



2011

Home Rule Charter

For

Laguna Vista, Texas

Town of Laguna Vista Charter  
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TOWN OF LAGUNA VISTA  
CHARTER

PREAMBLE

In the spirit of goodwill, civic cooperation, and good government, we the Citizens of the Town of Laguna Vista do hereby establish this Home Rule Charter under the Laws and Constitution of the State of Texas. By this action we secure the benefits of Home Rule and affirm the values of representative democracy, professional management, strong leadership, citizen participation, and regional cooperation.

This document is intended to and shall empower the residents of our community through our elected representatives and individually in our own right through initiative, recall, referendum, and public participation to self-govern more effectively and to enjoy any and all rights not specifically preempted by the Constitution and Laws of the State of Texas.

Article I  
POWERS OF THE TOWN AND BOUNDARIES

Section 1.01 Powers of the Town

The Town shall have all powers of self-governance limited only by the Constitution and Laws of the State of Texas as fully and completely as though those powers were specifically enumerated in this Charter.

Section 1.02 Form of Government

The municipal government shall be the "Council-Manager" form of government. Pursuant to the provisions of the State Constitution, State Laws, and this Charter, all powers of the Town shall be vested in and exercised by an elective governing body, hereinafter referred to as the "Town Council" or "Council." The Council shall enact legislation, adopt budgets, determine policies, make appointments to Boards and Commissions as set forth herein, and appoint the Town Manager. The Town Manager shall implement the policies and procedures created by the Council and shall execute the daily administration of municipal government.

Section 1.03 Construction

(a) The powers of the Town under this Charter shall be construed liberally in favor of the Town, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power granted in this article.

(b) The word "Town" shall have the same meaning and be synonymous with the word "City." The phrase "Town Council," "City Council" and "Board of Aldermen" shall all have the same meaning and/or synonymous terms.

(c) Should the Town Council in the future decide that it is in the best interest of the Town of Laguna Vista to formally change its name to "City of Laguna Vista," the Town Council shall have authority to make the change by majority vote of the Town Council and without formal Charter amendment.

Section 1.04 Intergovernmental Relations

The Town may participate by contract or otherwise with any governmental entity in the United States or any foreign governmental entity in the performance of any activity which one or more of such entities has the authority to undertake.

Section 1.05 Eminent Domain

In furtherance of its municipal or public purpose, the Town shall have the full power and right to exercise the powers of eminent domain and condemnation when necessary or desirable to carry out any of the powers conferred upon it by

this Charter and not otherwise limited by the Constitution or Laws of the State of Texas.

#### Section 1.06 Boundaries

The boundaries of the Town of Laguna Vista shall be the same as existed on the day of ratification of this Charter, which boundaries are more fully set out and described by the official Town map of the Town of Laguna Vista.

#### Section 1.07 Extension of Boundaries

Additional territory may be annexed to the Town in any manner and by any procedure that may now be provided by Law or that may be hereafter provided by Law. Same shall be in addition to the following methods:

(a) Extending Town Limits in Accordance with Texas Local Government Code Chapter 43 or as amended: Where such additional territory adjoins the corporate limits of the Town and contains three or more inhabitants registered to vote for members of the State legislature, such adjacent territory may be annexed to the Town in the manner and in conformity with the procedure set forth in Texas Local Government Code Chapter 43 or as amended.

(b) Annexation of the unoccupied Lands on Petition of Owners: The owners or owner of any land which is without residents, or on which less than three voters reside, contiguous and adjacent to the Town may, by petition in writing to the Town Council, request the annexation of such contiguous and adjacent land, describing it by legal descriptions. The Town Council shall thereafter, and not less than five and not more than thirty (30) days after the filing of such petition, hear such petition and the arguments for and against the same, and may grant such petition and may by proper Ordinance receive and annex such territory as a part of the Town.

(c) Extending Limits by Action of the Town Council: The Town Council shall have power by Ordinance to fix the boundary limits of the Town and to provide for the extension of said boundary limits and the annexation of additional territory lying adjacent to said Town, with or without the consent of the residents or the owners of the territory annexed as prescribed in Texas Local Government code, Chapter 43.

(d) Annexed Territory to Become Part of the Town: Upon completion of any one of the procedures hereinabove provided, the territory so annexed shall become a part of the Town, and said land and its residents and future residents shall be entitled to all the rights and privileges of other citizens of the Town and shall be bound by the acts, Ordinances, Resolutions and regulations of the Town.

## Section 1.08 Disannexation

Any area hereafter annexed under this Charter and the Laws of the State of Texas may be disannexed only under the authority of and by the procedure set forth in Chapter 43 of the Texas Local Government Code.

## Article II TOWN COUNCIL

### Section 2.01 General Powers and Duties

All powers of the Town shall be vested in the Town Council, except as otherwise provided by Law or this Charter, and the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the Town by Law.

### Section 2.02 Eligibility, Terms, and Composition

#### (a) Eligibility:

- (1) Only registered voters of the Town shall be eligible to hold the office of Council Member or Mayor.
- (2) Candidate must have resided in the Town for at least (12) twelve consecutive months immediately preceding the deadline for filing for the office of Council Member or Mayor.

#### (b) Terms:

The term of office of elected officials shall be three (3) years elected in accordance with Article VI.

#### (c) Composition:

There shall be a Town Council composed of a Mayor and six (6) members.

### Section 2.03 Mayor

#### (a) Powers and Duties:

The Mayor shall be a voting member of the Town Council and may make motions and seconds and shall attend and preside at meetings of the Council, represent the Town in intergovernmental relationships; assign, subject to the consent of Council, agenda items to committees; and perform other duties specified by the Council. The Mayor shall be recognized as head of the Town government for all ceremonial purposes, emergency matters, security matters and by the governor for purposes of military Law but shall have no administrative duties.

(b) Mayor Elected At Large:

The voters of the Town shall elect a Mayor at large for a term of three (3) years. At the regular meeting in June of each year, the Council shall elect from among its members a Mayor pro tempore who shall act as Mayor during the absence or disability of the Mayor and, if a vacancy occurs, shall perform the duties of Mayor until the office is filled by an election. The Mayor Pro-tempore shall serve a one (1) year term.

## Section 2.04 Compensation and Expenses

The Town Council may determine an annual salary for the Mayor and Council Members by Ordinance but no Ordinance establishing or increasing such salary shall become effective until the date of commencement of the terms of Council Members elected at the next regular election. The Mayor and Council Members shall receive their actual and necessary expenses incurred in the performance of their duties of office.

## Section 2.05 Prohibitions

(a) Holding Other Office:

Except where authorized by Law, no Council Member shall hold any other elected public office during the term for which the member was elected to the Council. Except as authorized by Law or otherwise authorized in this Charter, no Council Member shall hold any other Town office or Town employment or serve on any Town board appointment during the term for which the member was elected to the Council. No former Council Member shall hold any compensated appointive office or employment with the Town until one (1) year after the expiration of the term for which the member was elected to the Council, unless granted a waiver by the Board of Ethics. Nothing in this section shall be construed to prohibit the Council from selecting any current or former Council Member to represent the Town on the governing board of any regional or other intergovernmental agency.

(b) Appointments and Removals:

The Town Council or any of its members shall not in any manner control or demand the appointment or removal of any Town employee who the Town Manager is empowered to appoint, but the Council may express its views and fully and freely discuss with the Town Manager anything pertaining to appointment and removal of such employees.

