

City of Alamogordo

OFFICE OF THE CITY CLERK
1376 E. Ninth Street • Alamogordo, NM 88310
(575) 439-4100 • Fax (575) 439-4396

January 14, 2026

Dear Interested Citizen,

This information will help you submit your name to be considered as a Candidate for the vacant City Commission position of District 5, to complete a term that will end on December 31, 2027.

To be eligible, you must be a qualified elector, have a voter registration showing that you are a qualified elector of the state, and reside in District 5.

Submit the following documents to me at City Hall, in the Office of the City Clerk, 1376 E. Ninth Street, by February 13, 2026:

- A letter of Interest.
- Declaration of Candidacy.
- Disclosure Statement.
- Affidavit of Voter Registration (*obtained from the County Clerk's office at 1104 White Sands Blvd., Ste. C.*)

The schedule for the Appointment

- January 14, 2026 - Candidate packets will be available.
- February 13, 2026 - Deadline to submit Letter of Interest, Declaration of Candidacy, Disclosure Statement, and the Affidavit of Voter Registration to the City Clerk.
- February 24, 2026 - During the regular commission meeting, the qualified candidates will present themselves before the commission to state their interest in the position, in the order in which candidates submitted all required documents.
- March 10, 2026 - Appointment by the Mayor, if the commission made no appointment during the February 24, 2026, meeting.

Enclosed are the district map and other documents to further help you if you are appointed.

If you have any questions, contact me at 439-4100, option 6, in person at City Hall, 1376 E. Ninth Street, or by email at rhughs@ci.alamogordo.nm.us. Thank you for your interest in the City Commission position.

Sincerely,

Rachel Hughs, CMC, City Clerk

Enclosers:

Declaration of Candidacy, Disclosure Statement, District Map, City Charter, Code of Ordinances City Commission, Mayor and Commissioners Expense Reimbursement and Benefits, City Commission Rules of Conduct for City Commission Meetings, 101 Basics of Commission Meetings.



DISTRICT 5

DECLARATION OF CANDIDACY

I, _____, being first duly sworn upon my oath, do hereby state for my affidavit that:

I, _____, hereby declare that I am a candidate for the office of District 5 (Five) City Commissioner, a two-year term to expire on December 31, 2027.

I affirm that I currently reside at _____, located within the City Limits of Alamogordo, New Mexico, and within the boundaries of District 5 (Five). I have been a resident of Alamogordo, New Mexico, at the above-stated address, since _____ of _____.

- I affirm that my name and resident address, as stated in this Declaration of Candidacy, are identical to my name and resident address as stated in my affidavit of registration on file with the Otero County Clerk.
I affirm that I am eligible and legally qualified to hold the office for which I have declared my candidacy.
I affirm that I have not been convicted of a felony; however, if I have been convicted of a felony, I affirm that my elective franchise has been restored and that I have been granted a pardon or a certificate by the Governor restoring my full rights of citizenship.
I affirm that I, or my authorized representative, can be reached at the following telephone number(s) for purposes of receiving telephone notice _____ or _____, or by email at _____.

I affirm that this Declaration of Candidacy is an affidavit under oath and that any false statement knowingly made herein constitutes a fourth-degree felony under the laws of New Mexico.

Signature of Candidate

STATE OF NEW MEXICO }
County of Otero } ss.

Subscribed and sworn to before me this _____ day of _____, 2026 by _____.

My commission expires: _____
Notary Stamp

Notary Public Signature

Received in the Office of the City Clerk on the _____ day of _____, 2026 at _____ a.m./p.m



City of
ALAMOGORDO

Disclosure Statement of Real Property and Businesses

CITY CHARTER Article V 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.

I, _____, candidate for the appointed office of
(print name)

_____, do hereby state for my affidavit that:
(print Mayor, Commissioner District, or Municipal Judge)

I, _____, hereby disclose the following real property and businesses in New Mexico in which I have a financial interest:

List all real property and businesses below.

Signature

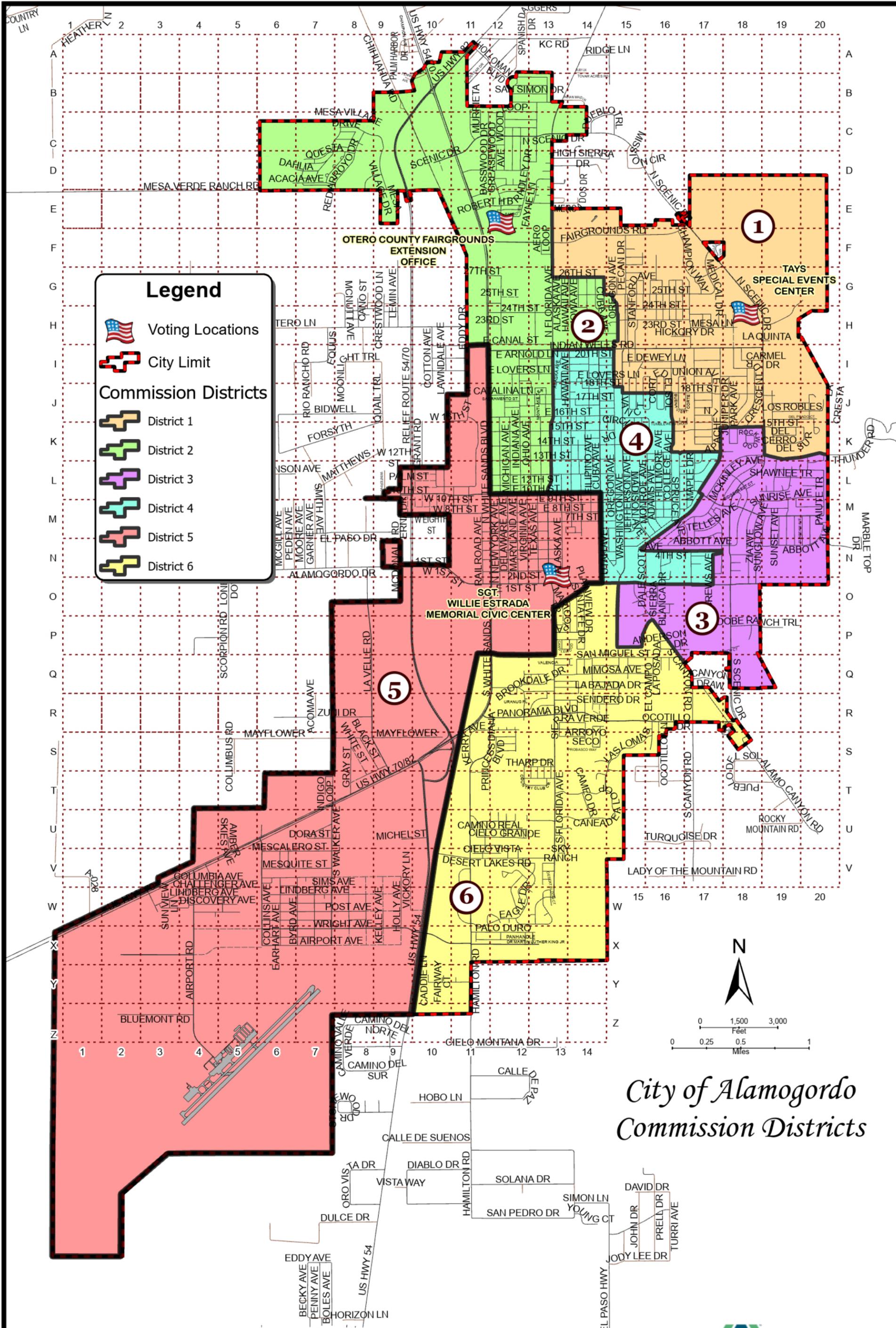
STATE OF NEW MEXICO }
 } ss.
County of Otero }

