

City of Alvin, Texas

Paul Horn, Mayor

Martin Vela, Mayor Pro-tem, District A
Keko Moore, At Large Pos. 1
Joel Castro, At Large Pos. 2
Chris Vaughn, District B



Richard Garivey, District C
Glenn Starkey, District D
Gabe Adame, District E

ALVIN CITY COUNCIL AGENDA

THURSDAY, JANUARY 20, 2022

7:00 P.M.

(Council Chambers)

Alvin City Hall, 216 West Sealy, Alvin, Texas 77511

Persons with disabilities who plan to attend this meeting that will require special services please contact the City Secretary's Office at 281-388-4255 or droberts@cityofalvin.com 48 hours prior to the meeting time. City Hall is wheelchair accessible, and a sloped curb entry is available at the south entrance to City Hall.

NOTICE is hereby given of a Regular Meeting of the City Council of the City of Alvin, Texas, to be held on **THURSDAY, JANUARY 20, 2022**, at 7:00 p.m. in the Council Chambers at: City Hall, 216 W. Sealy, Alvin, Texas.

REGULAR MEETING AGENDA

1. CALL TO ORDER

2. INVOCATION AND PLEDGE OF ALLEGIANCE

3. PUBLIC COMMENT

4. CONSENT AGENDA

- A. Consider approval of the January 6, 2021, City Council meeting minutes.
- B. Call a public hearing for Thursday, February 3, 2022 at 7:00 p.m. to receive public comment regarding an application to conduct taxicab services in the City of Alvin by Alvin Express Taxi, LLC.
- C. Consider Resolution 22-R-01, confirming and ratifying the appointment of Cathy Fontenot to Position #5 to the Board of Directors for the City of Alvin Reinvestment Zone Number Two, and the Kendall Lakes TIRZ Redevelopment Authority Board for a term of two (2) years.

5. OTHER BUSINESS

- A. Consider Ordinance 22-A, requested by City Council member Castro and City Council member Garivey, outlawing Abortion, declaring Alvin a Sanctuary City for the Unborn, making various provisions and findings, providing for severability, and establishing an effective date.

6. REPORTS FROM CITY MANAGER

- A. Items of Community Interest and review preliminary list of items for next Council meeting.

7. ITEMS OF COMMUNITY INTEREST

Pursuant to 551.0415 of the Texas Government Code reports or an announcement about items of community interest during a meeting of the governing body. No action will be taken or discussed.

- A. Hear announcements concerning items of community interest from the Mayor, Council members, and City staff, for which no action will be discussed or taken.

8. ADJOURNMENT

I hereby certify that a copy of this notice was posted on the City Hall bulletin board, a place convenient and readily accessible to the general public at all times, and to the City's website: www.alvin-tx.gov, in compliance with Chapter 551, Texas Government Code, on **MONDAY JANUARY 17, 2022 at 10:00 A.M.**



A handwritten signature in blue ink, appearing to read "Dixie Roberts", is written over a horizontal line.

Dixie Roberts, City Secretary

Removal Date: _____

**** All meetings of the City Council are open to the public, except when there is a necessity to meet in Executive Session (closed to the public) under the provisions of Chapter 551, Texas Government Code. The Council reserves the right to convene into executive session on any of the above posted agenda items that qualify for an executive session by publicly announcing the applicable section of the Open Meetings Act, including but not limited to sections 551.071 (litigation and certain consultation with the attorney), 551.072 (acquisition of interest in real property), 551.073 (contract for gift to city), 551.074 (certain personnel deliberations), or 551.087 (qualifying economic development negotiations).**

**MINUTES
CITY OF ALVIN, TEXAS
216 W. SEALY STREET
REGULAR CITY COUNCIL MEETING
THURSDAY JANUARY 6, 2022
7:00 P.M.**

CALL TO ORDER

BE IT REMEMBERED that, on the above date, the City Council of the City of Alvin, Texas, met in Regular at 7:00 P.M. in the Council Chambers at City Hall, with the following members present: Mayor Paul A. Horn; Mayor Pro-Tem Martin Vela, Councilmembers: Gabe Adame, Glenn Starkey, and Richard Garivey.

Staff members present: Junru Roland, City Manager; Suzanne Hanneman, City Attorney; Dixie Roberts, Assistant City Manager/City Secretary; Michael Higgins, Chief Financial Officer; Dan Kelinske, Parks and Recreation Director; Michelle Segovia, City Engineer; Brandon Moody, Director of Public Services and Robert E. Lee, Police Chief.

INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Paul Horn gave the invocation. Council member Vela led the Pledge of Allegiance to the American Flag. Council member Garivey led the Pledge to the Texas Flag.

PRESENTATIONS

Proclamation – “Floyd Mendoza Day,” Armed Services Mural artist.

Mayor Horn presented a proclamation to Artist Floyd Mendoza recognizing his work as well as community members’ contributions on the recently painted Armed Services Mural honoring all the branches of the military located in the 100 block of North Gordon Street.

PUBLIC HEARING

Public Hearing to receive comment on the proposed petition for annexation of 193.55 acres, more or less, parcel of land in Brazoria County, Texas located along SH288 and FM1462 as described: **TRACT 1** - Being 72.22 acres of land in the H.T. & B. Railroad Company Survey, Section No. 9, Abstract No. 238 and the Charles M. Hayes Survey (H.T.&B. Railroad Company Survey, Section No. 8), Abstract No. 534, Brazoria County, Texas. **TRACT 2** - Being 60.32 acres of land out of Lots 6 and 7 of the Bogart and Taylor subdivision of the west 1/2 of the W.D.C. Hall League, Abstract 69 according to the plat recorded in Volume 1, Page 64 of the Map Records of Brazoria County (B.C.M.R.), Texas. **TRACT 3** - Being 61.01 acres of land out of Lots 8 and 9 of the Bogart and Taylor subdivision of the west 1/2 of the W.D.C. Hall League, Abstract 69 according to the plat recorded in Volume 1, Page 64 of the Map Records of Brazoria County, Texas (B.C.M.R) – 1st of 2 public hearings.

Mayor Horned opened the public hearing at 7:04 p.m., no comments were made. Mayor Horn closed the public hearing at 7:04 p.m.

PUBLIC COMMENT

John Burkey spoke about upcoming Senior Center Events.

CONSENT AGENDA: CONSIDERATION AND POSSIBLE ACTION

Consider approval of the December 16, 2021, City Council meeting minutes.

Consider a final plat of Caldwell Ranch Boulevard Phase III Street Dedication, a subdivision of 50.534 acres of land situated in the William Hall League, abstract 31, Fort Bend County, Texas and abstract 713 in Brazoria County, Texas. Also, being a partial replat of lots 1 & 2 of the T.W. & J.W.B. House Subdivision, as recorded in volume 7, page 301 of the Fort Bend County deed records.

On December 1, 2021, the Engineering Department received the Final Plat of Caldwell Ranch Boulevard Phase III Street Dedication for review. This subdivision is in the City of Alvin's Extraterritorial Jurisdiction (ETJ) within Fort Bend County and Brazoria County, located along the east side of FM 521 and north of Juliff-Manvel Road. This final plat consists of a 70' wide road right-of-way dedication for phase III of Caldwell Ranch Boulevard and 3 reserves. This plat complies with all requirements of the City's Subdivision Ordinance.

This right-of-way was included for the major collector roadway on the Master Preliminary Plat of Caldwell Ranch, that was approved by Council May 7, 2020. The City Planning Commission unanimously approved the plat at their meeting on December 21, 2021. Staff recommends approval.

Council member Adame moved to approve the consent agenda as presented. Seconded by Council member Starkey; motion to approve carried with all members present voting Aye.

OTHER BUSINESS

Consider an award of bid to W. W. Payton Corporation, for the Water Plant No. 6 Ground Storage Tank Replacement Project (Remaining Work) in an amount not to exceed \$415,635; and authorize the City Manager to sign the contract upon legal review.

On November 23, 2021, bids were opened for the Water Plant No. 6 Ground Storage Tank Replacement Project (Remaining Work), and W. W. Payton Corporation was the qualified bidder. LJA Engineering, the City's consultant that designed the project, reviewed the bid that was received and has recommended W. W. Payton Corporation for this project.

Contract Amount:	\$377,850 (Base Bid, Supplementary, and Alternate A.)
10% Contingency:	\$ 37,785
Total Amount:	\$415,635

This project consists of the remaining work that was left from the original Water Plant No. 6 Ground Storage Tank Replacement Project that was awarded to T and C Construction, Ltd. on January 3, 2019. T and C Construction's contract was terminated in November 2020 for failure to complete the project. The remaining work consists of the removal of one existing 0.5-million-gallon bolted steel ground water storage tank and associated piping at water plant number 6 (Heights Road near Brazos Street), site work, and installation of fencing/gates. These improvements were based on recommendations in the 2015 Utility Master Plan by Freese and Nichols, Inc. that was approved by City Council on March 3, 2016. This project will be paid from the 2018 Revenue Bond proceeds that were approved by Council on August 21, 2018.

The project is scheduled to start in January 2022 and has a construction time of 75 calendar days.

Michelle Segovia, City Engineer, presented this item before City Council with explanation.

Council member Vela moved to award a bid to W. W. Payton Corporation, for the Water Plant No. 6 Ground Storage Tank Replacement Project (Remaining Work) in an amount not to exceed \$415,635; and authorize the City Manager to sign the contract upon legal review. Seconded by Council member Starkey; motion carried with all members present voting Aye.

Consider an Agreement with Integrated Architecture & Design (iAD Architects) to provide professional design services and deliver complete construction documents for renovation of the Recreation Station (former Fire Station #1) located at 302 W. House Street in an amount not to exceed \$108,410.50; and authorize the City Manager to sign the Agreement upon legal review.

At the City Council Workshop on August 6, 2020, City Council discussed the FY2020-21 proposed budget for renovations to former Fire Station #1, now referred to as the "Recreation Station." On September 3, 2020, City Council adopted the FY2020-21 budget which included the requested funds and providing an opportunity to rename and repurpose the building into useable community space. Renovations would include creating a customer friendly entrance with convenient reception and waiting area, conversion of truck bays to host a variety of activities and sports, provide offices for recreation and administrative staff of the Parks and Recreation Department, maintain essential equipment connected with the radio tower, as well as other modifications to maximize useable space.

