of residency in the district represented, or upon absence from Commission meetings for a consecutive period exceeding sixty (60) days, unless a majority of the remaining incumbent City Commissioners vote to retain the absent Commissioner or the absent Mayor for an additional sixty (60) days, which vote must take place at the next following regular meeting.
- B. A vacancy in the commission, including the office of mayor, occurring after completion of one-half of that commissioner's term, shall be filled by appointment of the commission of a person qualified under Article V. In all other cases a special election must be called to fill the vacancy. The Commission must declare by resolution that a vacancy exists. The resolution declaring the vacancy must be adopted by the Commission within fifteen days of the vacancy. The Commission must appoint an eligible person by majority vote to fill the vacant office at the first regular meeting following the expiration of thirty days after the adoption of the resolution. If the Commission fails to make the appointment at that meeting, the Mayor must, within fifteen days, appoint an eligible person to fill the vacancy. The Commission may by ordinance establish the specific procedures for selecting an eligible person to fill a vacancy. The commissioner or mayor appointed or elected shall serve for the remainder of the unexpired term for which the commissioner or mayor who vacated the position was elected.
- C. If the entire Commission is vacated simultaneously, the Municipal Judge shall perform the function of the Commission only as concerns the calling of a special election to fill the vacancies.

D. Special elections shall be called at the next regular meeting after the occurrence of the vacancies, the date of special elections to be proclaimed in accordance with state law.

(Amd. of 3-7-00; Amd. of 3-2-10; Amd. of 3-6-12)

#### **Section 4. - Non-Partisan Elections.**

Elections for City officers shall be non-partisan. The party affiliation of candidates shall not appear on the ballot nor on any official document relating to the candidate or to the election.

### **ARTICLE VII. - THE GOVERNING BODY**

#### **Section 1. - Equality of Commissioners.**

All Commissioners, including the Mayor, except as otherwise provided by this Charter, shall have equal voting power, privileges and prerogatives.

(Amd. of 3-6-12)

#### **Section 2. - Composition.**

The governing body shall be comprised of six (6) members to be known as commissioners and one (1) member to be known as mayor. The six (6) commissioners shall be elected by the qualified voters of each of the six (6) single-member districts. The mayor shall be elected at large.

(Amd. of 3-6-12; Amd. of 3-1-16)

#### **Section 3. - Term of Office.**

The term of office for all commissioners, including the mayor, shall be four (4) years. Elections shall be on a staggered basis. Two (2) commissioners shall be elected in 2014. The remaining four (4) commissioners shall be elected in 2016. Any incumbent whose four (4) year term would expire in 2014 shall stand for re-election. The term of office for all commissioners, including the mayor, shall begin upon certification of the election.

(Amd. of 6-20-95; Amd. of 3-18-97; Amd. of 3-6-12)

#### **Section 4. - Districts.**

The Commission shall be divided into six (6) districts. The boundaries of each district shall be established by ordinance. Within one year after publication of each National Census, the Commission shall reaffirm that the City is divided into six (6) Districts that are compact in area and as nearly equal in population as possible.

(Amd. of 3-18-97; Amd. of 3-6-12; Amd. 3-1-16)

## **Section 5. - Meetings.**

All City Commission meetings are open to the public and the official records open to inspection, except for closed executive sessions held in accordance with the State Open Meetings Act. A quorum consists of a majority of incumbent Commissioners and the Mayor.

- A. Regular meetings shall take place twice monthly at a place, time and day determined by ordinance. Regular meetings shall not occur on legal holidays.
- B. Special meetings shall be called by the Mayor or any two (2) Commissioners, for the purpose of discussing or acting on any City business.
- C. Emergency meetings shall be called by the Mayor or any Commissioner, to resolve emergency matters involving clear and present danger to the health, safety or welfare of the citizens of Alamogordo.

(Amd. of 3-1-16)

## **Section 6. - Compensation.**

Upon implementation of this Charter, Commissioners shall receive fifty dollars (\$50.00) compensation for expenses for each regular meeting attended and for each regular meeting not attended by reason of official City business. This minimum compensation shall not be changed unless the proposed change is submitted to, and approved by, the electorate at a regular City election. Any additional compensation shall be established by ordinance.

(Amd. of 3-1-16)

## **Section 7. - Incompatibility of Offices.**

No member of the Commission or the Mayor may hold any other local, state, or federal elected office. Acceptance of the second elected office constitutes an automatic resignation from the position of Alamogordo City Commissioner or Mayor, and the vacancy thereby created shall be filled in the same manner as other vacancies on the City Commission are filled.