Subscribed and sworn to before me this _____ day of _____, 2026
by _____.

My commission expires: _____

Notary Stamp

Notary Public Signature



City of Alamogordo Commission Districts

Every reasonable effort has been made to ensure the accuracy of the maps and related data. City of Alamogordo makes no warranty, representation or guaranty of the content, sequence, accuracy, timeliness or completeness of the data provided herein. The user of these applications should not rely solely on the data provided herein for any reason. City of Alamogordo shall assume no liability for any errors, omissions, or inaccuracies in the information provided regardless of how caused. City of Alamogordo shall assume no liability for any decisions made or actions taken or not taken by the data furnished on this Web site. To be sure of complete accuracy, please check with City staff for updated information.



PART I 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.

(Ord. No. 1598, 9-12-19)

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 after the first Monday in November of odd-numbered years.
- B. New Mexico law governing the manner of conducting City elections shall govern elections in the City.

(Ord. No. 1586, 3-26-19)

Section 2. Elections.

- A. In the regular City election for the Mayor At-Large and Commissioners, the candidate receiving the greatest number of votes in each district represented is elected.
- B. 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; Amd. of 11-7-23)

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, shall be filled by appointment of the commission of a person qualified under Article V. The Commission must declare by resolution that a vacancy exists. The resolution declaring the vacancy must be adopted by the Commission within fifteen (15) 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 (30) days after the adoption of the resolution. If the Commission fails to make the appointment at that meeting, the Mayor must, within fifteen (15) 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 fill the vacancy until the next regular local election, at which time a qualified elector shall be elected to fill the remaining unexpired term, if any.
- 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.

(Supp. No. 55)

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(Amd. of 3-7-00; Amd. of 3-2-10; Amd. of 3-6-12; Ord. No. 1678, 8-22-23)

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 on the first Tuesday after the first Monday in November of each odd-numbered year.

(Amd. of 6-20-95; Amd. of 3-18-97; Amd. of 3-6-12; Ord. No. 1586, 3-26-19; Ord. No. 1678, 8-22-23)

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.

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- 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 more than twenty (20) percent of the average number of voters who voted at the previous four (4) regular City elections or more than twenty (20) percent 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 verification of the petition. If the Commission: (1) fails to act, (2) acts adversely, or (3) amends the proposed measure, the Commission shall within ten (10) days of the expiration of the thirty (30) day period, adopt an election resolution calling for the holding of a special election within ninety (90) days of the thirty (30) day period 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 more than twenty (20) percent of the average number of voters who voted at the previous four (4) regular City elections or more than twenty (20) percent 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 upon verification of the petition and the Commission shall within ten (10) days of verification adopt a resolution calling for the holding of a special election on the measure within ninety (90) days of the verification 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:

- (a) Unless the regular City election occurs within ninety (90) days.
- (b) But shall not be conducted later than one hundred eighty (180) days from the end of the term for the office for which the recall of the named official is sought.

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. No petition seeking for the recall of a Commissioner or Mayor shall be submitted more than once during the same term of office to which the official is elected.

The petition shall be signed by more 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 more 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.

(Amd. of 3-18-97; Amd. of 3-6-12; Amd. of 3-1-16; Ord. No. 1678, 8-22-23)

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 their final written recommendations to the City Commission within sixty (60) days of its appointment.

(Amd. of 11-7-23)

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.

Editor's note(s)—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; Amended March 26, 2019.

ARTICLE 2-02. - CITY COMMISSION

Footnotes:

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State Law reference— *Commission-manager form of government, N.M.S.A. § 3-14-1 et seq.*

Charter reference— *The governing body, Art. VII, §§ 1—6.*

2-02-010. - Districts.

The City of Alamogordo is divided into six (6) districts, according to a map which is made a part of this article, and which shall be kept in the office of the city clerk. All district boundaries shall be physically ascertainable, such as streets, alleys, arroyos, etc.

(Ord. No. 663, § 2, 10-11-83; Ord. No. 1167, 11-12-02; Ord. No. 1692, 2-13-24)

2-02-020. - Annexation; redistricting.

- (a) If any additional territory is annexed to the city, it shall be assigned upon annexation to the district to which it is contiguous. If annexed territory is contiguous to more than one district, it shall be assigned to such one or more districts as will continue the previously existing district boundaries.
- (b) The city commission shall redistrict the city within one year of the publication of any national census of population and housing, if such census shows the existing districts are no longer as nearly equal in population as possible.
- (c) Redistricting or additions to districts as specified in this section shall be by ordinance, which shall not be codified, but which shall incorporate a new map to be kept in the office of the city clerk.

(Ord. No. 663, § 2, 10-11-83)

2-02-030. - Meetings.

- (a) Regular meetings shall be held in the city commission chambers, located at 1376 East Ninth Street, at reasonable dates and times, except where this day falls on a holiday. The location or time may be changed for a particular meeting by action of the commission, provided notice of such change is given as provided by law.
- (b) Special meetings and emergency meetings may be called as specified in the charter.

(Ord. No. 663, § 2, 10-11-83; Ord. No. 918, § 1, 2, 7-26-94; Ord. No. 1610, 2-11-20)

Charter reference— City commission meetings, Art. VII, § 5.

2-02-040. - Legislation.

The city commission shall pass all ordinances and other measures conducive to the welfare of the city, and to do all acts required for the general welfare of the city, except as are delegated to the city manager or other city officials. The commission shall create all offices, in addition to those specified in this Code, which may become necessary to properly carry out the work of the city.

(Ord. No. 663, § 2, 10-11-83)

2-02-050 - City commission use of social media.