Over the course of the last fifteen months the building transitioned from Fire Station to Recreation Station as recreation staff moved into the offices and recreation programs occupied all other available space. In preparation for renovation, staff completed an asbestos survey and solicited iAD Architects to provide professional design services. Staff recommends an agreement with iAD Architects to provide professional design services for a fixed fee of \$98,555.00 plus 10% contingency (\$9,855.50) totaling \$108,410.50. Staff recommends approval of this agreement.

Dan Kelinske, Director of Parks and Recreation Department presented this item before City Council with explanation.

Council member Starkey moved to approve agreement with Integrated Architecture & Design (iAD Architects) to provide professional design services and deliver complete construction documents for renovation of the Recreation Station (former Fire Station #1) located at 302 W. House Street in an amount not to exceed \$108,410.50; and authorize the City Manager to sign the agreement upon legal review. Seconded by Council member Garivey; motion carried by all members present voting Aye.

Discuss and consider traffic control alternatives at the intersection of Sealy Street and Hood Street.
On September 27, 2021, a truck traveling through downtown Alvin hit four poles in front of the Alvin Museum which pulled down power lines and consequently shattered the traffic signals at the intersection of Sealy and Hood.

Currently, there are four stop signs in the middle of the lanes (in each direction) approaching the intersection of Sealy and Hood to regulate traffic. Staff believes that the vehicular volume entering the intersection from all approaches does not warrant the need for traffic lights at this time. As of the writing of this Agenda Commentary, there has not been any reported vehicle or pedestrian accidents at the intersection since the four stop-signs have been placed there.

Staff recommends utilizing four-way stop signs to replace the former signaled intersection. If Council approves the four-way stop signs, Staff recommends removing the four stop signs from the middle of the lanes and placing the stop signs at the corners of the intersection.

A few alternatives discussed by Staff were:

- a.) Reinstating the traffic signals*
- b.) Utilizing a 2-way stop*
- c.) Painting "stop" on the street approaching the intersection*

Junru Roland, City Manager, presented this item before City Council with explanation.

Council member Adame moved to approve 4-way stop at the intersection of Sealy and Hood Streets with stop signs and thermoplast lines across the roadway. Seconded by Council member Garivey; motion carried with all members present voting Aye.

Consider an appointment to the Senior Citizens Board.

Beverly Kimbrough submitted her resignation from the Senior Citizens Board for her term ending on December 31, 2022. With the resignation of Ms. Kimbrough, there are six (6) members on this board. Chapter 2 of the Alvin Code of Ordinances states that the Board shall be comprised of seven (7) members.

Current members on the Board are: Jancy Altus, Randall Race, John Burkey, Dorci Leissner-Hill, Marie E. Hodges, and Roger Stuksa.

The following have applied to serve on this board for the remainder of the term ending in December 2022: Betsy Grubbs, Jason Jones, Carol Phillips, and Ron Shephard and Keith Thompson. (see attached spreadsheet for details).

In full disclosure, Mr. Shephard is a part time assistant at the Alvin Senior Center and Mr. Jones lives outside of the City limits. Alvin's Code of Ordinances does not address either scenario; appointments are made at the discretion of City Council. If the residency requirements and city employment are of concern, Council can amend the ordinance. The Planning Commission and the Parks Board both have residency requirements.

Dixie Roberts, City Secretary/Assistant City Manager, presented this item before City Council with explanation.

Council member Starkey moved to appoint Ron Shephard to the Senior Citizen Board for a term of two years. Seconded by Council member Garivey; motion carried by all members present voting Aye.

Consider, if any, requests from individual council members for an item or items to be placed on the upcoming agenda for the next regularly scheduled meeting.

REPORTS FROM CITY MANAGER

Items of Community Interest and review preliminary list of items for next Council meeting.

Mr. Junru Roland announced items of community interest; and he reviewed the preliminary list for the January 20, 2022, City Council Meeting

ITEMS OF COMMUNITY INTEREST

Hear announcements concerning items of community interest from the Mayor, Council members, and City staff, for which no action will be discussed or taken.

Council member Garivey and Adame thanked Mr. Floyd Mendoza for his efforts on the mural in applying his talents to his contribution to the community.

ADJOURNMENT

Mayor Horn adjourned the meeting at 7:20 p.m.

PASSED and APPROVED the 20th day of January 2022.

Paul A. Horn, Mayor

ATTEST: _____
Dixie Roberts, City Secretary



AGENDA COMMENTARY

Meeting Date: 1/20/2022

Department: City Secretary

Contact: Dixie Roberts, City Secretary

Agenda Item: Call a public hearing for Thursday, February 3, 2022 at 7:00 p.m. to receive public comment regarding an application to conduct taxicab services in the City of Alvin by Alvin Express Taxi, LLC.

Type of Item: ☐Ordinance ☐Resolution ☐Contract/Agreement ☐Public Hearing ☐Plat ☐Discussion & Direction ☒Other

Summary: The City's Code of Ordinances requires that a new taxi service submit a Taxi Service Application to the City Secretary's Office. This application is reviewed and then forwarded to the Chief of Police and the City's Health Inspector for vetting. Once completed, a public hearing is required before City Council. A notice of public hearing will be advertised in the Alvin Sun and posted on the City's website.

Alvin Express Taxi, LLC submitted the required application for the operation of one taxicab. All information has been vetted by the City's Inspections and Police Department. This will be a formal public hearing to provide members of the public the opportunity to offer comments before City Council regarding the company's potential service.

After the public hearing is held, the application will be on the next City Council agenda for consideration of final approval. If approved, all vehicles will be inspected by the City and the application process will be finalized.

Funding Expected: Revenue ☐ Expenditure ☐ N/A ☒ **Budgeted Item:** Yes ☐ No ☐ N/A ☒

Funding Account: _____ **Amount:** _____ **1295 Form Required?** Yes ☐ No ☒

Legal Review Required: N/A ☐ Required ☒ **Date Completed:** _____

Supporting documents attached:

- Copy of a blank taxi application.

Recommendation: Move to call a public hearing for Thursday, February 3, 2022 at 7:00 p.m. in the City Council Chambers of Alvin City Hall, 216 West Sealy, Alvin Texas to receive public comment regarding an application to conduct taxicab services in the City of Alvin by Alvin Express Taxi, LLC.

Reviewed by Department Head, if applicable ☐
Reviewed by City Attorney, if applicable ☒

Reviewed by Chief Financial Officer, if applicable ☐
Reviewed by City Manager ☒

Chapter 23 TAXICABS¹

ARTICLE I. IN GENERAL

Sec. 23-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings set forth below:

Call box stand: A public place alongside a street or other location where the city council has authorized a licensee to install a telephone call box for the taking of calls and the dispatching of taxicabs.

Licensee: A person, as defined in this section, to whom a taxicab license has been issued by the city council.

Manifest: A daily record prepared by a taxicab company showing all trips made by each taxicab and the time and place of origin, destination and number of passengers.

Person: Includes an individual, corporation, partnership, association or any other legal entity howsoever designated.

Street: Any public street, road, boulevard, alley, lane, highway, sidewalk, park, roadway, railroad station or other place under the control of the city or other public authority.

Taxicab: With the exceptions listed herein, every automobile or motor-propelled vehicle used for the transportation of passengers for hire over the public streets of the city, whether such vehicle is identified or not as a taxicab as set forth herein and whether or not the operation extends beyond the city limits. The term "taxicab" shall not apply to limousines, school buses, emergency vehicles or sightseeing autos or buses that operate under a permit, franchise or license issued and regulated by the city, limousines which are chartered, hired or provided in connection with funeral services and automobiles or motor-propelled vehicles solely used to transport students for hire to and from school and school-related extracurricular activities.

Taxicab license: An authority duly granted by the city council and shall be based upon the findings of public convenience and necessity.

Taxicab permit: The taxicab driver's permit issued pursuant to the requirements of article III of this chapter.

Taxicab stand: A public place alongside the curb or curblane of a street or other location in the city which has been designated by the city council as reserved exclusively, by proper markings, for the use of taxicabs. This term shall also apply to taxicab stands located on private property.

(Ord. No. 92-C, § 2, 2-20-92; Ord. No. 92-F, § 1, 4-16-92)

¹Editor's note(s)—Ord. No. 92-C, adopted Feb. 20, 1992, amended the Code by rescinding and repealing provisions formerly codified as Ch. 23, Taxicabs, which derived from Ord. No. 65-M, §§ 1—30, adopted Nov. 10, 1965; Ord. No. 72-M, adopted Nov. 16, 1972; and Ord. No. 84-N, §§ 24, 25, adopted Sept. 20, 1984. In addition, Ord. No. 92-C also enacted new provisions which were incorporated herein as a new Ch. 23.

Charter reference(s)—Corporate powers of city, Art. I, § 3; authority as to streets and public properties, Art. I, § 4.

State law reference(s)—Taxicabs, V.T.C.A., Local Government Code § 215.004.

Sec. 23-2. Application of chapter.

It shall be unlawful for any person to drive, operate or cause to be operated over the streets of the city, irrespective of whether or not the operation may extend beyond the limits of the city, any taxicab except under the terms and conditions set out in this chapter.

(Ord. No. 92-C, § 2, 2-20-92)

Sec. 23-3. Taxicab license required.

It shall be unlawful for any person to conduct a taxicab business within the city or to operate or drive or permit the operation of any taxicab owned by him unless a license therefor shall first have been obtained from the city council for the current year in accordance with this chapter.

(Ord. No. 92-C, § 2, 2-20-92)

Sec. 23-4. To be operated by licensee or his employee.

No taxicab for which a license has been issued under this chapter shall be operated by anyone except the licensee thereof, an employee of the licensee or a taxicab driver who may be operating such vehicle under a written agreement with the licensee for use of a taxicab, which agreement specifically incorporates therein such rules, regulations and conditions as may be required by the city council. The operator of a taxicab licensed under this chapter shall be duly permitted pursuant to the terms of article III of this chapter. The licensee shall be responsible for anyone operating under his license whether that person be an employee or another person operating under such written agreement. Any person driving or operating a taxicab upon the streets or other public property of the city shall be presumed to be an employee of the licensee or to have entered into such written agreement with the licensee.

(Ord. No. 92-C, § 2, 2-20-92)

Sec. 23-5. Inspection.

Every taxicab for which a license has been issued under this chapter shall be inspected by the police chief of the city or his representative at least once a year or at any other time deemed advisable by city council. The licensee shall at all times be responsible for maintaining each taxicab in good mechanical condition and with full operational equipment.

(Ord. No. 92-C, § 2, 2-20-92)

Sec. 23-6. Identification of vehicles.