(Amd. of 3-2-10; Amd. of 3-1-16)

## **ARTICLE VIII. - MAYOR AND MAYOR PRO-TEM**

### **Section 1. - Selection; Term; Removal.**

- A. An organizational meeting shall be held as soon as practicable after each Regular City election in which Commissioners are elected.
- B. The Commission and Mayor shall elect one of its members to serve as Mayor Pro-Tem. The term of office for the Mayor Pro-Tem shall be until the next organizational meeting of the Commission.
- C. An organizational meeting shall also be held if the office of the Mayor Pro-Tem becomes vacant. Said office becomes vacant in the manner specified in Article VI, Section 3.
- D. A motion for removal of the Mayor Pro-Tem shall be made at a regular meeting, and must be seconded by two (2) Commissioners or one (1) Commissioner and the Mayor. The motion for removal shall be voted upon at the next regular meeting and shall require the affirmative votes of no fewer than five (5) Commissioners for passage.

(Amd. of 3-2-10; Amd. of 3-6-12; Amd. of 3-1-16)

## **Section 2. - Powers and Duties of Mayor.**

The Mayor shall preside at all meetings of the Commission and shall perform such duties as are imposed by the Commission. The Mayor has all the powers and duties of a Commissioner, including the right to vote upon all questions under consideration.

The Mayor is the official head of the City for all ceremonial and military purposes. With the advice, and subject to the approval of a majority of the Commission, the Mayor shall appoint and may remove, if necessary, members of the public boards, commissions and committees of the City. The Mayor shall lead, guide and develop with the City Commission, City Manager, and other appropriate individuals, short and long range plans and goals for the City concerning its growth and development. The Mayor shall present an annual state of the City message at a Public Meeting determined by the Mayor.

(Amd. of 3-6-12; Amd. of 3-1-16)

## **Section 3. - Powers and Duties of Mayor Pro-Tem.**

In the absence of the Mayor, the Mayor Pro-Tem shall perform the duties of the Mayor.

## **ARTICLE IX. - THE MUNICIPAL JUDGE**

There shall be one Municipal Judge elected at-Large for a four-year term, who shall serve in accordance with applicable state law.

(Amd. of 6-20-95; Amd. of 3-1-16)

## **ARTICLE X. - INITIATIVE, REFERENDUM, AND RECALL**

### **Section 1. - Initiative.**

- A. Upon petition, signed by the qualified electors in a number no less than twenty (20) per cent of the average number of voters who voted at the previous four (4) regular City elections or no less than twenty (20) per cent of the number of voters who voted at the previous regular City election, whichever is the greater, any measure may be proposed to the Commission for enactment within thirty (30) days of the date of filing the petition. If the Commission: (1) fails to act, (2) acts adversely, or (3) amends the proposed measure, the Commission shall call a special election in not less than thirty (30) days nor more than sixty (60) days for the purpose of submitting the measure to the electorate.
- B. The ballot shall contain the proposed measure and the measure as amended, if the Commission amends the proposed measure. After each measure there shall be printed the words:  
    "for" and  
    "against,"  
with spaces for crosses after each word.
- C. The measure receiving a majority of the votes cast on that measure in its favor is adopted. If each measure receives a majority of votes cast on that measure in its favor, the measure receiving the greatest number of votes cast in its favor is adopted.

## **Section 2. - Referendum.**

- A. If within thirty (30) days following the adoption of an ordinance or resolution by the Commission, a petition, signed by the qualified electors, in a number no less than twenty (20) per cent of the average number of voters who voted at the previous four (4) regular City elections or no less than twenty (20) per cent of the number of voters who voted at the previous regular City election, whichever is greater, is presented to the Commission asking that the ordinance or resolution in question be submitted to a special election for its adoption or rejection, the ordinance or resolution shall become ineffective and the Commission shall provide for an election on the measure within sixty (60) days of the filing of the petition.
- B. The ballot shall contain the text of the ordinance or resolution in question. Below the text shall be the phrases:
- "for" and  
"against,"
- with spaces for crosses after each word.
- If a majority of the votes cast favor the measure, it shall take effect immediately. If a majority of the votes cast are against the measure, it shall not take effect.
- C. If an ordinance or resolution is an emergency measure, it shall go into effect immediately, but it shall be subject to repeal by an adverse majority at a referendum election.
- D. The referendum procedure of this section shall not be available for any ordinance authorizing bonds or other obligations where such ordinance, bonds or other obligations previously have been approved at a City election.