(c) Interference with Administration:

Except for the purpose of inquiries, and investigations under Section 2.08, the Council or its members shall deal with Town employees who are subject to the direction and supervision of the Town Manager solely through the Town Manager, and neither the Council nor its members shall give orders or direction to any such employee, either publicly or privately.

## Section 2.06 Vacancies; Forfeiture of Office; Filling of Vacancies

### (a) Vacancies:

The office of a Council Member shall become vacant upon the member's death, resignation, or removal from office or forfeiture of office in any manner authorized by Law or this Charter.

### (b) Forfeiture of Office:

A Council Member shall forfeit that office if the Council Member:

- (1) Fails to meet residency requirements, as defined in Article II, Section 2.02 (a);
- (2) Violates any express prohibition of this Charter;
- (3) Is convicted of a crime involving moral turpitude; or
- (4) Fails to attend three (3) consecutive regular meetings or six (6) meetings in any calendar year of the Council without being excused by the Council.

### (c) Filling of Vacancies:

- (1) A vacancy in the office of Mayor and/or Town Council member who was elected after or at the same time as the adoption election of this Charter shall pursuant to Article 11, Section 11 of the Texas Constitution not be filled by appointment but must be filled by majority vote of the registered voters at a special election called for such purpose and held within one hundred twenty (120) days after such vacancy or vacancies occur or on an authorized uniform election date if it occurs within said one hundred twenty (120) days.
- (2) A vacancy in the office of Town Council member who was elected prior to the adoption of this Charter and who had an unexpired term of office converted to Council Member Place 4, 5 or 6 pursuant to Article VI, Section 6.02(a), may be filled by appointment for a term which will expire in 2012 on the date that Council Member Places 4, 5, and 6 are filled by election for three (3) year terms.

## Section 2.07 Judge of Qualifications

The Town Council shall be the judge of the election and qualifications of its members, and of the grounds for forfeiture of their office. In order to exercise these powers, the Council shall have power to subpoena witnesses, administer oaths, and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in the official Town newspaper at least one (1) week in advance of the hearing.

## Section 2.08 Investigations

The Council shall have the power to inquire into the official conduct of any department, employee or appointed board members of the Town. For this purpose, the Council shall have the power to administer oaths, subpoena witnesses, compel the production of books, papers and other evidence material to the inquiry. The Council shall provide, by Ordinance, penalties for contempt in failing or refusing to obey a subpoena or to produce any books, papers or other evidence. The Council shall have the power to punish any act of contempt in the manner provided by such Ordinance.

## Section 2.09 Procedure

### (a) Meetings:

The Council shall meet regularly at least once in every month at such times and places as the Council may prescribe by Resolution. Special meetings may be held on the call of the Mayor or of three or more members or the Town Manager. Regular and Special meetings shall comply with the State Statute regarding notice to the public and notice shall be posted in a public place no less than seventy two (72) hours prior to the meeting time. Emergency meetings involving health and safety matters where the seventy two (72) hour notice is not practical may be called in accordance with State Law. Except as allowed by State Law, all meetings shall be public; however, the Council may recess for the purpose of discussing in a closed or executive session such matters allowed by State Law for closed or executive sessions.

### (b) Rules and Minutes:

The Town Council shall determine its own rules and order of business and shall provide for keeping minutes of its proceedings. The minutes shall be a public record pursuant to State Law.

### (c) Voting:

Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the minutes. The Mayor and three (3) members or four (4) members of the Council shall constitute a quorum unless otherwise provided by State Law. A majority vote of those present and voting shall be required to constitute action; however, any action on Ordinances and Resolutions shall require the affirmative vote of no fewer than four (4) members to become effective.

### (d) Committees, Boards, and Commissions:

Unless otherwise provided by State Law, the Town Council shall appoint all members to the boards, committees, and commissions of the Town. The procedures for making the appointments shall be established by Ordinance.

## Section 2.10 Action Requiring an Ordinance

In addition to other acts required by Law or by specific provision of this Charter to be done by Ordinance, those acts of the Town Council shall be by Ordinance which:

- (a) Adopt or amend the Code of Ordinances or an administrative code;
- (b) Establish, alter, or abolish any Town department, office, or agency;
- (c) Establish a fine or other penalty and provide for its enforcement;
- (d) Levy taxes;
- (e) Grant, renew, or extend a franchise;
- (f) Regulate the rate charged for its services by a public utility;
- (g) Authorize the borrowing of money;
- (h) Convey or lease or authorize the conveyance or lease of any lands of the Town;
- (i) Regulate land use and development;
- (j) Amend or repeal any Ordinance previously adopted;
- (k) Adopt, with or without amendment, Ordinances proposed under the initiative power. Acts other than those referred to in the preceding sentence may be done either by Ordinance or by Resolution; or
- (l) Set and adopt the budget for each fiscal year.

## Section 2.11 Ordinances in General

- (a) Passage:

Ordinances shall be introduced to the Town Council by a Council Member or the Town Manager only in written or printed form. The subject or subjects of all Ordinances shall be clearly expressed in the title. Except as may otherwise be prescribed in this Charter, an Ordinance shall not be finally passed at the meeting of the Council at which it is first introduced, but it shall then be read, and the Council will determine whether it shall be rejected or further considered at a subsequent meeting of the Council. If rejected, no further action shall be required. Upon second reading, the Ordinance may be adopted and enacted.

- (b) Enacting Clause:

The enacting clause of all Ordinances shall be "BE IT ORDAINED BY THE

TOWN COUNCIL OF THE TOWN OF LAGUNA VISTA, TEXAS"; and every Ordinance shall be authenticated by the signature of the Mayor or Mayor Pro-Tem and the Town Secretary.

(c) Penal and Franchise Ordinances:

Caption or title and penalties of every Ordinance imposing any penalty, fine, or forfeiture shall, as soon as practical after passage thereof, be published one (1) time in the official newspaper(s) of the Town of Laguna Vista. All Ordinances granting, confirming, extending, renewing, or amending a franchise shall be accepted in writing by the grantees and shall be published as otherwise provided in this Charter.

### Section 2.12 Emergency Ordinances

To meet a public emergency affecting life, health, property or the public peace, the Town Council may adopt one (1) or more emergency Ordinances. After its adoption, the Ordinance shall be published and printed as prescribed for other adopted Ordinances. It shall become effective upon adoption or at such later time as it may specify or as may be required by Law.

### Section 2.13 Codes of Technical Regulations

The Town Council may adopt any standard code of technical regulations by reference thereto in an adopting Ordinance. The procedure and requirements governing such an adopting Ordinance shall be as prescribed for Ordinances generally except that the requirements of Section 2.11 for written or printed copies of the Ordinance shall be construed to include copies of the code of technical regulations. A copy of each adopted code of technical regulations as well as the adopting Ordinance shall be authenticated and recorded by the Town Secretary pursuant to Section 2.14.

### Section 2.14 Authentication, Recording, Codification and Printing of Ordinances

(a) Authentication and Recording:

The Town Secretary shall authenticate each Ordinance by signing and shall record each Ordinance in full in a properly indexed book kept for all Ordinances adopted by the Town Council.

(b) Codification:

The Town of Laguna Vista has adopted and maintains a Code of Ordinances designated as the "Code of Ordinances, Town of Laguna Vista, Texas." The adoption of this Charter does not repeal or alter the Code of Ordinances heretofore adopted and the same may be amended by Ordinance.

## Article III TOWN MANAGER

### Section 3.01 Town Manager Position

There shall be a Town Manager who shall be the highest paid professional employee of the Town. The Town Manager shall be directly accountable to the Town Council.