No licensee shall drive or cause to be driven or operate or cause to be operated a taxicab in the city unless such taxicab shall have painted on at least one door on each side thereof the telephone number and the name of the owner and/or operator of the taxicab, or the fictitious name under which the owner and/or operator operates, or the name of the corporation owning the taxicab, together with the taxicab number. The number of the taxicab and the telephone number shall also be painted upon the rear of each taxicab. At the option of city council, numbers assigned to taxicabs by other cities may be accepted in lieu of numbers assigned by the city. All the lettering required by the terms of this section shall be not less than two and one-half (2½) inches in height and not less than five-sixteenths (5/16) inches stroke.

(Ord. No. 92-C, § 2, 2-20-92)

Sec. 23-7. Maximum working hours for drivers.

No person shall operate or drive any taxicab for more than twelve (12) hours in any 24-hour period.

(Ord. No. 92-C, § 2, 2-20-92)

Sec. 23-8. Drivers to use direct route.

Any taxicab driver employed to carry passengers to a definite point shall take the most direct route possible that will carry the passengers safely and expeditiously to their destination.

(Ord. No. 92-C, § 2, 2-20-92)

Sec. 23-9. Passenger's right of exclusive occupancy.

When a taxicab is engaged, the passenger shall have the exclusive right to the full and free use of the passenger compartment and it shall be unlawful for the taxicab driver or licensee to solicit or carry additional passengers therein, except with the consent of the passenger who engaged the taxicab originally. No charge shall be made for an additional passenger except when the additional passenger rides beyond the previous passenger's destination and then only for the additional distance so traveled.

(Ord. No. 92-C, § 2, 2-20-92)

Sec. 23-10. Meter required.

No taxicab shall be operated in the city unless it is equipped with a meter in good condition to record the amount to be charged on each trip, which amount shall be shown by figures visible to the passenger. No taxicab driver shall carry a passenger unless the meter is in the recording position. All charges and collections for hire shall be based upon the meter reading.

(Ord. No. 92-C, § 2, 2-20-92)

Sec. 23-11. Posting of taxicab rates.

There shall be posted in a conspicuous place on the inside of each taxicab a card showing the rates charged for use of the taxicab. It shall be the duty of the driver of the taxicab to so post such card. If any owner, licensee or driver of any taxicab shall refuse to convey a passenger at the rate specified on the rate card so displayed, he shall be deemed guilty of a misdemeanor.

(Ord. No. 92-C, § 2, 2-20-92)

Sec. 23-12. Receipt for payment.

Every taxicab driver, upon receiving payment for a fare and upon request of the passenger, shall give a receipt to the passenger showing the amount so paid, the name of the company or person operating the taxicab and the vehicle number of the taxicab.

(Ord. No. 92-C, § 2, 2-20-92)

Sec. 23-13. Failure to pay.

It shall be unlawful for any person to refuse to pay the full fare of any taxicab after having hired the same, and any person who shall hire any taxicab with the intent to defraud the person from which it is hired shall be guilty of a misdemeanor.

(Ord. No. 92-C, § 2, 2-20-92)

Sec. 23-14. Records to be kept by licensee.

- (a) Each licensee shall maintain its record including the manifests specified below, in accordance with the guidelines designated by city council or its designated representative. All such records shall be kept current, shall be retained for a period of two (2) years and must be made available for inspection by designated city personnel during business hours.
- (b) Each licensee shall keep complete records of all physical properties used and useful in recording taxicab service in the city, showing date of purchase, purchase price, terms of payments, and to the extent to which such property has been depreciated, by principal items of property. Such property records shall be kept in accordance with sound accounting principals and shall be kept up-to-date at all times and available for inspection during business hours by designated city personnel.
- (c) Each licensee shall maintain a daily manifest in accordance with the provisions of this chapter.

(Ord. No. 92-C, § 2, 2-20-92)

Sec. 23-15. Solicitation, acceptance and discharge of passengers.

- (a) *Solicitation of passengers by driver.* No driver shall solicit passengers for a taxicab except when sitting in the driver's compartment of such taxicab or while standing immediately adjacent to the curb side thereof. The driver of any taxicab shall remain in the driver's compartment or immediately adjacent to his vehicle at all times when such vehicle is upon the public street, except that when necessary, a driver may be absent from his taxicab for not more than fifteen (15) consecutive minutes; and provided further, that nothing herein contained shall be held to prohibit any driver from alighting to the street or sidewalk for the purpose of assisting passengers into or out of such vehicle.
- (b) *Receipt and discharge of passengers on sidewalk only.* Drivers of taxicabs shall not receive or discharge passengers in the roadway but shall pull up as nearly as possible to the right-hand sidewalk or, in the absence of a sidewalk, to the extreme right-hand side of the road and there receive or discharge passengers. Upon one-way streets passengers may be discharged at either the right- or left-hand sidewalk or side of the roadway in the absence of a sidewalk.
- (c) *Restriction on number of passengers.* The number of passengers in a taxicab shall be limited to the number of safety belts originally installed in the vehicle by the manufacturer of the vehicle and available for use according to the manufacturer's instructions.
- (d) *Refusal to carry orderly passengers prohibited.* No driver shall refuse or neglect to convey any orderly person or persons, upon request, unless previously engaged or unable or forbidden by the provisions of this chapter to do so.
- (e) *Prohibition of drivers.* It shall be a violation of this chapter for any driver of a taxicab to solicit business for any hotel, or to attempt to divert patronage from one hotel to another.

(Ord. No. 92-C, § 2, 2-20-92; Ord. No. 03-RR, § 1, 8-11-03)

Sec. 23-16. Taxicab stands; establishment, use.

- (a) *Establishment.* The city council of the city is hereby authorized and empowered to establish taxicab stands in such place or places upon the streets of the city as it deems necessary for the use of taxicabs operated in the city. In establishing a taxicab stand, the council shall consider the need for such stands by the companies and the convenience to the general public. The council shall prescribe the number of cabs that shall occupy such taxicab stands. The council shall not create a taxicab stand in front of any place of business where the abutting property owners object to the same or where such stand would tend to create a traffic hazard.
- (b) *Use.* Taxicab stands shall be used by the different drivers on a first-come, first-served basis. The driver shall pull onto the open stand from the rear and shall advance forward as the cabs ahead pull off. Drivers shall stay within five (5) feet of their cabs; they shall not solicit passengers or engage in loud or boisterous talk while at an open stand. Nothing in this chapter shall be construed as preventing a passenger from boarding the cab of his choice that is parked at taxicab stands.

(Ord. No. 92-C, § 2, 2-20-92)

Sec. 23-17. Call box stands; establishment, use.

- (a) *Generally.* The city council is hereby authorized and empowered to establish call box stands upon the streets of Alvin, in such places as in its discretion it deems proper. A licensee desiring to establish a call box stand shall make written application to the city secretary accompanied by a fee as set forth in chapter 28 of this Code. The applicant must attach to the application the written approval of the abutting property owners of such space, consenting to the creation of such stand. Upon filing of the application the police department shall make an investigation of the traffic conditions at such place and shall thereafter file its written recommendation with the city manager. The city council shall then either grant or refuse the application. When a call box stand has been established as herein provided, it shall be used solely by the licensee to whom the same was granted and his agents and servants and no other licensee shall be permitted to use the same. The call box stand fee for each calendar year thereafter shall be as set forth in chapter 28 of this Code.
- (b) *Use of starter.* A licensee operating a call box stand as provided for in this chapter shall be allowed to have a starter or other employee on duty at such stand for the purpose of assisting in the loading or unloading of passengers from cabs, for receiving calls and dispatching cabs and for soliciting passengers at such stand. The words "at such stand" shall mean that part of the sidewalk immediately adjacent to and of equal length with such call box stand. It shall be unlawful for any such starter or other employee to go beyond the area herein designated for the purpose of soliciting passengers or assisting them in boarding such cabs.

(Ord. No. 92-C, § 2, 2-20-92; Ord. No. 00-PP, § 57, 10-19-00)

Sec. 23-18. Use of stands by other vehicles.

Private or other vehicles for hire shall not at any time occupy the spaces upon the streets that have been established as either taxicab stands or call box stands.

(Ord. No. 92-C, § 2, 2-20-92)

Sec. 23-19. Child passenger safety seat systems.

Each taxicab shall be equipped with a child passenger safety seat system as defined in V.T.C.A., Health and Safety Code ch. 45, as the same may be hereafter amended. When not in use, however, the child passenger safety seat system may be stored in the trunk of the taxicab.

(Ord. No. 92-C, § 2, 2-20-92)

Sec. 23-20. Penalty.

Any violation of the terms of this chapter, whether herein denominated as unlawful or not, shall be deemed a misdemeanor and any person convicted of any such violation shall be punished by a fine prescribed by section 1-5.

(Ord. No. 92-C, § 2, 2-20-92; Ord. No. 07-E, § 19, 8-2-07)

Secs. 23-21—23-26. Reserved.

ARTICLE II. LICENSE TO OPERATE

Sec. 23-27. Application.

Every person desiring a license, or a renewal of the license, required by this chapter shall file with the city secretary a written application on forms to be furnished by the city, signed and sworn to by such applicant or a duly authorized officer or agent of the applicant, stating:

- (1) The name and address of the applicant, and if an individual or partnership, the age and occupation of the applicant or applicants, and if a corporation, the name and addresses of the president and secretary thereof.
- (2) A description of the equipment and the number of taxicabs to be used under the license, including the color scheme or insignia to be used to designate the vehicle or vehicles of the applicant.
- (3) The location from which each such taxicab is to be dispatched or remain while not in active service.
- (4) The experience of the applicant in the transportation of passengers for hire.
- (5) A schedule showing the make, model, type, license plate number and ownership of the vehicles that will be put into operation.

Each such application shall have attached thereto financial information showing the assets and liabilities of the applicant (including the amounts of all unpaid judgments against the applicant and the nature of the transaction or acts giving rise to the judgments), a certificate of inspection covering the taxicab(s) to be operated under the license duly issued by the chief of police of the city and copies of all contracts between the licensee and any person or entity intending to operate a taxicab within the city. At the option of the applicant, separate documents may be attached to the application which set forth facts the applicant believes tend to prove that public convenience and necessity require the granting of the license.

(Ord. No. 92-C, § 2, 2-20-92; Ord. No. 03-RR, § 2, 8-11-03)

Sec. 23-28. Insurance required of applicant.