- (a) These terms and conditions apply to all our current and future official City of Alamogordo social media sites.
- (b) Elected or appointed officials shall request to publish or post information under the city's official social media platforms.
- (c) Elected or appointed officials should know that social media posts, comments, and replies to those posts and any direct or private messages sent to us may be public records subject to applicable public records release.
- (d) The City of Alamogordo's social media accounts are not monitored 24/7. Automatic replies will be set up, asking citizens to use official communications, such as city email or phone, to contact city staff or report a complaint.
- (e) Elected or appointed officials are prohibited from conducting city business on their private pages.

Violation of this section is subject to steps outlined in *The City of Alamogordo Code of Conduct for Elected and Appointed Officials*.

(Ord. No. 1659, 11-1-22)

2-02-060. - Code of conduct.

- (a) *Purpose.* The City of Alamogordo seeks to foster and maintain transparency while conducting city business, creating policy, and undertaking the day-to-day operation of the city. This chapter establishes minimum standards of ethical behavior of elected and appointed officials. It sets forth explicit standards of conduct by requiring elected or appointed officials to disclose personal interests, financial or otherwise, in matters of the city and to remove themselves from decision-making when such interests exist.
- (b) *Definitions.*

Administrative action. Action is based upon the application or interpretation of a city ordinance, state statute, or a proceeding involving a license permit, franchise, or development use.

Anything of value. As defined in §8-8-19(D), N.M.S.A.

Appointed official. A person who is not an elected official and has been appointed by the governing body.

Governing body of city commission. The Governing Body of the City of Alamogordo.

Confidential information. Information that has been classified confidential by law.

Conflict of interest. A situation in which a person exercising a duty has an interest, financial or otherwise, that potentially conflicts with the exercise of the duty or that may be perceived as conflicting with the exercise of the duty.

Contract. An agreement between two (2) or more parties, whether express or arising by operation of law.

Ethics official. The city attorney, or another attorney designated by the city manager, will act as the ethics official, performing reviews of complaints, conducting investigating actions, gathering information, and making recommendations to this chapter.

Elected official. A governing body includes a city commissioner or the mayor.

Ex-parte communication. Direct or indirect communication with a party or the party's representative outside the presence of the other parties concerning a pending adjudication that deals with substantive matters or issues on the merits of the proceedings. Ex-parte communications do not include statements that are limited to providing publicly available information about a pending adjudication or solely related to the status of the proceeding.

Family. An individual's spouse, domestic partner, parent, child, sibling, and like in-laws, by consanguinity or affinity, or persons, related or unrelated, living within the household.

Financial interest. Any interest of an elected official or an appointed official that is:

- a. An ownership interest or other interest in any contract or prospective contract with the city;
- b. An interest in the sale of real or personal property to or from the city;
- c. A financial relationship with a person or business whose interests may be affected by the city;
- d. Any employment or prospective employment for which negotiations have already begun where the prospective employer has an interest in the sale of real or personal property from the city; or
- e. Any other interest that may be affected by the city.

For this chapter, interest shall be one either as owner, part owner, partner, or shareholder, in which such individual owns more than two (2) percent of the outstanding stock or more than two (2) percent of the ownership interest of any other business that is doing business with the city in an amount in excess of seven thousand five hundred dollars (\$7,500.00) annually. An interest held by the elected official's spouse or minor children shall be considered the interest of the elected or appointed officials for the purposes of this chapter.

Frivolous. A determination is made by the ethics panel when two (2) or more complaints made by an individual or entity have been determined to be unsubstantiated and contain allegations that are found to have no factual basis.

Harassment. Harassment consists of knowingly pursuing a pattern of conduct intended to annoy, alarm, bully or intimidate another person and that serves no lawful purpose. The behavior must be such that it would cause a reasonable person to suffer substantial emotional distress.

Non-public information. Information that is obtained during an elected official's, appointed official's, or employee's duties and is subject to public inspection under state law, but that, because of its nature, is not readily accessible to the public; and if used or disclosed, a personal benefit or advantage is likely to result.

Party. A person who has submitted to the city an application seeking affirmative relief; a person who has filed a formal complaint or protest; a person who is the subject of a formal complaint or investigation; and members of the general public who participate in a pending adjudication.

Pending adjudication. Any application, petition, complaint, protest, investigation, or other administrative adjudicatory proceeding requiring a decision or action by the governing body.

Personal benefit. The obtaining or promise of obtaining anything of value.

Substantiated claim. Competent facts verify a violation of this chapter, and substantial evidence exists to support it.

Unsubstantiated claim. A claim that is not supported by competent facts or substantial evidence or existent of facts or an allegation that is not a per se violation of this chapter.

Non-partisanship. All actions, decisions, and votes on matters relating to city government shall be on the merits. Decisions shall be made objectively, without party or partisanship considerations, and without facts that are not directly and properly related to the matter requiring action.

(c) *Public trust.*

- (1) Elected or appointed officials shall act according to the highest principles of representative democracy to ensure that city government is worthy of public respect, trust, and support.
- (2) Elected or appointed officials shall not engage in conduct that they know or reasonably should know is likely to create in the minds of reasonable, objective, fair-minded observers the perception that they have misused their public positions unethically or otherwise have not conducted themselves in accordance with the standards of conduct of this chapter.
- (3) Elected or appointed officials shall not provide or disseminate to the public any information or data that they should reasonably know to be untrue, inaccurate, or misleading. It is incumbent upon elected or appointed officials to correct such information as quickly as reasonably possible.

(4) It is a violation of this chapter for elected officials and appointed officials to knowingly violate their own rules of procedure or any other law or ordinance.

(d) *Conduct avoiding impropriety.*

(1) Elected or appointed officials shall avoid conduct that creates the appearance of impropriety or that is otherwise unbecoming a public official. An impropriety can mean misconduct or behavior demonstrating an unethical process or improper influence.

(2) Elected or appointed officials shall not knowingly engage in conduct that violates the rights of others to be treated fairly.

(3) Elected or appointed officials shall refrain from engaging in conduct, even if lawful, where personal gain or advantage is involved in a way that creates a reasonable inference that such office has been used for personal benefit.

(e) *Prohibited financial interest in city business.*

(1) No elected or appointed officials may have a financial interest if the elected or appointed official is in a decision-making capacity concerning the financial interest.

(2) Elected or appointed officials with any financial interest shall disclose such interest in writing to the city attorney's office or by making an official record at a commission meeting. By filing a disclosure of interest with the city attorney or recording into the record at a commission meeting, the elected or appointed official shall be disqualified from participating in any debate, decision, or vote relating thereto.

(f) *Conflict of interest, disclosure.*

(1) Elected or appointed officials shall strictly avoid transactions and relationships that create a conflict of interest. Where a conflict of interest is unavoidable, the elected or appointed official shall disclose the conflict of interest and shall subordinate the conflicting interest to the public interest. The clerk shall record the disclosure as part of the minutes of the meeting at which the disclosure is made.

(2) Elected or appointed officials shall exercise their duties, powers, and prerogatives without prejudice or favoritism to hire, promote, or reward family members, relatives, friends, or political supporters, or to hinder or punish enemies and opponents.