### Section 3.02 Appointment, Qualifications and Compensation

The Town Council by a majority vote of its total membership shall appoint a Town Manager for a term of years or an indefinite term and fix the Manager's compensation. The Town Manager shall be appointed solely on the basis of education and experience in the accepted competencies and practices of local government management. The Town Manager need not be a resident of the Town or State at the time of appointment and may reside outside the Town while in office only with the approval of the Council.

### Section 3.03 Removal

The Council may by affirmative vote of a majority of the full Town Council adopt a Resolution removing the Town Manager from office. The action of the Council in removing the Town Manager shall be final. It is the intention of this Charter to vest all authority and fix all responsibility for such removal in the Town Council.

### Section 3.04 Acting Town Manager

By letter filed with the Town Secretary, the Town Manager shall designate a Town officer or employee to exercise the powers and perform the duties of Town Manager during the Manager's temporary absence or disability. The Town Council may revoke such designation at any time and appoint another officer of the Town to serve until the Town Manager returns.

### Section 3.05 Powers and Duties of the Town Manager

The Town Manager shall be the chief administrative officer of the Town, responsible to the Council for the management of all Town affairs placed in the Manager's charge by the Town Council or by this Charter. The Town Manager shall:

(a) Hire, discipline and terminate Town employees and shall be the final authority in these matters except as otherwise provided by Law, this Charter or personnel rules adopted pursuant to this Charter;

(b) direct and supervise the administration of all departments of the Town;

- (c) Attend all Town Council meetings and shall have the right to take part in discussion but shall not vote;
- (d) See that all Laws, provisions of this Charter and acts of the Town Council, subject to enforcement by the Town Manager or by officers subject to the Manager's direction and supervision, are faithfully executed;
- (e) Prepare and submit the annual budget to the Town Council and shall implement any revisions as directed by the Town Council;
- (f) Submit to the Town Council and make available to the public a complete report on the finances and administrative activities of the Town as of the end of each fiscal year;
- (g) Recommend budget amendments when necessary to the Town Council during the fiscal year;
- (h) Make such other reports as the Town Council may require concerning operations;
- (i) Keep the Town Council fully advised as to the financial condition and future needs of the Town;
- (j) Make recommendations to the Town Council concerning the affairs of the Town and facilitate the work of the Town Council in developing policy;
- (k) Provide staff support services for the Mayor and Council Members;
- (l) Assist the Council to develop long-term goals for the Town and strategies to implement these goals through a capital improvement program or through such other means as recommended by the Town Council;
- (m) Encourage and provide staff support for regional and intergovernmental Cooperation;
- (n) Promote partnerships among Council, staff, and citizens in developing public policy and building a sense of community; and
- (o) Perform such other duties as are specified in this Charter or may be required by the Town Council.

Article IV  
DEPARTMENTS, OFFICES, AND AGENCIES

Section 4.01 General Provisions

(a) Creation of Departments:

The Town Council may establish, combine, or abolish Town departments, offices, or agencies in addition to those provided by this Charter and may prescribe the functions of all departments, offices, and agencies.

(b) Direction by Town Manager:

All departments, under the direction and supervision of the Town Manager, shall be administered by an employee appointed by and subject to the direction and supervision of the Town Manager. The Town Manager may not serve as the head of one or more such departments, but the Town Manager may appoint one person as the head of two (2) or more departments.

Section 4.02 Personnel System

(a) Merit Principle:

All appointments and promotions of Town officers and employees shall be made solely on the basis of merit and fitness demonstrated by a valid and reliable examination or other evidence of competency.

(b) Personnel Rules:

The Town Manager shall be responsible for the preparation of personnel rules for submission to the Town Council. The Council may accept and adopt such rules as proposed or may adopt them with such amendments as the Council deems necessary or may reject them in their entirety and direct the Town Manager to further consider the rules and present new proposals at a subsequent meeting. No personnel policies shall be effective until approved by the Town Council.

Section 4.03 Town Attorney

(a) Appointment:

The majority of the entire Town Council shall appoint and or remove the Town Attorney who shall be a duly licensed attorney under the Laws of Texas. There may be deputy or assistant Town Attorneys as may be determined by the Council who shall serve under the direction of the Town Attorney and may serve as prosecutor(s) in the Municipal Court.

(b) Role:

The Town Attorney shall serve as chief legal adviser to the Council, the Town Manager and all Town departments, offices, boards, commissions and committees, shall represent the Town in all legal proceedings and shall perform

any other duties directed by Council, prescribed by State Law, by this Charter or by Ordinance.

(c) Additional Counsel:

The Town Council may engage other outside counsel when independent or specialized legal assistance is deemed necessary.

#### Section 4.04 Land Use, Development, and Environmental Planning

Consistent with all applicable Federal and State Laws with respect to land use, development, and environmental planning, the Town Council may designate a department or departments to carry out the planning function and such decision-making responsibilities as may be specified by Ordinance.

#### Section 4.05 Municipal Court

(a) There shall be established and maintained a court designated as a Municipal Court for the trial of misdemeanor offenses and traffic violations and having all powers and duties as are now or hereafter prescribed by the Laws of the State of Texas relative to municipal courts.

(b) The judge or judges of said court shall be appointed by the Town Council, shall hold office at the pleasure of the Town Council, shall receive such salary as may be fixed by the Town Council, and the court staff will be under the administrative direction of the Town Manager and said judge shall not be an elected official. The Town Secretary or an assistant Town Secretary may be ex officio clerk of said court.

(c) The Clerk of said court and deputy shall have the power to administer oaths and affidavits, make certificates, affix the seal of court; and generally perform any and all acts required of the Clerk to conduct the Court's business.

(d) The Town Council by Resolution may provide for the appointment of one (1) or more judges to serve if the regular judge, the presiding judge, or an associate judge is temporarily unable to act.

(e) Each Municipal Judge shall be a duly licensed attorney where possible. This provision shall not disqualify any non-Attorney Municipal Judge who may be serving at the time of the adoption of this Charter.

#### Section 4.06 Town Secretary

The Town Council shall appoint the Town Secretary after due consideration of recommendation from the Town Manager. The Town Secretary shall give notice of Council meetings, keep the minutes of the proceedings of such meetings, maintain official records and shall perform such other duties as the Town Council or Town Manager shall assign and those elsewhere provided for in this Charter.

## Article V FINANCIAL MANAGEMENT

### Section 5.01 Fiscal Year

The fiscal year of the Town shall begin on the first day of October and end on the last day of September.

### Section 5.02 Time for Submission of Budget

On or before sixty (60) days prior to the beginning of each fiscal year, the Town Manager shall submit to the Town Council a budget for the ensuing fiscal year.

### Section 5.03 Budget Message

The Town Manager's message shall explain the budget both in fiscal terms and in terms of the work programs, linking those programs to organizational goals and community priorities. It shall outline the proposed financial policies of the city for the ensuing fiscal year and the impact of those policies on future years. It shall describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the Town's debt position, including factors affecting the ability to raise resources through debt issues, and include such other material as the Town Manager deems desirable.