- (a) Before any license shall be issued under this chapter or renewal of such license shall be granted, the applicant shall file with the city secretary and thereafter keep in full force and effect a policy of public liability and property damage insurance covering all licensed taxicabs of the insured issued by a stock insurance company duly authorized to do business in the State of Texas and performable in Brazoria County, Texas, insuring the public against any loss or damage that may result to any person or property from the operation

of such vehicle. The policy of insurance shall provide no less than the minimum coverage required by the state, including the minimum coverage required to "show proof of financial responsibility," as that term is defined in the Texas Motor Vehicle Safety Responsibility Act (V.T.C.A., Transportation Code ch. 601) as now in force or hereafter amended. The policy must contain a provision or endorsement requiring that the city be given thirty (30) days' notice before the policy can be cancelled for any cause.

- (b) In lieu of the policy of liability insurance prescribed by subsection (a), the applicant may file with the city secretary a certificate showing the applicant has qualified as a self-insurer, as that term is defined in the Texas Motor Vehicle Safety Responsibility Act (V.T.C.A., Transportation Code ch. 601) as now in force or hereafter amended.
- (c) The city council shall be the sole judge of the sufficiency of any policy or certificate tendered under this section.

(Ord. No. 92-C, § 2, 2-20-92)

Sec. 23-29. Public hearing required for initial application.

Upon the filing of the initial application for a license, the city manager shall fix a time and place for a public hearing before the city council. Written notice of such hearing shall be given to the applicant and to all persons who hold taxicab licenses. Due notice shall also be given to the general public by publishing notice of such hearing in the official newspaper of the city at least seven (7) days prior to the hearing. Any interested person may file with the city secretary a memorandum in support of or opposition to the issuance of a taxicab license.

(Ord. No. 92-C, § 2, 2-20-92)

Sec. 23-30. Issuance of taxicab license.

- (a) *Initial application for license to conduct business.* If the city council finds that further taxicab service in the city is required by the public convenience and necessity, that the application complies with the requirements of this chapter, and that the applicant is fit, willing and able to furnish public transportation and to conform to the provisions of this chapter and applicable federal and state laws, then a certificate shall be issued stating the name and address of the applicant, the number of vehicles authorized under the certificate and the date of issuance; otherwise, the application shall be denied.

In making the above findings, the city council shall take into consideration the number of taxicabs already in operation, whether existing transportation is adequate to meet the public need, the probable effect of increased service on local traffic conditions, and the character, experience and responsibility of the applicant.

- (b) *Application for renewal of license.* A renewal of an existing license may be granted by the city council without need for a public hearing or the findings specified in subsection (a). However, an updated application for license shall be required in addition to compliance with the provisions of this chapter.

(Ord. No. 92-C, § 2, 2-20-92)

Sec. 23-31. License fee.

- (a) The annual fee for each license issued pursuant to this chapter shall be as set forth in chapter 28 of this Code.
- (b) The license shall be valid for the year issued and shall terminate December 31 of each year. The fees set forth in chapter 28 of this Code shall be paid upon the issuance of the initial license and annually thereafter in

advance on or before the fifteenth day of December of the year preceding the year for which the renewal is sought. The license fee shall be pro-rated for the remaining portion of the year of first issuance.

(Ord. No. 92-C, § 2, 2-20-92; Ord. No. 00-PP, §§ 58, 59, 10-19-00)

Sec. 23-32. Denial of license.

An application for a license may be denied if the licensee makes a false or fraudulent representation in the application or the licensee or any one of the officers of the licensee (if a corporation or association) or any one of the partners (if a partnership) has been convicted of any of the designated offenses set forth in section 23-50 within the seven-year period immediately preceding the date of the filing of the application. Additionally, a license may be revoked or refused for renewal, as applicable, if the licensee is convicted of any offense involving fraud, theft or forgery subsequent to the city's approval of the license. A denial, revocation or refusal to renew a license shall be subject to the hearing provisions set forth in section 23-35 hereof.

(Ord. No. 92-C, § 2, 2-20-92)

Sec. 23-33. Expiration.

All licenses issued under this article shall expire at 12:00 midnight on December thirty-first next following the issuance thereof.

(Ord. No. 92-C, § 2, 2-20-92)

Sec. 23-34. Transfer.

No licensee shall transfer, rent, lease, loan or assign a license issued pursuant to the terms of this article to any other person or allow its use by any other person or entity.

(Ord. No. 92-C, § 2, 2-20-92)

Sec. 23-35. Cancellation.

Any license granted under this article shall be subject to cancellation or revocation and all rights of the licensee may be forfeited at the will of the city council for failure of the licensee or its employees or drivers to observe any ordinance of the city, for the violation of any law of the State of Texas reasonably related to the safe operation of taxicabs in the city, or for the failure of the licensee to secure and file the certificate required by section 23-28. Additionally, any license may be cancelled or revoked by the city council if the licensee or any one of its officers (if a corporation or association) or any partner (if a partnership) has been convicted of any one of the designated offenses set forth in section 23-50 since the filing of the application. Before cancelling any such license, the council shall hold a public hearing, written notice of which shall be given to the licensee at least seven (7) days in advance of such hearing. If the cancellation is based on a criminal conviction, the notice shall inform the licensee of the following matters:

- (1) That the city has information that the licensee or any one of its officers or partners, whichever is applicable, has been convicted of certain offenses, and a list of the specific offenses for which the city has such information.
- (2) That the city is seeking to revoke or suspend the license on the grounds of a criminal conviction or convictions.

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- (3) The specific conviction or convictions upon which the city intends to rely in seeking revocation or suspension of the license.
 - (4) That a hearing will be held on the city's request for revocation or suspension of the license and the date, time and place of the hearing.
 - (5) That the licensee, officer(s) or partner(s) may appear at the hearing, give testimony and examine witnesses.
 - (6) That the licensee shall have the burden to present evidence concerning each of the matters set out in Vernon's Ann. Civ. St. art. 6252-13c, § 4(c).

(Ord. No. 92-C, § 2, 2-20-92)

Secs. 23-36—23-40. Reserved.

ARTICLE III. DRIVER'S PERMIT

Sec. 23-41. Required.

It shall be unlawful for any person to drive a taxicab unless he has a taxicab driver's permit issued by the city. It shall likewise be unlawful for any person to permit any taxicab owned by him to be driven by any person who does not have such a permit.

(Ord. No. 92-C, § 2, 2-20-92)

Sec. 23-42. Application generally.

Every person who desires a permit to drive a taxicab shall file with the chief of police of the city a written application, signed and sworn to by the applicant, giving the following information:

- (1) The applicant's full name, residence, place of residence for five (5) years previous to moving to his/her present address, age, race, height, weight, color of eyes and hair, place of birth and length of time he/she has resided in the city;
- (2) Whether the applicant is a citizen of the United States, and his record of employment for the past five (5) years, social security number and marital status;
- (3) Whether the applicant has ever been convicted of a felony or misdemeanor, and if so, the nature of the offense and the date and place of such conviction;
- (4) Whether the applicant now stands charged with the commission of a felony or misdemeanor;
- (5) Whether the applicant has previously been licensed as a taxicab driver;
- (6) The amount of experience the applicant has had in the operation of public automobiles;
- (7) Whether the applicant has ever been denied a taxicab permit or had one revoked or suspended;
- (8) Whether the applicant has ever had a private passenger vehicle operator's license or a commercial vehicle driver's license or a Class "C" driver's license revoked;
- (9) The taxicab firm for which the applicant intends to work;

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- (10) Whether the applicant is addicted to the use of intoxicating liquors, morphine, cocaine or any other kind of drugs calculated to affect the mental or physical condition of the applicant; and
 - (11) Any other relevant information that may be requested by the city council, the chief of police or other designated representative of the city.

(Ord. No. 92-C, § 2, 2-20-92)

Sec. 23-43. Applicant to furnish character references and photographs and to be fingerprinted.

Each applicant for a permit under this article must list on his/her application, as character references, at least two (2) reputable citizens residing in Brazoria County and attach to the application two (2) recent true photographs of himself not less than three (3) inches by five (5) inches in size. Each applicant shall submit himself/herself to be fingerprinted at the police department of the city.

(Ord. No. 92-C, § 2, 2-20-92)

Sec. 23-44. Qualifications of applicant.

Each applicant for a permit must:

- (1) Have a valid driver's license for the class of vehicle to be permitted.
- (2) Be eighteen (18) years of age or older.
- (3) Be a person of good moral character.
- (4) Be able to read and write the English language.
- (5) Submit to medical examination by a licensed physician and submit the report of the physician, which must be signed by the physician.
- (6) Complete a form entitled "Request for Information from Texas Driver Licensing Records" as part of his application and shall pay the required fee therefor and submit such application to the Texas Department of Public Safety with a notation that the information is to be mailed to the police chief of the city. A taxicab driver's permit issued in advance of such request shall be subject to revocation in the event of the failure of the applicant to make such request and shall similarly be subject to revocation if the information received from the Texas Department of Public Safety discloses that the applicant's record disqualifies him/her from receiving a taxicab driver's permit.
- (7) Submit an affidavit stating that he/she is a citizen of the United States of America by birth or naturalization, or if an alien, that the applicant is legally residing in the United States of America and that he/she has a legal right to engage in such employment.

(Ord. No. 92-C, § 2, 2-20-92)

Sec. 23-45. State license required.

It shall be unlawful for any person to drive a taxicab within the city unless he/she is duly licensed by the state to drive a taxicab, having this license on his/her person at all times while operating a taxicab. No permit to drive a taxicab shall be issued in the absence of such a driver's license.

(Ord. No. 92-C, § 2, 2-20-92)

Sec. 23-46. Fee.

The annual fee for a permit required by this article shall be as set forth in chapter 28 of this Code.
(Ord. No. 92-C, § 2, 2-20-92; Ord. No. 00-PP, § 60, 10-19-00)

Sec. 23-47. Denial of a permit application.

An application for a permit under this article may be denied if the applicant fails to comply with any requirement of this article. In addition, such application may be denied if the applicant has been convicted of any of the designated offenses set forth in section 23-50(a)(1) through (8) hereof within the seven-year period immediately preceding the date of the filing of the application or convicted of three (3) or more moving violations of the laws of this state within the year immediately preceding the date of filing the application for the permit. A denial of a permit shall be subject to the hearing provisions set forth in section 23-35 of this chapter.

(Ord. No. 92-C, § 2, 2-20-92)

Sec. 23-48. Issuance.

If the application of any person for a taxicab driver's permit shall be granted, the police department shall issue such permit to the applicant upon the payment of the prescribed fee to the city secretary.

(Ord. No. 92-C, § 2, 2-20-92)

Sec. 23-49. Expiration and renewal.