(3) Elected or appointed officials shall assure that constituents and others who may be affected by decisions of the city have a fair and reasonable opportunity to express their concerns, grievances, and ideas without regard to their willingness or ability to provide benefits or political support to the elected or appointed official.

(4) Elected or appointed officials shall not engage in any conduct that could create in the mind of a reasonable observer the belief that persons will receive better or different services if gifts, personal benefits, or political or charitable contributions are provided.

- (5) Elected or appointed officials shall not solicit or receive gifts, personal benefits, favors, gratuities or political or charitable contributions, or anything of value under circumstances that create a reasonable belief that special access, services, favors, or official or unofficial actions will be provided as a result. Nor may anything of value be solicited or received from a person or business doing business with the city, contracting with the city, regulated by the city, has an application pending before the city, or whose interests may be affected by the city.
- (6) Elected or appointed officials shall not accept anything of value from a person, business, or other entity when the elected or appointed official or employee knows or reasonably should know that said person, business, or entity does any business with the city, desires to do business with the city, contracts with the city, is regulated by the city, has an application pending before the city, or whose interests may be affected by the city.
- (g) *Confidential information and misuse of non-public confidential information.* No elected official or appointed official shall disclose or use confidential information maintained by the city without proper authorization. No elected or appointed official shall use confidential information for personal benefit. Such information shall not be used to advance said person's financial or other private interests.
- (h) *Use of position to obtain information.* No elected or appointed official shall use their position to obtain information from another entity or individual for personal benefit. Nor shall an elected or appointed official to obtain, or attempt to obtain, information from an individual or entity on behalf of the city when the information will be used for their personal interest or benefit.
- (i) *Misuse of city property and resources for private gain or personal advantage.*
 - (1) An elected or appointed official shall not use public property for any private or nongovernmental purpose except as expressly provided by law. Public property includes public funds, staff time, facilities, property, equipment, mailing lists, computer data, services, or any other governmental asset or resource. This section does not prohibit reserving or renting city property designated as either public or meeting space and is otherwise made available to all members of the public.
 - (2) Unless authorized by the City of Alamogordo employee manual, no city employee shall be asked or permitted to perform personal services for an elected or appointed official. An elected or appointed official shall not require a city employee to perform personal services or assist in a private activity.
- (j) *Misuse of city property or resources for political purposes.* No municipal resources, including funds, facilities, and personnel, may be used for political campaign purposes or to influence an election; provided that this shall not prohibit the use of public resources proposed for the limited purpose of educating voters about the details of a ballot question placed on the ballot as

authorized by the City of Alamogordo Governing Body pursuant to § 1-16-3 N.M.S.A. 1978 (as amended). An elected official shall not use or authorize municipal funds, time, facilities, equipment, mailing lists, computer data, social media platforms, resources, services, or other government assets for political fundraising, campaigning, or influencing an election.

(k) *Use of confidential information for private gain.* An elected, appointed, or former elected official who terminated city service within one (1) year shall not use or disclose confidential information to obtain a benefit for any person. This section does not allow the disclosure of information made confidential by law.

(l) *Misuse of title or prestige of office for private gain or personal advantage.*

(1) An elected or appointed official shall not use, induce, cause, or encourage others to use the authority, title, official letterhead, or prestige of the elected or appointed official for private gain or personal advantage.

(2) An elected or appointed official shall not solicit or accept anything of value under terms and conditions where the compensation is not commensurate with the services performed or where a reasonable person would believe that the authority, title, or prestige of office had been exploited.

(m) *Political activity.*

(1) No elected or appointed officials shall compel, coerce or intimidate any elected or appointed officials to make, or refrain from making, any political contribution. No elected or appointed officials shall solicit or obtain any political contribution from employees by coercion. Nothing in this subsection shall be interpreted to provide that an elected or appointed official is precluded from voluntarily making a contribution or receiving a voluntary contribution.

(2) No elected officer of the city shall hold any other elected office or be employed by the city during the term for which the member was elected.

(3) Nothing in this section shall be construed to prohibit the governing body from selecting any current, former mayor or city commissioner to represent the city before any other governmental entity.

(4) An elected or appointed official shall not require an employee to perform political activity:

- a. As part of the employee's duties;
- b. As a condition of city employment; or
- c. During any time off that is compensated by the city.

(5) No elected or appointed official shall engage in any conduct that would, to an objective third party, constitute an undue threat to an employee's continued employment.

(6) The city shall employ no former mayor or city commissioner until one (1) year after the expiration of the term for which the member was elected.

(n) *Coercion.*

- (1) An elected or appointed official shall not, directly or by authorizing another to act on their behalf, state or imply that the elected official's willingness to meet with a person or organization is dependent on the person or organization making a campaign contribution, donating to a cause favored by the official, or providing anything of value to the official; or
- (2) An elected official shall not directly or by authorizing another to act on the elected official's behalf; or
- (3) Agree or threaten to take or withhold any city governmental action as a result of a person's decision to provide or not provide a political contribution; or
- (4) State or imply that the elected official will perform or refrain from performing a lawful constituent service as a result of a person's decision to provide or not provide a political contribution; or
- (5) Agree to or participate in a scheme or plan intended to evade the requirements of any applicable state ethics statutes, this chapter, or another financial disclosure provision of state or city law; or
- (6) Knowingly accept a contribution given or offered in violation of any applicable state ethics statutes or this chapter.

(o) *Ex-parte communications.*

- (1) Ex-parte communications prohibited.
- (2) An elected official or appointed official designated to hear an administrative adjudicatory matter pursuant to city ordinance shall not initiate, permit or consider a communication directly or indirectly with a party or the party's representative outside of the hearing and outside of the presence of all other interested parties concerning the pending matter.
- (3) An administrative adjudicatory matter involves the use of a discretionary standard, as specified by code or other city ordinance, to an application for discretionary approval.
- (4) Notwithstanding the provisions of subsection (a)(1) of this section, ex-parte communications for procedural or administrative purposes, during emergencies, or that do not deal with the merits of the application shall not be prohibited if the elected official or appointed official reasonably believes that no party will gain an advantage as a result of the ex-parte communication and promptly notifies all other parties of the substance of the ex-parte communication.
- (5) An elected or appointed official who receives or who makes or knowingly causes to have communication prohibited by this chapter shall disclose the communication to all parties and allow other parties to respond.