### Section 5.04 Budget

The budget shall provide a complete financial plan of all Town funds and activities for the ensuing fiscal year and, except as required by Law or this Charter, shall be in such form as the Town Manager deems desirable or the Town Council may require for effective management and an understanding of the relationship between the budget and the Town's strategic goals. The budget shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

- (a) The proposed goals and expenditures for current operations during the ensuing fiscal year, detailed for each fund by department or by other organization unit, and program, purpose or activity, method of financing such expenditures, and methods to measure outcomes and performance related to the goals;
- (b) Proposed longer-term goals and capital expenditures during the ensuing fiscal year, detailed for each fund by department or by other organization unit when practicable, the proposed method of financing each such capital

expenditures, and methods to measure outcomes and performance related to the goals; and

(c) The proposed goals, anticipated income and expense, profit and loss for the ensuing year for each utility or other enterprise fund or internal service fund operated by the Town, and methods to measure outcomes and performance related to the goals. For any fund, the total of proposed expenditures shall not exceed the total of estimated income plus carried forward fund balance exclusive of reserves.

#### Section 5.05 Reserve Fund

The Town shall maintain a minimum reserve fund balance equal to the amount of the Town's operating expenses for a period of three (3) months for use in case of an emergency. The Town shall make every effort to ensure that the reserve funds are maintained at that level.

#### Section 5.06 Town Council Action on Budget

(a) Notice and Hearing:

The Town Council shall publish the general summary of the budget and the times and places where copies of the message and budget are available for inspection by the public. There shall be a public hearing on the budget no earlier than two (2) weeks after the date of publication and there shall be a minimum of one (1) public hearing prior to adoption of the budget.

(b) Amendment Before Adoption:

After the public hearing(s), the Town Council may adopt the budget with or without amendment.

(c) Adoption:

The Town Council shall adopt the budget on or before the last day of the last month of the fiscal year currently ending. If it fails to adopt budget by this date, the budget of the prior fiscal year shall remain in effect until such time as a current year's budget is adopted.

(d) "Publish" defined:

As used in this article, the term "publish" means to print in the contemporary means of information sharing which includes but is not limited to the official newspaper of the Town and, if available, on the Town website.

#### Section 5.07 Appropriation and Revenue Ordinances

To implement the adopted budget, the Town Council shall adopt prior to the beginning of the fiscal year:

(a) an appropriation Ordinance making appropriations by department, fund, service or other organizational unit and authorizing an allocation for each program or activity;

(b) a tax levy Ordinance authorizing the property tax levy or levies and setting the tax rate or rates; and

(c) any other Ordinances required to authorize new revenues or to amend the rates or other features of existing taxes or other revenue sources.

#### Section 5.08 Amendments after Adoption

(a) Supplemental Appropriations:

If during or before the fiscal year the Town Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Town Council by Ordinance may make supplemental appropriations for the year up to the amount of such excess.

(b) Emergency Appropriations:

To meet a public emergency affecting life, health, property or the public peace, a majority of the Town Council may make emergency appropriations. Such appropriations may be made by emergency Ordinance. To the extent that there are no available appropriate revenues or funds to meet such appropriations, the Town Council may by emergency Ordinance authorize the issuance of emergency notes.

(c) Reduction of Appropriations:

If at any time during the fiscal year it appears to the Town Manager that the revenues or fund balances available will be insufficient to finance the expenditures for which appropriations have been authorized, the Town Manager shall report to the Town Council without delay, indicating the estimated amount of the deficit, any remedial action taken by the Town Manager and recommendations as to any other steps to be taken. The Town Council shall then take such further action as it deems necessary to prevent or reduce any deficit and for that purpose it may by Ordinance reduce or eliminate one or more appropriations.

(d) Transfer of Appropriations:

At any time during or before the fiscal year, the Town Council may by Resolution transfer part or all of the unencumbered appropriation balance from one department, fund, or service to the appropriation for other departments, funds or services. The Town Manager may transfer funds among programs in a department, fund, or service and shall report such transfers to the Town Council in writing.

(e) Limitation; Effective Date:

No appropriation for debt service may be reduced or transferred except to the extent that the debt is refinanced and less debt service is required. No appropriation may be reduced below any amount required by Law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

Section 5.09 Administration and Fiduciary Oversight of the Budget

The Town Council shall provide procedures for administration and fiduciary oversight of the budget.

Section 5.10 Capital Program

(a) Submission to Town Council:

The Town Manager shall annually prepare and submit to the Town Council a capital program for at least the next three (3) years. The capital program shall be submitted together with the operating budget for the ensuing fiscal year and shall be updated annually to reflect the status of pending projects.

(b) Contents. The capital program shall include:

- (1) A clear general summary of its contents;
- (2) Identification of the long-term goals of the community as Stated in the Town's Comprehensive Plan;
- (3) A list of all capital improvements and other capital expenditures which are proposed to be undertaken during the fiscal years next ensuing with appropriate supporting information as to the necessity for each;
- (4) Cost estimates and recommended time schedules for each improvement or other capital expenditure;
- (5) The method of financing upon which each capital expenditure is to be reliant;
- (6) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired;
- (7) A commentary on how the plan addresses the sustainability of the community and the region of which it is a part; and
- (8) Methods to measure outcomes and performance of the capital plan related to the long-term goals of the community.

Section 5.11 Town Council Action on Capital Program

(a) Notice and Hearing:

The Town Council shall publish the general summary of the capital program and the times and places where copies of the capital program are available for inspection by the public. There shall be a public hearing on the capital program no earlier than two (2) weeks after the date of publication and

there shall be a minimum of one (1) public hearing prior to adoption of the capital program.

(b) Adoption:

The Town Council by Resolution shall adopt the capital program with or without amendment after the public hearing and at the same time it adopts the ensuing fiscal year budget.

#### Section 5.12 Incurring Indebtedness

In keeping with the Constitution of the State of Texas and not contrary thereto, the Town of Laguna Vista shall have the power to borrow money on the credit of the Town for any public purpose not now or hereafter prohibited by the Constitution and Laws of the State of Texas and shall have the right to issue all tax bonds, revenue bonds, funding and refunding bonds, time warrants, certificates of obligation and other evidence of indebtedness as now authorized or as may hereafter be authorized to be issued by any Town under and in accordance with the restrictions, conditions and Laws of the State of Texas.

#### Section 5.13 Independent Audit

(a) The Town Council shall provide for an independent annual audit of all Town accounts and may provide for more frequent audits as it deems necessary. An independent certified public accountant or firm of such accountants shall conduct the audit in accordance with Generally Accepted Auditing Standards (GAAS), Generally Accepted Governmental Auditing Standards (GAGAS), and Governmental Accounting Standards Board (GASB) and the Texas Local Government Code.

(b) The Council shall designate such accountant or firm annually or for a period not exceeding five (5) years. The designation for any particular fiscal year shall be made no later than ninety (90) days after the beginning of such fiscal year. The standard for independence is that the auditor must be capable of exercising objective and impartial judgment on all issues encompassed within the audit engagement. No accountant or firm may provide any other services to the Town during the time it is retained to provide independent audits to the Town. The Town Council may waive this requirement by a majority vote at a public meeting. If the State makes such an audit, the Council may accept it as satisfying the requirements of this section.

(c) The Council shall designate no fewer than two (2) of its members and one (1) Town resident to serve as an Audit Committee. This Committee shall:

- (1) Review all proposals received and make a recommendation to the Town Council;
- (2) Direct the work of the independent auditor as to the scope of the annual audit and any matters of concern with respect to internal controls; and

- (3) Receive the report of the auditor and forward that report to the Council with any recommendations from the Committee.

#### Section 5.14 Public Records

Copies of the budget, capital program, independent audit reports, and appropriation and revenue Ordinances shall be public records after accepted and approved by the Town Council.