Each permit issued under this article shall expire on the thirty-first day of December following its issuance and shall be renewed annually by making application to the city upon forms provided by the city for that purpose thirty (30) days prior to the date of expiration of the permit and by paying the fee prescribed in section 23-44.

(Ord. No. 92-C, § 2, 2-20-92)

Sec. 23-50. Cancellation.

- (a) Any permit granted under this article shall be subject to cancellation by the city council upon a finding that the permittee has been convicted of any one of the following offenses since the issuance of the permit:
- (1) Any offense involving fraud or theft;
 - (2) Any offense involving forgery;
 - (3) Any offense involving unauthorized use of a motor vehicle;
 - (4) Any violation of state or federal laws regulating firearms;
 - (5) Any offense involving violence to any person except for conduct which is classified as no greater than a Class C misdemeanor under the laws of Texas;
 - (6) Any offense involving prostitution or the promotion of prostitution;
 - (7) Any offense involving rape, sexual abuse, sexual assault, rape of a child, sexual abuse of a child or indecency with a child;

-
- (8) Any offense involving the use of or sale of drugs, including the offense of driving while intoxicated or driving under the influence of drugs.
 - (9) Any offense involving the possession or use of narcotic paraphernalia.
 - (b) In addition, a permit shall be subject to cancellation by city council upon a finding that the permittee has been convicted of three (3) or more moving violations of the traffic laws of this state or any other state if such violation occurred within the year immediately preceding the notice of city council's intent to revoke or cancel the permit.
 - (c) Prior to revoking or cancelling a permit the city shall comply with the notice and hearing provisions set forth in section 23-35.
- (Ord. No. 92-C, § 2, 2-20-92; Ord. No. 05-III, § 1, 12-15-05)

Sec. 23-51. Appearance.

- (a) *Generally.* It shall be the duty of every taxicab driver to be hygienically clean, well-groomed, neat and suitably dressed in compliance with all applicable requirements of this section at all times while a taxicab is in his or her custody.
- (b) *Hair.* Male drivers shall be clean shaven and hair shall be neatly trimmed. If a beard or moustache is worn, it shall be well groomed and neatly trimmed at all times in order not to present a ragged appearance.
- (c) *Suitable dress for males.* The term "suitably dressed" shall be interpreted to mean the driver, if male, shall wear trousers, a shirt with collar, with or without a tie, shoes and, if desired, appropriate outer garments.
- (d) *Suitable dress for females.* The term "suitably dressed" shall be interpreted to mean the driver, if female, shall wear skirts, trousers, slacks, a shirt with collars or a blouse, shoes and, if desired, appropriate outer garments.
- (e) *Unappropriate clothing.* Clothing that is not considered appropriate and is not permitted when the driver, male or female, is in charge of a licensed taxicab includes T-shirts, underwear, tank tops, body shirts, swim wear, jogging suits or similar types of attire when worn as an outer garment, shorts or trunks (jogging or bathing) or sandals.

(Ord. No. 92-C, § 2, 2-20-92)

Sec. 23-52. Display of permit.

Every driver shall post his/her city taxicab permit above the state motor vehicle inspection sticker in the lower left hand (driver's side) portion of the windshield of the taxicab.

(Ord. No. 92-C, § 2, 2-20-92)

Please review the information below for additional requirements.

Each applicant must provide the following documentation with the completed application packet:

1. Two recent true photographs and one completed fingerprint card. Please call 281-585-7119 to set up an appointment to be photographed and fingerprinted at the Police Department
2. A letter from a licensed physician stating that the driver has had a physical examination and is capable of performing in the capacity of a public transportation driver.
3. Certified copy of driver's records see Further Requirements for instructions.

Each applicant must show proof of the following:

1. Valid class C License to operate a motor vehicle
2. Proof that the applicant is over 18 years of age
3. Proof of Insurance

Further requirements:

1. Each applicant must complete a form entitled **"Texas DPS Application for Copy of Driver Record"** as a part of his application and shall submit the form, along with the required fees, to the Texas Department of Public Safety. Once applicant is in receipt of requested information, it shall be forwarded to the City Secretary. Any permits issued in advance of receipt of this information will be subject to revocation If the information received from the Texas Department of Public Safety discloses that the applicants record contains any information disqualifying the *applicant from being eligible to hold a Taxi-cab permit issued by the City of Alvin.*
2. Submit an affidavit declaring current citizenship status and that the applicant is legally residing in the United States of American and that he or she has a legal right to engage in such employment.
3. Submit an annual fee of \$15.00 payable to the City of Alvin. This payment must be made in the office of the permit clerk, located at 1100 West Highway 6, Alvin, Texas 77511. Phone number: 281-388-4353.

No application will be considered valid or complete before payment has been received by the City of Alvin permit clerk.



City of Alvin

Taxicab License Application



OWNER'S BACKGROUND INFORMATION

Applicant/Owner's Name (Last, First, Middle)				☐ Date	
E-mail Address (Required)		Cell Phone Number			
Five (5) Years of Residential History					
Current Home Street Address	City	State	Zip Code	How Long? Years	Months
Home Street Address	City	State	Zip Code	How Long? Years	Months
Home Street Address	City	State	Zip Code	How Long? Years	Months
Home Street Address	City	State	Zip Code	How Long? Years	Months
Home Street Address	City	State	Zip Code	How Long? Years	Months

Will you be operating the taxi service as an "individual" or a "partnership" ? (Circle one)

OWNER'S BUSINESS INFORMATION

Legal/Corporate Name of Company	Trade Name/DBA
---------------------------------	----------------

Business Address

If you will be operating as a Partnership please provide the following information for each partner
(Attach additional sheets if necessary.)

1. Full Name: Last, First, Middle	Telephone	Date of Birth	Title/% of Ownership
Home Address	City	State	Zip Code
2. Full Name: Last, First, Middle	Telephone	Date of Birth	Title/% of Ownership
Home Address	City	State	Zip Code
3. Full Name: Last, First, Middle	Telephone	Date of Birth	Title/% of Ownership
Home Address	City	State	Zip Code

**For each Partnership: list residence, employer and businesses owned within the past 5 years.
(Forms attached)**

If you will be operating as a corporation please state:

Name of Corporation: _____ Phone # _____

Address: _____ City _____ State _____ Zip _____

List the name and addresses of principle officers:

**For each Principle Officer: list residence, employer, and business owned within the past 5 years.
(Forms attached)**

1. Last Name:

First Name:

MI

Home Address:

Phone #:

City

State

Zip

DOB:

Place of Birth

Driver's License No:

Official Title:

2. Last Name:

First Name:

MI

Home Address:

Phone #:

City

State

Zip

DOB:

Place of Birth

Driver's License No:

Official Title:

3. Last Name

First Name

MI

Home Address:

Phone #:

City:

State:

Zip:

DOB:

Place of Birth:

Driver's License No:

Official Title:

How many taxicabs will be operated by applicant? _____

Insurance policy of public liability and property damage covering all vehicles under this permit: YES NO
(Circle One)

VEHICLES				
Year	Make	Model	Cab Number	Seating Capacity
VIN Number		License Plate Number		State
Dispatch Location	Non-Active Service Location	Color Scheme	Owner	
Year	Make	Model	Cab Number	Seating Capacity
VIN Number		License Plate Number		State
Dispatch Location	Non-Active Service Location	Color Scheme	Owner	
Year	Make	Model	Cab Number	Seating Capacity
VIN Number		License Plate Number		State
Dispatch Location	Non-Active Service Location	Color Scheme	Owner	
Year	Make	Model	Cab Number	Seating Capacity
VIN Number		License Plate Number		State
Dispatch Location	Non-Active Service Location	Color Scheme	Owner	
Year	Make	Model	Cab Number	Seating Capacity
VIN Number		License Plate Number		State
Dispatch Location	Non-Active Service Location	Color Scheme	Owner	

HAVE YOU PAID ALL TAXES ARISING FROM THE OPERATION OF TAXICABS? _____

ATTACH COPY(IES) OF CONTRACT(S) IF TAXICAB IS OPERATED UNER TERMS OF CONTRACT WITH COMPANY OTHER THAN THE OWNER.

ATTACH INSURANCE CERTIFICATES FOR EACH VEHICLE LISTED IN THIS APPLICATION.

ATTACHED AUDITED FINANCIAL STATEMENT SHOWING THE ASSETS AND LIABILITIES OF THE APPLICANT (including the amounts of all unpaid judgements against the applicant and the nature of the transaction or acts giving rise to the judgements.

ATTACH CITY OF ALVIN CERTIFICATE OF TAXICAB INSPECTION ISSUED BY THE CITY OF ALVIN.

Signature of Applicant: _____ Date: _____

(To be completed by the City of Alvin)

_____ Taxi Inspections

_____ Number of Taxicabs Inspected

PARTNERSHIP ATTACHMENT

Applicant Name: _____

1.

Residence past 5 years:

Address: _____ City: _____ State: _____ Zip: _____
Address: _____ City: _____ State: _____ Zip: _____
Address: _____ City: _____ State: _____ Zip: _____
Address: _____ City: _____ State: _____ Zip: _____
Address: _____ City: _____ State: _____ Zip: _____

Employer past 5 years:

Name of employer: _____ Phone #: _____
Address: _____ City: _____ State: _____ Zip: _____

Name of employer: _____ Phone #: _____
Address: _____ City: _____ State: _____ Zip: _____

Name of employer: _____ Phone #: _____
Address: _____ City: _____ State: _____ Zip: _____

Business owned past 5 years:

Name of Business: _____ Phone #: _____
Address: _____ City: _____ State: _____ Zip: _____

Name of Business: _____ Phone #: _____
Address: _____ City: _____ State: _____ Zip: _____

Name of Business: _____ Phone #: _____
Address: _____ City: _____ State: _____ Zip: _____

PARTNERSHIP ATTACHMENT

Applicant Name: _____

2.

Residence past 5 years:

Address: _____ City: _____ State: _____ Zip: _____
Address: _____ City: _____ State: _____ Zip: _____
Address: _____ City: _____ State: _____ Zip: _____
Address: _____ City: _____ State: _____ Zip: _____
Address: _____ City: _____ State: _____ Zip: _____

Employer past 5 years:

Name of employer: _____ Phone #: _____
Address: _____ City: _____ State: _____ Zip: _____

Name of employer: _____ Phone #: _____
Address: _____ City: _____ State: _____ Zip: _____

Name of employer: _____ Phone #: _____
Address: _____ City: _____ State: _____ Zip: _____

Business owned past 5 years:

Name of Business: _____ Phone #: _____
Address: _____ City: _____ State: _____ Zip: _____

Name of Business: _____ Phone #: _____
Address: _____ City: _____ State: _____ Zip: _____

Name of Business: _____ Phone #: _____
Address: _____ City: _____ State: _____ Zip: _____

PARTNERSHIP ATTACHMENT

Applicant Name _____

3.