(p) *Recusal.*

- (1) An elected official or appointed official shall recuse themselves in any pending administrative adjudicatory matter in which the official is unable to make a fair and impartial decision or in which there is reasonable doubt about whether the official can make a fair and impartial decision, including:
 - a. When the official has a personal bias or prejudice concerning a party or its representative or has prejudged a disputed evidentiary fact. For the purposes of this paragraph, "personal bias or prejudice" means the predisposition toward a person based on a previous or ongoing relationship, including a professional, personal, familial, or other intimate relationship, that renders the official unable to exercise their functions impartially; or
 - b. When the official has a pecuniary or financial interest in the outcome of the proceeding; or
 - c. When, during the previous employment, the official served as an attorney, advisor, consultant, or witness in the matter of controversy (previous employment is employment during the previous twelve (12) months); or
 - d. When the official announced how they would rule on the adjudicatory proceeding or a factual issue in the adjudicatory proceeding.
- (2) An elected or appointed official shall not be required to recuse themselves in any pending administrative adjudicatory matter merely because the official possesses and discusses general viewpoints on public policy that an application may raise. Similarly, an elected official shall not be required to recuse themselves in any pending administrative adjudicatory matter merely because the elected official made representations during a political campaign on viewpoints on public policy that an application may raise.
- (3) The elected or appointed official recusing themselves shall disclose the reason for recusal.
- (4) If, before the hearing, an elected official or appointed official fails to recuse themselves when it appears that grounds exist, a party shall promptly notify the elected official or appointed official of the grounds for recusal. If the elected or appointed official declines to recuse themselves upon request of a party, the official shall provide a complete explanation as to why they refuse.
- (5) If during the hearing, an elected official or appointed official fails to recuse themselves when it appears that grounds exist, a party shall promptly notify the mayor of the grounds for recusal. If the elected official or appointed official declines to recuse themselves, the chair may entertain a motion to excuse the official from further participation in the matter. If the motion is successful, the official shall be excused from further participation in the matter.

(q)

Restrictions on the governing body; personnel system and management. The governing body shall not perform general executive management functions in the administration of city government; these functions shall be delegated to the city manager, including administration of the personnel system. This paragraph shall not apply to matters of policy, the responsibility, and the authority of the governing body to approve the annual budget.

(r) *Reporting, investigating, and determination of violations pertaining to this chapter.*

- (1) Any elected or appointed official, employee, entity, or member of the public may submit a complaint of unethical conduct to the city attorney's office, a complaint alleging facts which, if true, would constitute a violation of this chapter. If the city attorney is not appointed as the ethics official, the city attorney shall forward the complaint to ethics official.
- (2) Ethics official shall investigate all applicable complaints forwarded to them and make one (1) of the following recommendations regarding the complaint:
 - a. Unsubstantiated claim under this chapter; or
 - b. Substantiated claim under this chapter.
- (3) If an unsubstantiated claim is a recommendation made by the ethics official, the ethics official shall produce a report reflecting their findings and details of the investigation. An unsubstantiated claim shall not be forwarded to the ethics panel unless necessary to determine a frivolous claim.
- (4) Upon the completion of an investigation, the ethics official may determine that a claim is substantiated. At such time, the ethics official will produce a report which contains their findings and recommendations. The ethics panel shall conduct a public hearing of all substantiated claims and shall decide, by majority vote, if a provision(s) under this chapter has been violated. Penalties shall be determined according to this chapter. The ethics official shall be present at the public hearing to respond to questions from the ethics panel regarding their findings and recommendations. The complaining party and the respondent to the complaint shall be notified via certified mail to all hearings. The respondent or a legal representative hired by the respondent shall be allowed to respond to the complaint at a public hearing.
- (5) If an individual or entity files two (2) or more unsubstantiated complaints directed at the same individual for harassment or to cause the individual public shame or embarrassment, the ethics official may recommend a public hearing to the ethics panel.
 - a. Notice shall be provided to the complaining party no later than fourteen (14) calendar days before the scheduled public hearing.
 - b. The ethics panel shall conduct a public hearing to determine if the complaints are frivolous and if the complaints were intended to annoy, harass or otherwise cause the targeted individual public shame or embarrassment.

- c. If the ethics panel determines by majority vote that the complaints are frivolous and intended to annoy, harass, or cause the targeted individual shame or embarrassment, they may prescribe a penalty under this chapter.
- d. If the complaining party disagrees, that may be appealed to the twelfth judicial district court.

(s) *City ethics panel.*

- (1) If the ethics official substantiates a complaint, an ethics panel shall be created.
- (2) A City of Alamogordo Ethics Panel shall be created that shall consist of three (3) members plus one (1) alternate.
 - a. The city manager will appoint the chair of the ethics panel. The chair preferably shall be a lawyer, former judicial official, or former law enforcement.
 - b. The remaining two (2) members and alternate shall be appointed by the ethics panel chair.
- (3) All ethics panel members shall not be affiliated with the city government in any capacity. This includes, but is not limited to, employment, employment for which the salary is in any way funded by or through the city, appointment, or election. The members of the ethics panel may not hold elected public office or office with any political party within the city.
- (4) The jurisdiction of the ethics panel is limited to acting within the scope of matters covered by this chapter but may periodically review and recommend amendments to this chapter.
- (5) The ethics panel shall adopt rules of procedure for conducting hearings pursuant to this chapter. The rules of procedure shall be consistent with the rules for conducting administrative hearings in Alamogordo and shall be reviewed by the city attorney.
- (6) The ethics panel shall have the power to issue administrative subpoenas compelling attendance of witnesses at hearings and the production of documents and the authority to seek enforcement of those subpoenas by the twelfth judicial district court.
- (7) If the ethics panel finds, by a preponderance of evidence and upon a majority vote, that the elected or appointed official has violated this chapter, the ethics panel may impose any of the following penalties after the written findings of fact and conclusions of law:
 - a. A civil fine not to exceed five hundred dollars (\$500.00); or
 - b. A written finding of censure; or
 - c. A referral to the district attorney or appropriate governmental office for commencement of criminal or other proceedings; or
 - d. A recommendation to the district attorney that proceedings to remove the person from elected office be commenced pursuant to § 10-4-1 et seq., N.M.S.A. 1978 (as amended).

(8)

No action may be taken by the ethics official or ethics panel on any complaint filed later than one (1) year after a violation of this chapter is alleged to have occurred, or that is filed more than six (6) months from the date of the discovery of the alleged violation upon due diligence by the complaining party of facts constituting a violation, whichever event occurs later.

- (9) The ethics panel may also provide advisory opinions regarding the applicability or interpretation of the provisions of this chapter upon the request of any elected official or appointed official.
- (10) Members of the ethics panel shall not receive any salary or compensation for services.
- (t) *Right of appeal.* Any decision of the ethics panel finding a violation of this chapter may be appealed to the twelfth judicial district court pursuant to 1978 § 39-3-1.1, N.M.S.A. 1978 (1998, as amended). Should the respondent appeal and wish to have legal representation, it is their responsibility to hire said representation.
- (u) *Non-retaliation.* The governing body does not tolerate retaliation, workforce discrimination, or harassment of any kind against any person who has reported a violation of this chapter. This non-retaliation provision applies whether the complaint is ultimately determined to be unsubstantiated or substantiated. All elected or appointed officials are specifically prohibited from taking any adverse employment action, engaging in workplace discrimination or harassment of any kind, or other retaliatory action against anyone for reporting a claim of violation. Anyone who believes that they have been subject to workplace discrimination or harassment of any kind or that has been retaliated against in violation of this chapter should submit a complaint of unethical conduct to the ethics panel by delivering a complaint to the city attorney's office.