### Article VI ELECTIONS

#### Section 6.01 Town Elections

(a) Regular Elections/Special Elections:

The regular Town Council election shall be held at the time established by State Law which is currently on the second (2nd) Saturday in May.

(b) Registered Voter Defined:

All citizens legally registered under the Constitution and Laws of the State of Texas to vote in the Town shall be registered voters of the Town within the meaning of this Charter.

(c) Conduct of Elections:

The provisions of the general election Laws of the State of Texas shall apply to elections held under this Charter. All elections provided for by the Charter shall be conducted by the election authorities established by Law.

(d) Party Affiliation:

All Candidates shall run for office without party designation on the ballot or in their campaign advertising.

(e) Election Returns:

The Town Council shall at its next meeting, after a regular and/or special election, or within the time prescribed by State election Law canvass the returns and declare the result of such election. At those meetings canvassing and declaring elections held for the purpose of electing a Mayor and/or Council Member, the Councilmen declared elected shall be sworn and assume the duties of their office.

#### Section 6.02 Representation & Term

(a) The Election of Mayor and Council Members:

The election of Mayor and Council Members shall be staggered so that the Mayor and three (3) Council Members, Places 1, 2 and 3, run every three (3) years beginning in 2011 for three (3) year terms. The new Council Member Place 3

shall be elected in 2011 for a three (3) year term. Positions 1, 2 and 3 will be up for election again in 2014 for three (3) year terms. The three (3) current members of the Board of Aldermen who were elected in 2010 for two (2) year terms shall remain on the Council as Council Members Places 4, 5, and 6 as determined by lot. Council Members Places 4, 5, and 6 will be up for election every three (3) years beginning in 2012. There shall be no regularly scheduled election every third year beginning in 2013.

(b) The Mayor or any Council Member hereafter elected shall be elected for a three (3) year term unless elected to fill an unexpired term.

### Section 6.03 Methods of Electing Council Members

(a) Council Members and the Mayor shall be elected at large and by place.

(b) In each Place the candidate receiving fifty one (51%) percent of the votes cast for that Place shall be the winner. If two candidates received the same number of votes or no candidate receives fifty one (51%) percent of the votes cast for that Place, then a runoff election shall be held according to Texas Election Laws.

## Article VII RECALL OF OFFICERS

### Section 7.01 Scope of Recall

Any elected Town official, whether elected to office by the registered voters of the Town or appointed by the Town Council to fill a vacancy pursuant to Article 2, Section 2.06 (c) (2), shall be subject to recall and removal from office by the registered voters of the Town.

### Section 7.02 Petition for Recall

Before the question of recall of such officer shall be submitted to the registered voters of the Town a petition demanding such question to be so submitted shall first be filed with the person performing the duties of the Town Secretary. The petition shall be signed by registered voters of the Town equal in number to at least twenty (20%) percent of the number of registered voters as currently certified to by the County Election Administrator. Such petition shall contain a general Statement of the grounds for which the removal is sought.

A signature on a petition for recall is valid only if the petition includes the following information with respect to each signer:

- (a) The signer's residence address, including the county;
- (b) The signer's date of birth and the signer's voter registration number
- (c) The date of signing; and
- (d) The signer's printed name.

### Section 7.03 Recall Procedure

Any registered voters of the Town may make and file with the person performing the duties of Town Secretary an affidavit containing the name or names of the officer(s) whose removal is sought and a Statement of the grounds for removal. The Town Secretary shall immediately notify in writing the officer(s) sought to be removed that the affidavit has been filed and shall inform the officer(s) of its Statement of grounds. The Town Secretary shall within two (2) working days from the time the affidavit is filed make available to the registered voters making such affidavit copies of the official recall petition form demanding such removal. The Town Secretary shall keep a sufficient number of these printed forms on hand for distribution. The official recall petition forms when issued by the Town Secretary shall bear the signature of the Town Secretary and comply with Section 7.04 of this Article. The official forms shall be numbered, dated, and indicate the name of the person to whom issued. The Town Secretary shall enter in a record to be kept in the official records of the Town the name of the registered voters to whom the official form petitions were issued and the number to each person.

### Section 7.04 Form of Recall Petition

The recall petition mentioned above must be addressed to the Town Council of the Town of Laguna Vista, must distinctly and specifically State the ground(s) upon which such petition for removal is predicated, and, if there be more than one ground, shall specifically state each ground with such certainty as to give the officer sought to be removed notice of such matters and things with which the officer is charged. The official Recall Petition form provided by the person performing the duties of Town Secretary shall read substantially as follows:

RECALL PETITION

We the undersigned registered voters of the Town of Laguna Vista hereby demand the question of removing \_\_\_\_\_ (Name of person) from the office of \_\_\_\_\_ (Name of Office) be submitted to a vote of the registered voters of the Town. The charges and specifications upon which this demand for removal is predicated are as follows:

\_\_\_\_\_  
\_\_\_\_\_.

Charges/Reason(s) for Recall Request

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Voter Registration Number

\_\_\_\_\_  
Date of Birth

The signatures shall be verified by oath in the following form:

STATE OF TEXAS §

COUNTY OF CAMERON §

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

\_\_\_\_\_  
Sworn and subscribed to before me this \_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of Texas

## SECTION 7.05 Various Papers Constituting Recall Petition

(a) The petition may consist of one or more copies, or subscription list, circulated separately, and the signatures thereto may be upon the paper or papers containing the form of petition, or upon other papers attached thereto. Verifications provided for in the next preceding section of this Article may be made by one or more petitioners and the several parts or copies of the petition may be filed separately and by different persons. No signatures to such petition shall remain effective or be counted which were placed thereon more than forty-five (45) days prior to the filing of such original petition or petitions with the person performing the duties of Town Secretary. The Town Secretary shall immediately forward notice via certified mail, return receipt requested to the Officer sought to be removed at the Officer's last known address.

(b) All information set forth in sections 7.02 and 7.04 shall be required in order to certify a recall petition.

## SECTION 7.06 Presentation of Recall Petition to Town Council

The person performing the duties of Town Secretary shall present the certified petition to the Town Council at the next regular Town Council meeting.

## SECTION 7.07 Public Hearing to be Held on Recall Petition

Within five (5) days after the recall petition has been presented to the Town Council, the officer whose removal is sought may request a public hearing to present facts pertinent to the charges specified in the recall petition. In that event the Town Council shall hold the public hearing not less than five (5) days nor more than fifteen (15) days after receiving the request for public hearing.

## SECTION 7.08 Recall Election to be Called

If the officer whose removal is sought does not resign, then it shall become the duty of the Town Council to order a recall election in accordance with the Texas Election Code.

## SECTION 7.09 Ballots in Recall Election

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

(a) With respect to each person whose removal is sought, the question shall be submitted: "Shall (Name of Person) be removed from the office of (Name of Office) by recall?"

(b) Immediately below each such question there shall be printed the two following propositions, one above the other, in order indicated:

"FOR the removal of \_\_\_\_\_ by recall."  
"AGAINST the removal of \_\_\_\_\_ by recall."

#### SECTION 7.10 Result of Recall Election

If a majority of the votes cast at a recall election shall be against the recall of the person named on the ballot, he or she shall continue in office for the remainder of his or her unexpired term, subject to recall as before and as set forth in Section 7.11. If a majority of the votes cast at such an election be for the recall of the person named on the ballot, he or she shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy shall be filled as vacancies in the Town Council are filled.

In no instance shall an officer removed from office by recall election succeed himself or herself, nor shall such officer's name appear on a ballot for elective office of the Town within a period of two (2) years following the date of the election at which such officer was removed from office.