Residence past 5 years:

Address: _____ City: _____ State: _____ Zip: _____
Address: _____ City: _____ State: _____ Zip: _____
Address: _____ City: _____ State: _____ Zip: _____
Address: _____ City: _____ State: _____ Zip: _____
Address: _____ City: _____ State: _____ Zip: _____

Employer past 5 years:

Name of employer: _____ Phone #: _____
Address: _____ City: _____ State: _____ Zip: _____

Name of employer: _____ Phone #: _____
Address: _____ City: _____ State: _____ Zip: _____

Name of employer: _____ Phone #: _____
Address: _____ City: _____ State: _____ Zip: _____

Business owned past 5 years:

Name of Business: _____ Phone #: _____
Address: _____ City: _____ State: _____ Zip: _____

Name of Business: _____ Phone #: _____
Address: _____ City: _____ State: _____ Zip: _____

Name of Business: _____ Phone #: _____
Address: _____ City: _____ State: _____ Zip: _____

PRINCIPLE OFFICER

Applicant Name: _____

1.

Residence past 5 years:

Address: _____ City: _____ State: _____ Zip: _____
Address: _____ City: _____ State: _____ Zip: _____
Address: _____ City: _____ State: _____ Zip: _____
Address: _____ City: _____ State: _____ Zip: _____
Address: _____ City: _____ State: _____ Zip: _____

Employer past 5 years:

Name of employer: _____ Phone #: _____
Address: _____ City: _____ State: _____ Zip: _____

Name of employer: _____ Phone #: _____
Address: _____ City: _____ State: _____ Zip: _____

Name of employer: _____ Phone #: _____
Address: _____ City: _____ State: _____ Zip: _____

Business owned past 5 years:

Name of Business: _____ Phone #: _____
Address: _____ City: _____ State: _____ Zip: _____

Name of Business: _____ Phone #: _____
Address: _____ City: _____ State: _____ Zip: _____

Name of Business: _____ Phone #: _____
Address: _____ City: _____ State: _____ Zip: _____

PRINCIPLE OFFICER

Applicant Name: _____

2.

Residence past 5 years:

Address: _____ City: _____ State: _____ Zip: _____

Address: _____ City: _____ State: _____ Zip: _____

Address: _____ City: _____ State: _____ Zip: _____

Address: _____ City: _____ State: _____ Zip: _____

Address: _____ City: _____ State: _____ Zip: _____

Employer past 5 years:

Name of employer: _____ Phone #: _____

Address: _____ City: _____ State: _____ Zip: _____

Name of employer: _____ Phone #: _____

Address: _____ City: _____ State: _____ Zip: _____

Name of employer: _____ Phone #: _____

Address: _____ City: _____ State: _____ Zip: _____

Business owned past 5 years:

Name of Business: _____ Phone #: _____

Address: _____ City: _____ State: _____ Zip: _____

Name of Business: _____ Phone #: _____

Address: _____ City: _____ State: _____ Zip: _____

Name of Business: _____ Phone #: _____

Address: _____ City: _____ State: _____ Zip: _____

PRINCIPLE OFFICER

Applicant Name: _____

3.

Residence past 5 years:

Address: _____ City: _____ State: _____ Zip: _____
Address: _____ City: _____ State: _____ Zip: _____
Address: _____ City: _____ State: _____ Zip: _____
Address: _____ City: _____ State: _____ Zip: _____
Address: _____ City: _____ State: _____ Zip: _____

Employer past 5 years:

Name of employer: _____ Phone #: _____
Address: _____ City: _____ State: _____ Zip: _____

Name of employer: _____ Phone #: _____
Address: _____ City: _____ State: _____ Zip: _____

Name of employer: _____ Phone #: _____
Address: _____ City: _____ State: _____ Zip: _____

Business owned past 5 years:

Name of Business: _____ Phone #: _____
Address: _____ City: _____ State: _____ Zip: _____

Name of Business: _____ Phone #: _____
Address: _____ City: _____ State: _____ Zip: _____

Name of Business: _____ Phone #: _____
Address: _____ City: _____ State: _____ Zip: _____



City of Alvin Taxicab Inspection

Permit Number: _____ Date: _____

Expires December 31, _____

Name of Company: _____

Taxicab Description:

Year: _____ Make: _____ Model: _____ Color: _____

License Number: _____ VIN: _____

Insurance Company: _____

Policy Number: _____

Attach copy of insurance policy.

Equipment

*** THIS SECTION TO BE COMPLETED BY OFFICER***

Child passenger safety seat system: _____

Meter properly displayed? _____ Rates posted in sight: _____

Driver Permit properly displayed? _____

Proper markings:

On 1 door, each side, phone number and name: _____

Rear, Number of taxi and phone number: _____ Taxi Number: _____

All lettering at least 2 ½ inches in height and not less than 5/16 inches stroke _____

Cleanliness: _____



AGENDA COMMENTARY

Meeting Date: 1/20/2022

Department: Economic Development

Contact: Dixie Roberts, ACM

Agenda Item: Consider Resolution 22-R-01, confirming and ratifying the appointment of Cathy Fontenot to Position #5 to the Board of Directors for the City of Alvin Reinvestment Zone Number Two, and the Kendall Lakes TIRZ Redevelopment Authority Board for a term of two (2) years.

Type of Item: ☐Ordinance ☒Resolution ☐Contract/Agreement ☐Public Hearing ☐Plat ☐Discussion & Direction ☐Other

Summary: The Kendall Lakes Tax Increment Reinvestment Zone (TIRZ) was created in 2005 to assist in the development of Kendall Lakes, a residential, commercial, and industrial area on the north side of the City of Alvin. There is a tax increment that is used for providing the needed infrastructure for the site through the ability of using bond proceeds. The TIRZ Authority and Board have the responsibility to develop policies that ensure good quality development for this site. TIRZ board members serve staggered even and odd year terms. Cathy Fontenot was appointed in December 2020 to fill an unexpired term through December 31, 2021. Position #5's reappointment was inadvertently left off the annual appointment resolution adopted by City Council on December 16, 2021. This is the formal resolution needed for said appointment.

Staff recommends approval of Resolution 22-R-01 ratifying the appointment of Ms. Fontenot to Position #5 of the Board of Directors for a term of two years, through December 31, 2023.

Funding Expected: Revenue ☐ Expenditure ☐ N/A ☒ **Budgeted Item:** Yes ☐ No ☐ N/A ☒

Funding Account: _____ **Amount:** _____ **1295 Form Required?** Yes ☐ No ☐

Legal Review Required: N/A ☐ Required ☒ **Date Completed:** _____

Supporting documents attached:

- Resolution 22-R-01

Recommendation: Move to approve Resolution 22-R-01, confirming and ratifying the appointment of Cathy Fontenot to Position #5 to the Board of Directors for the City of Alvin Reinvestment Zone Number Two, and the Kendall Lakes TIRZ Redevelopment Authority Board for a term of two (2) years.

Reviewed by Department Head, if applicable ☐
Reviewed by City Attorney, if applicable ☒

Reviewed by Chief Financial Officer, if applicable ☐
Reviewed by City Manager ☐



AGENDA COMMENTARY

Meeting Date: 1/20/2022

Department:

Contact: Council member's Castro / Garivey

Agenda Item: Consider Ordinance 22-A, requested by City Council member Castro and City Council member Garivey, outlawing Abortion, declaring Alvin a Sanctuary City for the Unborn, making various provisions and findings, providing for severability, and establishing an effective date.

Type of Item: ☒Ordinance ☐Resolution ☐Contract/Agreement ☐Public Hearing ☐Plat ☐Discussion & Direction ☒Other

Summary: This ordinance drafted by Texas Right to Life was placed on the agenda for consideration at the request of City Council member Castro and Council member Garivey.

Funding Expected: Revenue ☐ Expenditure ☐ N/A ☐ **Budgeted Item:** Yes ☐ No ☐ N/A ☐

Funding Account: _____ **Amount:** _____ **1295 Form Required?** Yes ☐ No ☐

Legal Review Required: N/A ☐ Required ☐ **Date Completed:** _____

Supporting documents attached:

- Proposed Ordinance 22-A
-

Recommendation:

Reviewed by Department Head, if applicable ☐
Reviewed by City Attorney, if applicable ☐

Reviewed by Chief Financial Officer, if applicable ☐
Reviewed by City Manager ☐

ORDINANCE 22-A

ORDINANCE OUTLAWING ABORTION, DECLARING ALVIN A SANCTUARY CITY FOR THE UNBORN, MAKING VARIOUS PROVISIONS AND FINDINGS, PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE

BE IT ORDAINED BY THE CITY OF ALVIN, TEXAS THAT:

A. FINDINGS

The City of Alvin finds that:

- (1) Human life begins at conception.
- (2) Abortion is a murderous act of violence that purposefully and knowingly terminates an unborn human life.
- (3) Unborn human beings are entitled to the full and equal protection of the laws that prohibit violence against other human beings.
- (4) The State of Texas has never repealed its pre-*Roe v. Wade* statutes that outlaw and criminalize abortion unless the mother's life is in danger. *See* West's Texas Civil Statutes, articles 4512.1 – 4512.6 (1974); *see also* Act of June 14, 1973, ch. 399, §§ 5–6, 1973 Tex. Acts 883, 995–96; *see also id.* 996a, 996e (including the Texas abortion laws in the table indicating the “Disposition of Unrepealed Articles of the Texas Penal Code of 1925 and Vernon's Penal Code.”).
- (5) The Texas Legislature has reaffirmed the continued existence and validity of the State's pre-*Roe v. Wade* criminal abortion statutes. *See* Senate Bill 8, 87th Leg., § 2 (2021) (“The legislature finds that the State of Texas never repealed, either expressly or by implication, the state statutes enacted before the ruling in *Roe v. Wade*, 410 U.S. 113 (1973), that prohibit and criminalize abortion unless the mother's life is in danger.”).
- (6) The law of Texas therefore continues to define abortion as a criminal offense except when necessary to save the life of the mother. *See* West's Texas Civil Statutes, article 4512.1 (1974); Senate Bill 8, 87th Leg., § 2 (2021).
- (7) The law of Texas also imposes felony criminal liability on anyone who “furnishes the means for procuring an abortion knowing the purpose intended,” *see* West's Texas Civil Statutes, article 4512.2 (1974), as well as anyone who aids or abets an abortion performed in violation of Texas law, *see* Tex. Penal Code section 7.02.
- (8) The Supreme Court's judgment in *Roe v. Wade* did not cancel or formally revoke the Texas statutes that outlaw and criminalize abortion, and the judiciary has no

power to erase a statute that it believes to be unconstitutional. *See Pidgeon v. Turner*, 538 S.W.3d 73, 88 n.21 (Tex. 2017) (“When a court declares a law unconstitutional, the law remains in place unless and until the body that enacted it repeals it”); *Texas v. United States*, 945 F.3d 355, 396 (5th Cir. 2019) (“The federal courts have no authority to erase a duly enacted law from the statute books, [but can only] decline to enforce a statute in a particular case or controversy.” (citation and internal quotation marks omitted)).