(Ord. No. 1662, 11-1-22)

2-03-051. Mayor and commissioners—Expense reimbursement and benefits.

- a. The mayor will receive payment of \$750.00 per month as reimbursement for expenses incurred in performing the duties of the office. Said reimbursement is exclusive of any amounts payable to the mayor as reimbursement for actual and necessary expenses incurred by the mayor while on city business or attending educational seminars designed to improve the mayor's skill and information levels.
- b. Members of the city commissioner, including the mayor pro-tem, will each receive payment of \$500.00 per month as reimbursement for expenses incurred in performing the duties of the office. Said reimbursement is exclusive of any amounts payable to members of the city commission as reimbursement for actual and necessary expenses incurred by the member while on city business or attending educational seminars designed to improve officials' skill and information levels.
- c. The mayor and each commissioner shall have access to city facilities at no charge as a working condition fringe benefit to conduct their duties as an elected official.
- d. At their individual election, each member of the city commission shall be eligible to enroll in the city's group medical insurance plan. The city shall pay one hundred (100) percent of the cost of individual coverage. Each member of the city commission shall have the option of enrolling themselves only in the city's vision and dental insurance programs. The city shall pay the monthly premiums of individual coverage for both the vision and the dental plan.
- e. This section shall take effect as set forth in section 3-17-5, NMSA 1978, but no member of the Commission at such time shall be eligible to receive the expense reimbursement or benefits during their current term of office.
- f. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this section is for any reason held to be unconstitutional or invalid, such a decision shall not affect the validity of the remaining portions of this section. The city commission hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this section irrespective of the unconstitutionality or invalidity of any section, subsection, subdivision, paragraph, sentence, clause or phrase.

(Ord. No. 1409, 11-15-11)

RESOLUTION NO. 2018-08

CITY OF ALAMOGORDO RULES OF CONDUCT FOR CITY COMMISSION MEETINGS

WHEREAS, the City of Alamogordo, New Mexico, and its City Commissioners wish to conduct business at public meetings in an orderly and judicious fashion;

WHEREAS, the City Commission wishes for the public to be notified on how such business is to be conducted at commission meetings;

WHEREAS, the City Commission finds that rules of conduct are necessary to keep order and inform the public of the meeting structure;

NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of Alamogordo, New Mexico, that the following Rules of Conduct for City Commission meetings are hereby adopted:

RULE 1. RULES OF ORDER.

Except as otherwise provided by these rules, the City Charter, the Municipal Code, or applicable provisions of State law, the procedures of the City Commission shall be governed by using the latest revised edition of Roberts Rules of Order as a guideline.

The City Commission rules, or any one thereof, may be suspended by a majority vote of the Commission members present.

RULE 2. TIME AND PLACE FOR HOLDING REGULAR MEETINGS.

Pursuant to the provisions of Article VII, Section 5 of the Alamogordo City Charter, the City Commission shall establish the dates, time and place for holding regular meetings of the City Commission.

RULE 3. QUORUM AND ACTION.

A majority of incumbent Commission members shall constitute a quorum for the transaction of business. Except as otherwise provided in the Charter, other laws or these rules, action shall be taken by a majority vote of the entire membership of the City Commission. However, in the case of a quasi-judicial hearing, if only four Commission members are participating, the applicant or appellant shall be entitled to request and receive a continuance of the hearing, until such time as five Commission members are participating.

Whenever any Commission member questions the presence of a quorum, the Presiding Officer shall forthwith direct the City Clerk to call the roll, each Commission member shall respond when his or her name is called and the Clerk shall announce the result. Such proceedings shall

be without debate, but no Commission member who is speaking may be interrupted by a question as to the presence of a quorum.

The Commission may also establish standing subcommittees of its members to address designated areas of City business on the Commission's behalf and may establish ad hoc committees to formulate reports or recommendations on particular matters.

RULE 4. MEETINGS TO BE PUBLIC - EXCEPTION FOR CLOSED EXECUTIVE SESSIONS.

As required by the Open Meetings Act, NMSA, 1978, §et seq., all regular and special meetings of the City Commission shall be public, provided, however, the City Commission may meet in Closed Executive Session from which the public is excluded, for those purposes authorized by the Act.

No Commission member, employee of the City, or any other person present during a Closed Executive Session of the City Commission shall disclose to any person the content or substance of any communication which took place during the Closed Meeting unless the disclosure is required by law.

RULE 5. AGENDA.

- a) The City Clerk shall consult with the City Manager and Mayor in the preparation of the Agenda.
- b) The Agenda and all available supporting documents shall be delivered to Commission members on or before Friday preceding the Tuesday City Commission meeting to which it pertains.
- c) Any Commission member or the City Manager may direct that any matter within the City Commission's jurisdiction be placed upon the Agenda. Commission members should endeavor to submit agenda items by noon on Tuesday in order to ensure that matters will be added to the agenda for the following Tuesday. By majority vote Commissioner's can remove items from the agenda.
- d) Agenda items may be combined with other items on the agenda in order to ensure that the public's business is handled efficiently and conveniently.
- e) The City Clerk shall post the Agenda as required by the Open Meetings Act.
- f) No action shall be taken on any item not appearing on the posted Agenda unless the item is added to the Agenda in the manner required by the Open Meetings Act.
- g) Written requests to the City Commission shall be received and opened by the City Clerk or his or her designee and either shall be transmitted to the appropriate board, commission or staff member or shall be placed on the Agenda if City Commission consideration is deemed appropriate. Written requests shall be scheduled for Commission consideration at the earliest convenient meeting, taking into consideration the length and content of meeting agendas. Members of the public submitting written requests shall be advised of how their request is being handled. No communication shall be placed on an Agenda if it contains material that:

- 1) Is profane.
- 2) Is potentially slanderous or libelous.
- 3) Advocates or opposes the candidacy of any person or party for any elective office.
- 4) Is primarily an advertisement or promotion or advancement of any cause the major benefit of which is private and not public.

RULE 6. CATEGORIES AND ORDER OF BUSINESS.

The business of the City Commission shall be conducted in the order and manner specified. The order of business will be approved at each organizational meeting of the City Commission.