#### SECTION 7.11 Restrictions on Recall

No recall petition shall be filed against any officer of the Town within one-hundred eighty days (180) days after such officer's election or appointment nor within one-hundred eighty (180) days after an election for such officer's recall.

#### SECTION 7.12 Failure of Town Secretary or Town Council to Act

In case all of the requirements of this Charter have been met and the Town Council shall fail or refuse to receive the recall petition, to order such recall election, or to discharge any other duties imposed upon the Town Council by the recall provisions of this Charter, then the County Judge of Cameron County, Texas, shall perform the duties required of Town Secretary or Town Council as a result of their failure to so act. Alternatively, any registered voter who signed the Recall Petition may seek a Writ of Mandamus as allowed by State Law.

### Article VIII INITIATIVE AND REFERENDUM

#### SECTION 8.01 General Authority

(a) Initiative:

The registered voters of the Town shall have power to propose Ordinances to the Town Council. If the Town Council fails to adopt an Ordinance so proposed without any substantive change, the registered voters shall have the power to adopt or reject it at a Town election. This power does not extend to Ordinances appropriating money or levying of taxes, the budget, capital program or salaries of City officers or employees.

(b) Referendum:

The registered voters of the Town shall have power to require reconsideration by the Town Council of any adopted Ordinance and, if the Town Council fails to repeal an Ordinance so reconsidered, to approve or reject it at a Town election. This power shall not extend to any Ordinance regarding the budget, capital program, appropriating money or levying taxes. Ordinances regarding zoning, emergency issues or bonds approved at a prior election shall not be subject to Referendum.

SECTION 8.02 Commencement of Proceedings, Petitioners' Committee and Affidavit

Any five (5) or more registered voters of the Town may commence initiative or referendum proceedings by filing with the Town Secretary an affidavit stating that they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent and setting out in full the proposed initiative Ordinance or citing the Ordinance sought to be reconsidered by referendum.

Immediately after the affidavit of the petitioners' committee is filed, the person performing the duties of Town Secretary shall issue the appropriate petition forms to the petitioners' committee.

SECTION 8.03 Petitions

(a) Number of Signatures:

Initiative and referendum petitions must be signed by registered voters of the Town equal in number to at least twenty percent (20%) of the number of total registered voters of the Town as currently certified to by the County Election Administrator.

(b) Form and Content:

All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Petitions shall contain or have attached thereto throughout their circulation the full text of the Ordinance proposed or sought to be reconsidered.

A signature on a petition for initiative or referendum is valid only if the petition includes the following information with respect to each signer:

1. the signer's residence address, including county;
2. the signer's date of birth and voter registration number;
3. the date of signing; and
4. the signer's printed name.

(c) Affidavit of Circulator:

When filed, each paper of a petition shall have attached to it an affidavit executed by the circulator thereof stating that he or she personally circulated the

paper, the number of signatures thereon, that all the signatures were affixed in the circulator's presence, that the circulator believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the Ordinance proposed or sought to be reconsidered.

(d) Time for Filing Initiative or Referendum Petitions:

Referendum petitions must be filed within thirty (30) days after issuance of the appropriate forms for reconsideration of any Ordinance adopted by the Town Council. Initiative petitions must be filed within thirty (30) days after issuance of the appropriate blanks to the petitioners' committee. Additional time as specified in Section 8.04 shall be allowed for amending petitions.

#### SECTION 8.04 Determination of Sufficiency

(a) Certificate of Town Secretary:

Within ten (10) days after the petition is filed, the person performing the duties of Town Secretary shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall immediately upon completion of certification send a copy of the certificate to each member of the petitioners' committee by certified mail.

(b) Sufficient Petition, Final Determination:

If the petition is certified sufficient, the person performing the duties of Town Secretary shall present the certificate to the Town Council by the next regular Town Council meeting and the certificate shall be a final determination as to the sufficiency of the petition.

(c) Insufficient Petition, Final Determination:

If a petition is certified insufficient and the petitioners' committee does not elect to amend or request Town Council review under subsections (d) and (e) of this section within the time required, the Town Secretary shall present a certificate to the Town Council by the next regular Town Council meeting which shall be a final determination of the insufficiency of the petition.

(d) Insufficient Petition, Appeal:

If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it as in Section 8.04(e), the committee may, within two (2) working days after receiving the copy of such certificate, file a request that it be reviewed by the Town Council. The Town Council shall review the certificate at its next regular meeting following the filing of such request and approve or disapprove it and the Town Council's determination shall then be a final determination of the insufficiency.

(e) Insufficient Petition, Amending:

A petition certified insufficient for lack of required number of valid signatures may be amended once if the petitioners' committee files a notice of

intention to amend it with the Town Secretary within two (2) working days after receiving the copy of such certificate, and files a complimentary petition with additional names within two (2) weeks after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of Sections 8.03(b) and (c). Within five (5) days after the amended petition is filed, the person performing the duties of Town Secretary shall complete a certificate as to the sufficiency of the petition as amended and shall within twenty-four (24) hours send a copy of such certificate to each member of the petitioners' committee by registered mail as in the case of an original petition. The final determination as to the sufficiency of an amended petition shall be determined in the same manner as prescribed for original petitions in Sections 8.04(b), (c), and (d), except that no petition, once amended, may be amended again.

(f) Court Review-New Petition:

A final determination as to the sufficiency of a petition shall be subject to review in a court of competent jurisdiction and higher. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

#### SECTION 8.05 Referendum Petitions, Suspension of Effect of Ordinance

When a referendum petition is determined to be sufficient, the Ordinance sought to be reconsidered shall be suspended, and such suspension shall continue until the Town Council repeals the Ordinance or the Ordinance is upheld by election.

#### SECTION 8.06 Action on Petitions

(a) Action by Town Council:

Within sixty (60) days after the date the initiative or referendum petition has been finally determined sufficient, the Town Council shall:

- (1) adopt a proposed initiative Ordinance without any change in substance; or
- (2) repeal a referred Ordinance; or
- (3) call an election on the proposed or referred Ordinance as specified in Section 8.06(b).

(b) Submission to Voters: The election on a proposed or referred Ordinance shall be held on the next available uniform election date as required by State Law. Said called election may coincide with a regular Town election should such Town election fall within the specified period. Special elections on initiated or referred Ordinances shall not be held more frequently than once each six (6) months, and no Ordinance substantially the same as an initiated Ordinance which has been defeated or substantially the same as a referred Ordinance which has been approved at any election may be initiated by the voters within two (2) years from the date of such election. Copies of the proposed or referred Ordinance shall be made available at the polls.

(c) Publication of Proposed and Referred Ordinance: The person performing the duties of Town Secretary shall publish at least once in the official newspaper of the Town the proposed or referred Ordinance within fifteen (15) days prior to the election, and shall give such other notices and do such other things relative to such election as are required in general municipal elections or by the Ordinance calling said election.

(d) Withdrawal of Petition: An initiative or referendum petition may be withdrawn at any time prior to the time the petition has been determined to be sufficient by filing with the Town Secretary a request for withdrawal signed by at least eighty percent (80%) of the members of the petitioners' committee. Upon filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

#### SECTION 8.07 Form of Ballots

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

"FOR THE ORDINANCE," and "AGAINST THE ORDINANCE."

#### SECTION 8.08 Results of Election

(a) Initiative:

If a majority of the registered voters voting on a proposed initiative Ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as Ordinances of the same kind adopted by the Town Council. If conflicting Ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail.