(9) The Supreme Court’s pronouncements in *Roe v. Wade* and subsequent cases may temporarily limit the ability of State officials to impose penalties on those who violate the Texas abortion statutes, but they do not veto or erase the statutes themselves, which continue to exist as the law of Texas until they are repealed by the legislature that enacted them. The State’s temporary inability to prosecute or punish those who violate its abortion statutes on account of *Roe v. Wade* does not change the fact that abortion is defined as a criminal act under Texas law.

(10) The Texas murder statute defines the crime of “murder” to include any act that “intentionally or knowingly causes the death” of “an unborn child at every stage of gestation from fertilization until birth.” *See* Texas Penal Code § 19.02; Texas Penal Code § 1.07. Although the statute exempts “lawful medical procedures” from the definition of murder, *see* Texas Penal Code § 19.06(2), an abortion is not a “lawful medical procedure” under Texas law unless the life of the mother is in danger, *see* West’s Texas Civil Statutes, article 4512.1 (1974).

(11) The law of Texas also prohibits abortions unless they are performed in a facility that meets the minimum standards for an ambulatory surgical center, and by a physician who holds admitting privilege at a nearby hospital. *See* Texas Health and Safety Code §§ 171.0031, 245.010(a). The Supreme Court’s ruling in *Whole Woman’s Health v. Hellerstedt*, 136 S. Ct. 2292 (2016), did not alter or revoke these requirements of state law; it merely enjoined state officials from enforcing the penalties established in those statutes against the abortion providers who violate them. *Whole Woman’s Health v. Hellerstedt* does not change the fact that abortion is not a “lawful medical procedure” under Texas law unless it complies with sections 171.0031 and 245.010(a) of the Texas Health and Safety Code, and it does not change the fact that the Texas murder statute prohibits abortions that fail to comport with these still-existing requirements of Texas law.

(12) The Texas abortion laws are severable in each of their discrete applications, and they are severable as applied to each individual person, group of persons, or circumstances. *See* Tex. Gov’t Code § 311.036(c) (“Every statute that regulates or prohibits abortion is severable in each of its applications to every person and circumstance. If any statute that regulates or prohibits abortion is found by any court to be unconstitutional, either on its face or as applied, then all applications of that

statute that do not violate the United States Constitution and Texas Constitution shall be severed from the unconstitutional applications and shall remain enforceable, notwithstanding any other law, and the statute shall be interpreted as if containing language limiting the statute's application to the persons, group of persons, or circumstances for which the statute's application will not violate the United States Constitution and Texas Constitution.”). These laws therefore remain enforceable against any individual or entity that aids or abets an abortion performed in Texas, so long as the prosecution of the particular individual or entity that aids or abets the abortion will not impose an “undue burden” on abortion patients.

(13) The City of Alvin finds it necessary to supplement the existing state-law prohibitions on abortion with its own prohibitions on abortion, and to empower city officials and private citizens to enforce these prohibitions to the maximum extent permitted by state law and the Constitution. *See* Tex. Local Gov't Code §§ 54.001(b)(1); 54.004.

(14) The law of Texas explicitly allows municipalities and political subdivisions to outlaw and prohibit abortion, and to establish penalties and remedies against those who perform or enable unlawful abortions. *See* Tex. Gov't Code § 311.036(b) (“A statute may not be construed to restrict a political subdivision from regulating or prohibiting abortion in a manner that is at least as stringent as the laws of this state unless the statute explicitly states that political subdivisions are prohibited from regulating or prohibiting abortion in the manner described by the statute.”).

(15) To protect the health and welfare of all residents within the City of Alvin, including the unborn, the city council finds it necessary to outlaw abortion under city law, to outlaw acts that aid or abet abortions, and to establish penalties and remedies as provided in this ordinance. *See* Tex. Local Gov't Code §§ 54.001(b)(1); 54.004.

B. DECLARATIONS

(1) We declare Alvin, Texas to be a Sanctuary City for the Unborn.

(2) Abortion at all times and at all stages of pregnancy is declared to be an act of murder unless the mother's life is in danger.

(3) Abortion-inducing drugs are declared to be contraband, and we declare the possession of abortion-inducing drugs within city limits to be an unlawful act.

(4) Abortions performed anywhere in the state of Texas are criminal acts under Texas law, unless the abortion is procured or attempted by medical advice for the purpose of saving the life of the mother. *See* West's Texas Civil Statutes, articles 4512.1 – 4512.6 (1974); *see also* Senate Bill 8, 87th Leg., § 2.

(5) Any person who “furnishes the means for procuring an abortion knowing the purpose intended,” or who otherwise aids or abets an abortion performed in Texas, is

a criminal and a felon subject to prosecution and imprisonment under article 4512.2 of the Revised Civil Statutes and section 7.02 of the Texas Penal Code, unless the abortion is procured or attempted by medical advice for the purpose of saving the life of the mother.

(6) The City of Alvin urges the district attorney of Brazoria County to investigate and prosecute any individual or organization that “furnishes the means for procuring” an elective abortion, or that otherwise aids or abets such abortions, including:

- (a) employers and insurers who arrange for coverage of abortions in Texas;
- (b) individuals and organizations that knowingly provide transportation to or from a Texas abortion provider;
- (c) individuals and organizations that knowingly pay for another person’s abortion in Texas, including abortion funds and abortion-assistance organizations;
- (d) individuals who knowingly donate money to abortion funds and abortion-assistance organizations that aid or abet abortions performed in Texas;
- (e) individuals and organizations that offer or provide “abortion doula” services in Texas.

(7) The City of Alvin urges all of its citizens to regard those who perform or assist elective abortion in Texas as criminals, consistent with the abortion laws of Texas, and to report these criminal activities to the relevant district attorneys for investigation and criminal prosecution.

C. AMENDMENTS TO CITY CODE

Chapter 15 of the Alvin Code of Ordinances is amended by adding Article XI to read as follows:

Article XI. — ABORTION

Sec. 15-131. Definitions

(a) For the purposes of this article, the following definitions shall apply:

- (1) “Abortion” means the act of using or prescribing an instrument, a drug, a medicine, or any other substance, device, or means with the intent to cause the death of an unborn child of a woman known to be pregnant. The term does not include birth-control devices or oral contraceptives, and it does not include Plan B, morning-after pills, or emergency contraception. An act is not an abortion if the act is done with the intent to:

- (A) save the life or preserve the health of an unborn child;
 - (B) remove a dead, unborn child whose death was caused by accidental miscarriage; or
 - (C) remove an ectopic pregnancy.
- (2) “Unborn child” means a natural person from the moment of conception who has not yet completely left the womb.
- (3) “Abortion-inducing drugs” includes mifepristone, misoprostol, and any drug or medication that is used to terminate the life of an unborn child. The term does not include birth-control devices or oral contraceptives, and it does not include Plan B, morning-after pills, or emergency contraception. The term also does not include drugs or medications that are possessed or distributed for a purpose that does not include the termination of a pregnancy.

Sec. 15-132. Abortion Prohibited

(a) It shall be unlawful for any person to procure or perform an abortion of any type and at any stage of pregnancy in the city of Alvin, Texas.

(b) It shall be unlawful for any person to knowingly aid or abet an abortion that occurs in the city of Alvin, Texas. This section does not prohibit referring a patient to have an abortion which takes place outside the city limits of Alvin, Texas. The prohibition in this section includes, but is not limited to, the following acts:

- (1) Knowingly providing transportation to or from an abortion provider;
- (2) Giving instructions over the telephone, the internet, or any other medium of communication regarding self-administered abortion;
- (3) Providing money with the knowledge that it will be used to pay for an abortion or the costs associated with procuring an abortion;
- (4) Providing or arranging for insurance coverage of an abortion;
- (5) Providing “abortion doula” services; and
- (6) Coercing or pressuring a pregnant mother to have an abortion against her will.

(c) It shall be an affirmative defense to the unlawful acts described in Subsections (a) and (b) if the abortion was in response to a life-threatening physical condition aggravated by, caused by, or arising from a pregnancy that, as certified by a physician, places the woman in danger of death or a serious

risk of substantial impairment of a major bodily function unless an abortion is performed. The defendant shall have the burden of proving this affirmative defense by a preponderance of the evidence.

(d) It shall be unlawful for any person to possess or distribute abortion-inducing drugs in the city of Alvin, Texas.

(e) No provision of this section may be construed to prohibit any action which occurs outside of the jurisdiction of the city of Alvin, Texas.

(f) No provision of this section may be construed to prohibit any conduct protected by the First Amendment of the U.S. Constitution, as made applicable to state and local governments through the Supreme Court's interpretation of the Fourteenth Amendment, or by Article 1, Section 8 of the Texas Constitution.

(g) Under no circumstance may the mother of the unborn child that has been aborted, or the pregnant woman who seeks to abort her unborn child, be subject to prosecution or penalty under this section.

(h) Whoever violates this section shall be subject to the maximum penalty permitted under Texas law for the violation of a municipal ordinance governing public health, and each violation shall constitute a separate offense.

(i) Neither the City of Alvin, nor any of its officers or employees, nor any district or county attorney, nor any executive or administrative officer or employee of any state or local governmental entity, may impose or threaten to impose the penalty described in Subsection (h) unless and until:

(1) The Supreme Court overrules *Roe v. Wade*, 410 U.S. 113 (1973), and *Planned Parenthood v. Casey*, 505 U.S. 833 (1992), and permits states and municipalities to punish anyone who violates an abortion prohibition; or

(2) A state or federal court enters a declaratory judgment or otherwise rules that the imposition or threatened imposition of this penalty upon the particular person, corporation, or entity that committed the unlawful act described in Subsection (h) will not impose an "undue burden" on women seeking abortions; or

(3) A state or federal court enters a declaratory judgment or otherwise rules that the person, corporation, or entity that committed the unlawful act described in Subsection (h) lacks third-party standing to assert the rights of women seeking abortions in court.