Order of Business will be as follows:

- CALL TO ORDER & ROLL CALL**
- INVOCATION & PLEDGE OF ALLEGIANCE**
- APPROVAL OF AGENDA**
- PRESENTATIONS**
- PUBLIC COMMENT**
- CITY MANAGER'S REPORT**
- REMARKS AND INQUIRIES BY THE CITY COMMISSION**
- CONSENT AGENDA (Roll Call Vote Required for Ordinance or Resolution)**
- ITEMS REMOVED FROM CONSENT AGENDA**
- PUBLIC HEARINGS**
- NEW BUSINESS**
- UNFINISHED BUSINESS**
- PUBLIC COMMENT (Continued if needed)**
- EXECUTIVE SESSION (Roll Call Vote Required)**
- ADJOURNMENT**

RULE 7. PREPARATION OF MINUTES.

The City Clerk shall have exclusive responsibility for preparation of the Minutes, and any directions for substantive corrections in the Minutes shall be made only by majority vote of the City Commission. Upon the availability of the full audio digital recording of the meetings, the minutes may be prepared in an Action item version with minimal discussion.

RULE 8. APPROVAL OF MINUTES.

Minutes of a City Commission meeting may be approved without reading if the City Clerk has previously furnished each Commission member with a copy.

RULE 9. PRESIDING OFFICER.

The Mayor shall be the Presiding Officer at all meetings of the City Commission. In the absence of the Mayor, the Mayor Pro Tern shall preside. In the absence of both the Mayor and Mayor Pro Tern, the City Clerk shall call the City Commission to order and a temporary Presiding Officer shall be elected by the Commission members present to serve until the arrival of the Mayor or Mayor Pro Tern or until adjournment.

RULE 10. POWERS AND DUTIES OF PRESIDING OFFICER.

- a) **Participation.** The Presiding Officer may move, second, and discuss from the chair, subject only to such limitations of discussion as are imposed upon Commission members by these rules, and shall not be deprived of any of the rights or privileges of a Commission member by reason of his or her acting as the Presiding Officer.
- b) **Duties.** The Presiding Officer shall (1) preserve order at all meetings of the City Commission, (2) state (or cause to be stated) each question coming before the City Commission, (3) announce the decisions of the City Commission on all subjects, and (4) decide all questions of order subject to the right to appeal rulings on questions of order to the entire City Commission.

RULE 11. SWORN TESTIMONY.

Any Commission member may request that anyone appearing before the City Commission on any matter shall be sworn. On receipt of such a request, all proceedings shall be suspended and the City Commission will immediately vote on whether the individual should be sworn. A majority vote of the Commission members present shall determine whether the speaker shall be placed under oath. All oaths will be administered by the City Clerk.

RULE 12. RULES OF DISCUSSION.

- a) **Getting the Floor.** A Commission member desiring to speak shall gain recognition by the Presiding Officer.
- b) **Questions to Staff.** Every Commission member desiring to question City staff shall address his or her questions to the City Manager, the City Attorney, the City Clerk or designated staff. Members of the City staff, after recognition by the Presiding Officer, shall hold the floor until completion of their remarks or until recognition is withdrawn by the Presiding Officer.
- c) **Interruptions.** A Commission member who has the floor shall not be interrupted when speaking unless he or she is called to order by the Presiding Officer, a point of order or a personal privilege is raised by another Commission member or the speaker chooses to yield to a question by another Commission member. If a Commission member is called to order, he or she shall cease speaking until the question of order is determined.
- d) **Points of Order.** The Presiding Officer shall determine all points of order subject to the right of any Commission member to appeal to the City Commission. If an appeal is taken, the question shall be: "Shall the decision of the Presiding Officer be sustained?" The Presiding Officer's decision may be overruled by a two-thirds vote of the Commission members then present.
- e) **Motion to Reconsider Legislative Actions.** A motion to reconsider any legislative action

taken by the City Commission may be made only by one of the Commission members on the prevailing side and may be seconded by any Commission member. Such motion may be made at any time and shall be debatable.

- f) Calling for the Question. A question may be called by majority vote of those present. However, neither the moving party nor the party seconding any motion may call for the question, each Commission member shall be afforded one opportunity to speak on each item before the question is called, and a question may not be called to interrupt or cut off a particular speaker.
- g) Limitation of Discussion. Commission members shall limit their remarks to the subject under discussion. At the discretion of the Presiding Officer, no Commission member shall be allowed to speak more than twice upon any particular subject until every other Commission member desiring to do so has spoken.

RULE 13. PROTEST AGAINST CITY COMMISSION ACTION.

Any Commission member shall have the right to have the reasons for his or her opposition to any vote of the City Commission entered in the Minutes. Such opposition shall be made in the following manner: "I would like the Minutes to reflect that I opposed this action for the following reasons..."

RULE 14. PUBLIC COMMENT.

- a) Public Comment. Public comment is permitted on all agenda items and the public shall have an opportunity to talk on any matter which is not on the Agenda but is within the Commission's jurisdiction. However, members of the public do not have the right to give comment outside the scope of or unrelated to the agenda item under consideration. Additionally, members of the public should strive to avoid unduly reiterating their own or others' comments.
- b) Registration. At the discretion of the Presiding Officer, any member of the public wishing to address the City Commission regarding any item on the Agenda for public discussion shall register with the City Clerk prior to the start of the meeting, if possible, but no later than prior to the public hearing on that item. Any request received after the start of the hearing shall be considered late and may only be heard at the discretion of the Presiding Officer.
- c) Manner of Addressing the City Commission. After being recognized by the Presiding Officer, each member of the public addressing the City Commission shall go to the podium, state his or her name and whom he or she is representing, if he or she represents an organization or other person. All remarks shall be addressed to the City Commission as a whole and not to any individual member.
- d) Time Limits. Except on Written Communication, members of the public may be required to limit their remarks to a period of time specified by the Presiding Officer prior to opening discussion.
- e) Special Assistance for Those Who Cannot Wait to Speak. Members of the public, including those with special needs, who cannot wait to speak on an agenda item, may request assistance from the City Clerk, and a member of the Clerk's office will provide assistance in preparing a written statement for distribution to the Commission.

RULE 15. RULES OF CONDUCT AND SAFETY.

When the City Commission is in session, all persons present must preserve safety and order. Members of the public should sit in the audience seating area, unless addressing the Commission or entering or leaving the Commission Chambers, should not block the aisles with personal belongings and should turn *off* audible equipment when in the Commission Chambers, including cellular telephones or pagers.

Any person who disrupts the meeting shall be called to order by the Presiding Officer. Disruption shall include but not be limited to, blocking the audience or camera view of the proceedings. If such conduct continues, the Presiding Officer may request the Sergeant at Arms to remove the person from Commission Chambers. The Chief of Police or such member or members of the Police Department as he or she may designate, shall be Sergeant At Arms of the City Commission and shall carry out all orders given by the Presiding Officer through the City Manager for the purpose of maintaining order at City Commission meetings. Any Commission member may move to require the Presiding Officer to enforce the rules, and the affirmative vote of a majority of the City Commission shall require him or her to do so.

RULE 16. SEATING ORDER.