(b) Repeal or Amendment of an Initiated Ordinance:

An Ordinance adopted by initiative may be repealed or amended at any time after the expiration of two (2) years by a vote of five (5) or more of the Town Council members registered and serving.

(c) Referendum:

If a majority of the registered voters voting on a referred Ordinance vote against the Ordinance, it shall be considered repealed upon certification of the election results. If a majority of the registered voters voting on a referred Ordinance vote for the Ordinance, it shall be considered in effect and petition shall become void.

(d) Adoption of an Ordinance Repealed by Referendum:

An Ordinance repealed by referendum may be re-enacted at any time after

the expiration of two (2) years by a vote of five (5) or more of the Town Council members registered and serving.

#### SECTION 8.09 Failure of Town Secretary or Town Council to Act

In case all of the requirements of this Charter have been met and the Town Council shall fail or refuse to receive the Initiative or Referendum petition, to order such Initiative or Referendum election, or to discharge any other duties imposed upon the Town Council by the Initiative or Referendum provisions of this Charter, then the County Judge of Cameron County, Texas, shall perform the duties required of Town Secretary or Town Council as a result of their failure to so act. Alternatively, any registered voter who signed the Initiative or Referendum Petition may seek a Writ of Mandamus as allowed by State Law.

### Article IX PLANNING AND DEVELOPMENT

#### Section 9.01 Planning and Zoning Commission

Consistent with all applicable Federal and State Laws with respect to land use, development and environmental protection, the Town Council shall:

- (a) Establish a Planning and Zoning Commission to carry out the planning function and such decision-making responsibilities as may be specified by Ordinance;
- (b) Adopt a comprehensive plan and determine to what extent zoning and other land use control Ordinances must be consistent with the plan.
- (c) Adopt development regulations to be specified by Ordinance to implement the plan.

#### Section 9.02 Comprehensive Plan

- (a) The Council shall adopt a comprehensive plan within two (2) years after the effective date of this Charter and thereafter all public and private development shall conform with such adopted comprehensive plan, or the applicable elements or portions thereof. The comprehensive plan may be amended at any time and shall be reviewed and considered for amendment or revision every five years.
- (b) The comprehensive plan adopted by Ordinance shall constitute the master and general plan for the development of the Town. The comprehensive plan shall contain the Council's policies for growth, development and beautification of the land within the corporate limits and the extraterritorial jurisdiction of the Town, or for geographic portions thereof including neighborhood, community or area wide plans. The comprehensive plan shall include the following elements:

- (1) a future land use element;
- (2) a traffic circulation and /or mass transit element;
- (3) a wastewater, solid waste, drainage and potable water element;
- (4) a conservation and environmental resources element;
- (5) a recreation and open space element;
- (6) a housing element;
- (7) a public services and facilities element;
- (8) a public buildings and related facilities element;
- (9) an economic element for commercial and industrial development;
- (10) a health and human service element;

and such other elements as are necessary or desirable to establish and implement policies for growth, development and beautification within the Town.

(c) The elements of the comprehensive plan shall be coordinated and be internally consistent. Each element shall include policy recommendations for its implementation and shall be implemented, in part, by the adoption and enforcement of appropriate Ordinances and regulations governing the development and use of land and not in conflict with State or Federal Law. The comprehensive plan shall be initially prepared and drafted by personnel and/or consultants authorized by the Council, under the supervision of the Town Manager who shall coordinate development of the plan with the planning and zoning commission and the Council.

#### Section 9.03 Legal effect of Comprehensive Town Plan

The Comprehensive Plan adopted by the Town Council will be used as a guide to establish codes and Ordinances determined to be essential in providing for the public health, safety, and welfare of the citizens of Laguna Vista, Texas, and by the Town Council to facilitate development and master plans that the Town deems necessary and appropriate for systematic growth and development. The Comprehensive Plan shall not be considered a zoning map nor constitute zoning regulations or establish zoning boundaries and shall not be site nor parcel specific and shall be used to illustrate generalized locations. The depiction of thoroughfare alignments in the Comprehensive Plan is subject to modification by the Town Council to fit local conditions and is subject to refinement as development occurs.

#### Section 9.04 Board of Adjustment

The Town Council shall establish a Board of Adjustment in accordance with State Law with the following authority and duties associated with the administration of zoning Ordinances:

- (a) To hear and decide applications for variances from zoning provisions pursuant to procedures and standards set forth in the zoning Ordinance.
- (b) To hear and decide appeals from orders, requirements, decisions,

Determinations and/or interpretations made by Town officials in the administration or the enforcement of the zoning Ordinance.

(c) To hear and decide applications for certificates of nonconforming use pursuant to the procedures and standards set forth in the zoning Ordinance.

(d) Any other duties as prescribed by State Law.

## Article X UTILITY AND PUBLIC SERVICE FRANCHISES AND LICENSES

### Section 10.01 Utility and Public Service Franchises

The Town shall have the power to buy, own, sell, construct, lease, maintain, operate and regulate public services and utilities and to manufacture, distribute, and sell the output of such services and utility operations. The Town shall have the power to grant, regulate and transfer utility and public service franchises. The Town shall possess any and all powers not otherwise limited by the Constitution and Laws of the State of Texas.

### Section 10.02 License, Levy and Fee Collection

The Town shall have the power to license, levy and collect fees in order to regulate any Lawful business, occupation or calling subject to control pursuant to the police powers.

## Article XI GENERAL PROVISIONS

### Section 11.01 Conflicts of Interest and Board of Ethics

(a) Conflicts of Interest:

The Mayor, Council Members, appointed officers, and other Managerial officers of the Town are subject to conflict of interest provisions as provided by State Law. Any violations of this Section shall be referred to the local District Attorney or State Attorney General and may result in any other penalties provided by this Charter and the Laws of Texas. Any violation of this Charter or the Laws of Texas, with the knowledge, expressed or implied, of the person or corporation contracting with the Town shall render the contract voidable by the Town Council. Contracts prohibited by this Section are contracts that result in the payment of public funds.

(b) Board of Ethics:

The Town Council shall by Ordinance, establish an independent board of ethics to investigate and issue advisory opinions regarding any possible violation

of conflict of interest and financial disclosure policies, Ordinances or Laws. No member of the board may hold elective or appointed office under the Town or any other government or hold any political party office. Insofar as possible under State Law, the Town Council shall authorize the board to conduct investigations on referral or complaint from officials or citizens, subpoena witnesses and documents, refer cases for prosecution, and impose administrative costs. The Town Council shall appropriate sufficient funds to the board of ethics to enable it to perform the duties assigned to it and to facilitate training and education of Town officials and candidates for public office regarding the ethics code.

## Section 11.02 Prohibitions

### (a) Activities Prohibited:

- (1) No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any Town position or appointive Town office because of race, gender, age, sexual orientation, disability, religion, country of origin, or political affiliation.
- (2) No person shall willfully make any false Statement, certificate, mark, rating, or report in regard to any test, certification, or appointment under the provisions of this Charter or the rules and regulations made there under, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules, and regulations.
- (3) No person who seeks appointment or promotion with respect to any Town position or appointive Town office shall directly or indirectly give, render, or pay any money, service or other valuable thing to any person for or in connection with his or her test, appointment, proposed appointment, promotion, or proposed promotion.
- (4) No person shall knowingly or willfully solicit or assist in soliciting any assessment, subscription, or contribution for any political party or political purpose to be used in conjunction with any Town election from any Town officer or Town employee.
- (5) No Town employee, while on duty during working hours, shall knowingly or willfully make, solicit, or receive any contribution to the campaign funds of any political party or committee to be used in a Town election or to campaign funds to be used in support of or opposition to any candidate for election to Town office or Town ballot issue. No Town employee during working hours shall knowingly or willfully participate in any aspect of any political campaign on behalf of or opposition to any candidate for Town office. This section shall not be construed to limit any person's right to exercise rights as a citizen to express opinions or to cast a vote nor shall it be construed to prohibit

any person from active participation in political campaigns at any other level of government.