## **Section 3. - Recall.**

Any City Commissioner, including the Mayor, is subject to a recall election. Upon petition seeking a recall of a Commissioner or Mayor, the Commission shall call a special election within sixty (60) days, unless the regular City election occurs within ninety (90) days.

Notice of Intent to circulate a petition for recall must be dated and filed with the City Clerk and shall include a statement of the reason for the recall. Each page of a recall petition, before any signatures are signed to it, must be endorsed by the manual or facsimile signature of the City Clerk and the date of filing of Notice of Intent; the City Clerk shall provide this without charge. The recall petition must be submitted to the City Clerk with the requisite number of signatures, within one hundred and twenty (120) days of the date of filing the Notice of Intent.

The petition shall be signed by no less than twenty (20) percent of the number of registered voters in that Commissioner's district at the time the Commissioner was elected. If the petition seeks to recall the Mayor, the petition shall be signed by no less than twenty (20) percent of the number of registered voters residing in the City at the time the Mayor was elected. The special recall election of a Commissioner shall be held only in that Commissioner's district. The special recall election of a Mayor shall be citywide.

If a majority favors recall and this majority equals or exceeds the number of votes the Commissioner or the Mayor received when elected, the office shall be declared vacated, and the office shall be filled as are other vacancies. A Commissioner or Mayor who is recalled shall not be eligible for re-election until the term for which the Commissioner was originally elected has expired.

If a recall election results in a failure to secure the votes necessary to recall, the Commissioner or Mayor who is the subject of the election shall not again be subject to recall until after six (6) months from the date of the recall election.

(Amd. of 3-18-97; Amd. of 3-6-12; Amd. of 3-1-16)

## **ARTICLE XI. - THE CITY MANAGER**

### **Section 1. - Qualifications; Appointment.**

A City Manager shall be appointed, solely on the basis of his or her qualifications, for an indefinite term. His or her selection shall not be limited by reason of former residence. His or her salary shall be fixed by the Commission. The appointment or removal of a City Manager shall require the affirmative votes of no fewer than four (4) Commissioners or three (3) Commissioners and the Mayor.

(Amd. of 3-1-16)

### **Section 2. - Duties.**

The City Manager is the chief executive officer of the City. He or she shall have a seat, but no vote, at every meeting of the Commission. The City Manager:

- (a) Shall enforce and carry out all ordinances, rules and regulations adopted by the Commission;
- (b) Shall employ and discharge employees of the City;
- (c) Shall prepare and submit an annual budget to the Commission;
- (d) Shall make recommendations to the Commission concerning the welfare of the City;
- (e) Or his or her designated agent, shall be the person for the purpose of civil process.

(Amd. 3-1-16)

## **ARTICLE XII. - THE CHARTER**

### **Section 1. - Saving Clause.**

All bylaws, ordinances and resolutions in force in the City before the adoption of this Charter shall remain in full force and effect until amended or repealed. All rights and property which were vested in the City shall remain so vested under this Charter. No existing contract or franchise and no existing right or liability and no pending litigation of any kind shall be affected by the adoption of this Charter.

### **Section 2. - Severance Clause.**

The provisions of this Charter are severable, and if any provision or part thereof is held to be illegal or unconstitutional as applied to any person or situation, the remainder of this Charter or its applicability to other persons or situations shall not be affected.

**Section 3. - Amendment or Repeal; Periodic Review.**

- A. This Charter shall be amended or repealed in accordance with state law, except that any petition for amendment or repeal must be signed by qualified electors in a number no less than twenty (20) per cent of the average number of voters who voted at the previous four (4) regular City elections or no less than twenty (20) per cent of the number of voters who voted at the previous regular City election, or by five (5) per cent of the qualified electors of the municipality, whichever is greater.
- B. Every ten (10) years, the Commission shall appoint a committee to review the effectiveness of this Charter and make written recommendations to the City Commission within sixty (60) days of its appointment.

**Section 4. - Effective Date.**

This Charter shall become effective ten (10) days following the certification of the election of City officials required.

**Section 5. - Reserved.**

An amendment of March 7, 2000, amended the Charter by repealing former section 5 in its entirety. Former section 5 pertained to the transition of the city government, and was a part of the original Charter.

PASSED, APPROVED AND ADOPTED THIS 9th DAY OF March, 1983. \*

CITY OF ALAMOGORDO, NEW MEXICO

a municipal corporation

By

/s/

HENRY P. PACELLI, MAYOR

ATTEST:

/s/

ANGIE J. RAHN, CITY CLERK

\*Amended June 20, 1995; Amended March 18, 1997; Amended March 7, 2000; Amended March 6, 2012; Amended March 1, 2016.