After each municipal election, seating order will be determined by seniority. However, the Mayor and Mayor Pro Tern shall be seated in the center of the dais.

RULE 17. ENTITLEMENT TO VOTE AND FAILURE TO VOTE.

Every Commission member is entitled to vote unless disqualified by reason of a conflict of interest. A Commission member who abstains from voting consents to the decision made by the voting Commission members.

RULE 18. VOTING PROCEDURE.

Any vote of the City Commission, including a roll call vote, may be registered by the members answering "Aye" for an affirmative vote or "Nay" for a negative vote. Voting order shall be established at the Commission organizational meeting by the Presiding Officer.

RULE 19. DISQUALIFICATION FOR CONFLICT OF INTEREST.

Any Commission member who is disqualified from voting on a particular matter by reason of a conflict of interest shall publicly state or have the Presiding Officer state the nature of such disqualification. At the discretion of the City Commission, such Commission member may be allowed to participate in the discussion. A Commission member stating such disqualification shall not be counted as part of a quorum and shall be considered absent for the purpose of determining the outcome of any vote on such matters.

RULE 20. TIE VOTE.

Tie votes shall be lost motions.

RULE 21. CHANGING VOTE.

The vote of a Commission member may be changed only if he or she makes a timely request to do so immediately following the announcement of the vote by the City Clerk or the Presiding Officer and prior to the time that the next item in the order of business is taken up.

RULE 22. PRESENCE OF CITY STAFF AT CITY COMMISSION MEETINGS.

The City Manager, City Clerk, and City Attorney, or, in their absence, their authorized representatives, shall attend and be present during all City Commission meetings and give necessary service and advice.

RULE 23. ADJOURNMENT.

No new item, other than Public Input, shall be considered after 12:00 midnight, unless approved by majority of the Commission members present.

RULE 24. RECORD OF MEETINGS.

All public meetings of the City Commission shall be recorded. The recording shall be made by the City Clerk and retained in accordance with the State's record retention schedule. The use of other recording or television equipment is permitted so long as it is not disruptive to the meeting.

RULE 25. INTERPRETATION AND MODIFICATION OF THESE RULES.

These rules shall be interpreted liberally in order to provide for the optimum in the free interchange of information and public debate without an unnecessary waste of time or duplication of effort. These rules may be amended by motion.

RULE 26. FAILURE TO OBSERVE RULES OF ORDER.

These rules of order and procedures govern the conduct of City Commission meetings. These rules are intended to expedite the transaction of the business of the City Commission in an orderly fashion and are deemed to be procedural only. Failure to strictly observe these rules shall not affect the jurisdiction of the City Commission or invalidate any action taken at a meeting that otherwise conforms to law.

DONE this 20 day of February 2018.

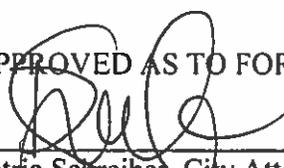
CITY OF ALAMOGORDO, NEW MEXICO
A New Mexico municipal corporation

By: 
Richard A. Boss, Mayor



ATTEST:

Rachel Hughs, City Clerk

APPROVED AS TO FORM:

Petria Schreiber, City Attorney

101 Basics of City Commission Meetings

We follow the basic Robert's Rules of Order

Remarks and Inquiries by the City Commission:

Raise your hand to get the mayor's attention and wait to be recognized before speaking.
This is the rule for the entire meeting. The mayor is the only one who can recognize anyone and keep order during the meeting.

Motions:

- When you make a motion, please state the exact motion you are declaring, i.e.
 - "I move to approve (read the item on the agenda)".
 - "I move to deny (read the item)".
 - If you want to amend the agenda item, "I move to approve (read the item with your amendment)".

Votes:

- When voting for an item, say "aye"
- When voting against an item, say "nay"
- The mayor will say "all those in favor" and also "all those against". The mayor will state who voted nay so the city clerk has a record of it.

Conflicts: Per the City's Code of Ordinances 2-02-060

- Elected or appointed officials with any financial interest shall disclose such interest in writing to the city attorney's office or by making an official record at a commission meeting. By filing a disclosure of interest with the city attorney or recording into the record at a commission meeting, the elected or appointed official shall be disqualified from participating in any debate, decision, or vote relating thereto.
- Where a conflict of interest is unavoidable, the elected or appointed official shall disclose the conflict of interest and shall subordinate the conflicting interest to the public interest. The clerk shall record the disclosure as part of the minutes of the meeting at which the disclosure is made.

Recusal:

An elected official or appointed official shall recuse themselves in any pending administrative adjudicatory matter in which the official is unable to make a fair and impartial decision or in which there is reasonable doubt about whether the official can make a fair and impartial decision. (Another word for recuse is to abstain.)

Roll Call vote:

Roll call votes are taken for a Resolution and an Ordinance.

At any time during action taken on an item, the Mayor may ask the city clerk to take a roll call vote if he/she feels the vote could be close. This makes the vote clear.

Agenda:

- **Approval of the Agenda**
 - The mayor will ask if anyone wishes to make a change in the agenda (withdrawal, change in order, etc.).
 - If a change is made, you will approve the amended agenda; otherwise, you will approve the agenda as it is.

- This is not the place to remove an item from the consent agenda for further discussion.
- **Presentations**
These are simply presentations. There will not be any action taken; staff may be given some direction. Presentations are limited to no more than 10 minutes.
- **Public Comment**
It is just that - no action will be taken during this time. The public will sign up to speak before the meeting begins. The standard time allotted is 3 minutes, but the mayor reserves the right to change it depending on the number of public comments. If someone signs up for a specific agenda item, they will speak under that item.
- **Consent Agenda**
The mayor will ask the commission if anyone wants to remove an item from the Consent Agenda for further discussion. Any items removed will be discussed in numerical order, and you will be asked to comment on the item you removed.
- **Public Hearing**
Public hearings are different from a regular agenda item. The public hearing would have been published in the newspaper as a notice to the public of the hearing.
 - A public hearing is in the form of a quasi-judicial setting. The Governing Body removes itself as legislative (policymaking) and holds the hearing with sworn testimonies and evidence to make a decision based on competent, substantial evidence.
 - After the testimonies, the mayor will ask for discussion from the Governing Body and ask if any members of the public would like to comment. Then you must make a decision based on the evidence.
- **Adjourn into Executive Session** - to end the meeting, and you go into Executive Closed Session (and the rest of us go home!)
or
- **Recess into Executive Session** - you go into Executive Closed Session, then go back into Open Session to take action, or if no action, the Mayor makes a statement that no other items were discussed other than what was stated on the agenda, and that no action will be taken at this time.

Very Important:

Anything spoken of in the Executive Closed Session shall not be disclosed to anyone else. Not only is it against the New Mexico Open Meetings Act, but trust is questioned and becomes very difficult to establish again.