(b) Penalties:

Any person convicted of a violation of this section shall be ineligible for a period of five (5) years following such conviction to hold any Town office or position and shall immediately forfeit the office or position. The Town Council shall establish by Ordinance such further penalties as it may deem appropriate.

### Section 11.03 Campaign Finance

(a) Disclosure:

All activity pertaining to financing used in support of, or against, campaigns for locally elected office shall be in compliance with Title 15—Regulating Political Funds and Campaigns of the Texas Election Code and all other portions of said Code.

(b) Publication:

All financial reports pertaining to elections filed with the Town Secretary shall be posted on the Town's website as soon as possible.

(c) Contribution and Spending Limitations:

In order to combat the potential for, and appearance of, corruption, and to preserve the ability of all registered citizens to run for public office, the Town may, in so far as is permitted by State and Federal Law, have the authority to enact Ordinances designed to limit contributions and expenditures by, or on behalf of, candidates for locally elected office. Ordinances pursuant to this section may include, but are not limited to: limitations on candidate and candidate committees that affect the amount, time, place, and source of financial and in-kind contributions.

## Article XII CHARTER AMENDMENT

### Section 12.01 Proposal of Amendment

(a) Source of Amendment:

Amendments to this Charter shall be framed and proposed:

- (1) In the manner provided by Law, or
- (2) By Ordinance of the Council containing the full text of the proposed amendment and effective upon adoption, or
- (3) By report of a Charter Commission created by Ordinance, or
- (4) By the voters of the Town.

(b) Procedure for Voter Amendments

- (1) Proposal of an amendment by the voters of the Town shall be by

petition containing the full text of the proposed amendment and shall be governed by the same procedures and requirements prescribed in Article VIII for initiative petitions until such time as a final determination as to the sufficiency of the petition is made, except that there shall be no limitation as to subject matter and that the petition must be signed by registered voters of the Town equal in number to at least ten (10) percent of the total number of those registered to vote at the last regular Town election.

- (2) The petitioners' committee may withdraw the petition at any time before the fifteenth (15th) day immediately preceding the day scheduled for the Town vote on the amendment.

### Section 12.02 Election

Upon delivery to the Town election authorities of the report of a Charter Commission or delivery by the Town Secretary of an adopted Ordinance or a petition finally determined sufficient, proposing an amendment pursuant to Section 12.01, the election authorities shall submit the proposed amendment to the voters of the Town at an election. Such election shall be announced by a notice containing the complete text of the proposed amendment and published in one or more newspapers of general circulation in the Town in the manner required by State Law and on the Town web site. The election shall be held on the next uniform election date that can meet all the requirements of State Law and of the Texas Election Code.

### Section 12.03 Adoption of Amendment

If a majority of those voting upon a proposed Charter amendment vote in favor of it, the amendment shall become effective at the time fixed in the amendment or, if no time is therein fixed, thirty (30) days after its adoption by the voters.

## Article XIII TRANSITIONS AND SEVERABILITY

### Section 13.01 Employees

- (a) Rights and Privileges Preserved:

Nothing in this Charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are employees at the time of its adoption.

- (b) Personnel System:

An employee holding a Town position at the time this Charter takes full effect, who was serving in that same or a comparable position at the time of its adoption, shall not be subject to competitive tests as a condition of continuance

in the same position but in all other respects shall be subject to the personnel system provided for in Section 4.02.

#### Section 13.02 Pending Matters

All rights, claims, actions, orders, contracts, and legal administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on, or dealt with by the Town department, office, or agency appropriate under this Charter.

#### Section 13.03 State and Municipal Laws

All Town Ordinances, Resolutions, orders, and regulations, which are in force when this Charter becomes fully effective, are repealed to the extent that they are inconsistent or interfere with the effective operation of this Charter or of Ordinances or Resolutions adopted pursuant thereto. To the extent that the Constitution and Laws of the State of Texas permit, all Laws relating to or affecting this Town or its agencies, officers or employees which are in force when this Charter becomes fully effective are superseded to the extent that they are inconsistent or interfere with the effective operation of this Charter or with Ordinances or Resolutions adopted pursuant thereto.

#### Section 13.04 Schedule

(a) Time of Taking Full Effect:

The Charter shall be in full effect for all purposes after the canvassing of the votes from the election at which it was approved.

(b) Supporting Ordinances:

Town Council shall diligently undertake the enactment of all Ordinances that may be required to fully implement this Charter after its adoption.

#### Section 13.05 Severability

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected.

ORIGINAL CHARTER COMMISSION CERTIFICATION  
TO THE TOWN COUNCIL AND CITIZENS OF THE  
TOWN OF LAGUNA VISTA, TEXAS

The Charter Commission finds and decides it is impracticable to aggregate each subject so as to permit a vote of "YES" or "NO" on the same, for the reason that this Charter is so written that, for it to be workable and usable, it is necessary that it be adopted in its entirety. For this reason the Charter Committee directs that this Charter be voted upon as a whole and that it be submitted to the qualified voters of the Town of Laguna Vista at an election to be held for that purpose on the 14<sup>th</sup> day of May, 2011. If a majority of the qualified voters voting in such election shall vote in favor of the adoption of this Charter, it shall become the Charter of the Town of Laguna Vista and, after the returns have been canvassed, the same shall be declared adopted and the Town Secretary shall file an official copy of the Charter among the records of the Town. The Town Secretary shall furnish the Mayor a copy of said Charter so adopted, authenticated and certified by her signature and seal of the Town, showing the approval of such Charter by a majority vote of the qualified voters voting at such election, which the Mayor shall forward to the Secretary of State of the State of Texas.

Not less than thirty (30) days prior to such election the Town Council shall cause the Town Secretary to mail a copy of this proposed Charter to each registered voter in the Town as their names appear on the official records of the registered voters list.

We, the undersigned members of the Charter Commission of the Town of Laguna Vista, having been heretofore duly appointed to prepare a Charter for the Town of Laguna Vista, Texas, DO HEREBY CERTIFY that the above and foregoing constitutes a true copy of the proposed Charter of the Town of Laguna Vista, Texas, which we have prepared. We the remaining members of the Charter Commission, completed the writing of this Charter, and unanimously recommend this Charter to the citizens of the Town of Laguna Vista, Texas.

Respectfully submitted this 22<sup>nd</sup> day of JANUARY, 2011.

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Rudy Garcia, Chairman

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Robert Matoush, Vice-Chairman

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Stan Backues, Member

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Martin Cirillo, Member

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Arden Curts, Member

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Helen Delgadillo, Member

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Nancy C. Franz, Member

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Emery Green III, Member

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Humberto Hinojosa, Member

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Rafael Salazar, Member

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Susanna Schelbert, Member

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Farrand O. (Bud) Sherman, Member

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John Thobe, Member

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Paul Villas, Member

Attest:

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Alma Deckard, City Secretary

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Janice Cassidy, Town Attorney