(j) The penalty provided in Subsection (h) may not be imposed or threatened against any individual or entity if a previous decision of the Supreme Court of the United States established that the conduct of that individual or entity was constitutionally protected at the time it occurred.

(k) The non-imposition of the penalties described in Subsection (h) does not in any way legalize the conduct that has been outlawed by this section, and it does not in any way limit or affect the availability of the private-enforcement remedies established in Section 15-136, or the criminal penalties for abortion set forth in article 4512.1 of the Revised Civil Statutes and sections 1.07 and 19.02(b) of the Texas Penal Code. Abortion remains and is to be regarded as an illegal act under city law and a criminal act under state law, except when abortion is necessary to save the life of the mother. And abortion remains outlawed under both city and state law, despite the temporary and partial inability of city and state officials to punish those who violate the abortion laws on account of the Supreme Court's decision-making.

(l) Mistake of law shall not be a defense to the penalty established Subsection (h).

Sec. 15-133. Abortion Coverage Prohibited in Employer-Provided Health Insurance or Benefits

(a) It shall be unlawful for any employer in the city of Alvin, Texas, and for any person acting on that employer's behalf, to offer, provide, or arrange for coverage of abortion in any health-insurance policy or plan, flexible spending account, health savings account, or any other benefit provided to its employees, except for abortions performed in response to a life-threatening physical condition aggravated by, caused by, or arising from a pregnancy that, as certified by a physician, places the woman in danger of death or a serious risk of substantial impairment of a major bodily function unless an abortion is performed.

(b) Whoever violates this section shall be subject to the maximum penalty permitted under Texas law for the violation of a municipal ordinance governing public health, and each violation shall constitute a separate offense.

(c) Any official of the city of Alvin, Texas, who becomes aware that an employer is aiding or abetting abortions by providing coverage of abortions in an employee-benefits package shall report that employer to the district attorney of Brazoria County, and to all other district attorneys with jurisdiction over that employer, for criminal prosecution under article 4512.2 of the Revised Civil Statutes and section 7.02 of the Texas Penal Code.

Sec. 15-134. Abortions Performed Outside Alvin, Texas

(a) It is the policy of Alvin, Texas to protect its unborn residents from individuals and organizations that aid or abet the killing of unborn children, and to protect the unborn from those who seek to kill or otherwise harm them, to the maximum extent permissible under state and federal law.

(b) Except as provided by Subsections (c), (d), (e), and (f), it shall be unlawful for any person to knowingly aid or abet an abortion performed on a resident of Alvin, Texas, or to attempt to aid or abet such an abortion, regardless of where the abortion is or will be performed. The prohibition in this subsection includes, but is not limited to:

- (1) Offering or knowingly providing transportation to or from an abortion provider;
- (2) Giving instructions over the telephone, the internet, or any other medium of communication regarding self-administered abortion;
- (3) Offering or providing money with the knowledge that it will be used to pay for, offset, or reimburse the costs of an abortion or the costs associated with procuring an abortion;
- (4) Providing or arranging for insurance coverage of an abortion;
- (5) Offering or providing “abortion doula” services;
- (6) Providing referrals to an abortion provider;
- (7) Coercing or pressuring a pregnant mother to have an abortion; and
- (8) Engaging in any of the conduct that would make one an accomplice to abortion under section 7.02 of the Texas Penal Code.

(c) This section may not be construed to impose civil or criminal liability on any speech or conduct protected by the First Amendment of the United States Constitution, as made applicable to the states through the United States Supreme Court’s interpretation of the Fourteenth Amendment of the United States Constitution, or by Article 1, Section 8 of the Texas Constitution.

(d) This section may not be construed to prohibit conduct that Alvin, Texas, is forbidden to prohibit or regulate under state or federal law.

(e) It shall be an affirmative defense if the unlawful acts described in Subsection (b) were taken in response to a life-threatening physical condition aggravated by, caused by, or arising from a pregnancy that, as certified by a physician, places the woman in danger of death or a serious risk of substantial impairment of a major bodily function unless an abortion is performed. The

defendant shall have the burden of proving this affirmative defense by a preponderance of the evidence.

(f) Under no circumstance may the woman upon whom the abortion was performed, or the pregnant woman who seeks to abort her unborn child, be subject to prosecution or penalty under this section.

(g) Whoever violates this section shall be subject to the maximum penalty permitted under Texas law for the violation of a municipal ordinance governing public health, and each violation shall constitute a separate offense.

(h) Neither the City of Alvin, nor any of its officers or employees, nor any district or county attorney, nor any executive or administrative officer or employee of any state or local governmental entity, may impose or threaten to impose the penalty described in Subsection (g) unless and until:

(1) The Supreme Court overrules *Roe v. Wade*, 410 U.S. 113 (1973), and *Planned Parenthood v. Casey*, 505 U.S. 833 (1992), and permits states and municipalities to punish anyone who violates an abortion prohibition, or

(2) A state or federal court enters a declaratory judgment or otherwise rules that the imposition or threatened imposition of this penalty upon the particular person, corporation, or entity that committed the unlawful act described in Subsection (g) will not impose an “undue burden” on women seeking abortions; or

(3) A state or federal court enters a declaratory judgment or otherwise rules that the person, corporation, or entity that committed the unlawful act described in Subsection (g) lacks third-party standing to assert the rights of women seeking abortions in court.

(i) The penalty provided in Subsection (g) may not be imposed or threatened against any individual or entity if a previous decision of the Supreme Court of the United States established that the conduct of that individual or entity was constitutionally protected at the time it occurred.

(j) The non-imposition of the penalties described in Subsection (g) does not in any way legalize the conduct that has been outlawed by this section, and it does not in any way limit or affect the availability of the private-enforcement remedies established in Section 15-136. Abortion remains and is to be regarded as an illegal act under city law and a criminal act under state law, except when abortion is necessary to save the life of the mother.

(k) Mistake of law shall not be a defense to the penalty established Subsection (g).

(l) Any official of the city of Alvin, Texas, who becomes aware that an individual or organization is aiding or abetting abortions performed in Texas by engaging in the conduct described in subsection (b) shall report that individual or organization to the district attorney of Brazoria County, or to the district attorneys with jurisdiction over that individual or organization, for criminal prosecution under article 4512.2 of the Revised Civil Statutes and section 7.02 of the Texas Penal Code.

Sec. 15-135. Abortions Performed in Violation of Texas Law

(a) It is the policy of the city of Alvin to ensure that the Texas abortion laws are enforced to the maximum possible extent consistent with the Constitution and existing Supreme Court doctrine.

(b) Except as provided by subsections (d), (e), (f), and (g), it shall be unlawful for any person to perform an abortion in violation of any statute enacted by the Texas legislature, including article 4512.1 of the Revised Civil Statutes, as well as sections 171.0031(a)(1) and 245.010(a) of the Texas Health & Safety Code.

(c) Except as provided by subsections (d), (e), (f), and (g), it shall be unlawful for any person to knowingly aid or abet an abortion performed in violation of any statute enacted by the Texas legislature, including article 4512.1 of the Revised Civil Statutes, as well as sections 171.0031(a)(1) and 245.010(a) of the Texas Health & Safety Code. The prohibition in this subsection includes, but is not limited to:

- (1) Offering or knowingly providing transportation to or from an abortion provider;
- (2) Giving instructions over the telephone, the internet, or any other medium of communication regarding self-administered abortion;
- (3) Offering or providing money with the knowledge that it will be used to pay for, offset, or reimburse the costs of an abortion or the costs associated with procuring an abortion;
- (4) Providing or arranging for insurance coverage of an abortion;
- (5) Offering or providing “abortion doula” services;
- (6) Providing referrals to an abortion provider;
- (7) Coercing or pressuring a pregnant mother to have an abortion; and
- (8) Engaging in conduct that makes one an accomplice to abortion under section 7.02 of the Texas Penal Code.

(d) This subsection may not be construed to impose civil or criminal liability on any speech or conduct protected by the First Amendment of the United States Constitution, as made applicable to the states through the United States Supreme Court's interpretation of the Fourteenth Amendment of the United States Constitution, or by Article 1, Section 8 of the Texas Constitution.

(e) This section may not be construed to prohibit conduct that Alvin, Texas, is forbidden to prohibit or regulate under state or federal law.

(f) It shall be an affirmative defense if the unlawful acts described in Subsection (b) were taken in response to a life-threatening physical condition aggravated by, caused by, or arising from a pregnancy that, as certified by a physician, places the woman in danger of death or a serious risk of substantial impairment of a major bodily function unless an abortion is performed. The defendant shall have the burden of proving this affirmative defense by a preponderance of the evidence.

(g) Under no circumstance may the woman upon whom the abortion was performed, or the pregnant woman who seeks to abort her unborn child, be subject to prosecution or penalty under this section.

(h) Whoever violates this section shall be subject to the maximum penalty permitted under Texas law for the violation of a municipal ordinance governing public health, and each violation shall constitute a separate offense.

(i) Neither the City of Alvin, nor any of its officers or employees, nor any district or county attorney, nor any executive or administrative officer or employee of any state or local governmental entity, may impose or threaten to impose the penalty described in Subsection (h) unless and until:

(1) The Supreme Court overrules *Roe v. Wade*, 410 U.S. 113 (1973), and *Planned Parenthood v. Casey*, 505 U.S. 833 (1992), and permits states and municipalities to punish anyone who violates an abortion prohibition, or

(2) A state or federal court enters a declaratory judgment or otherwise rules that the imposition or threatened imposition of this penalty upon the particular person, corporation, or entity that committed the unlawful act described in Subsection (h) will not impose an "undue burden" on women seeking abortions; or

(3) A state or federal court enters a declaratory judgment or otherwise rules that the person, corporation, or entity that committed the unlawful act described in Subsection (h) lacks third-party standing to assert the rights of women seeking abortions in court.

(j) The penalty provided in Subsection (h) may not be imposed or threatened against any individual or entity if a previous decision of the Supreme Court of the United States established that the conduct of that individual or entity was constitutionally protected at the time it occurred.

(k) The non-imposition of the penalties described in Subsection (h) does not in any way legalize the conduct that has been outlawed by this section, and it does not in any way limit or affect the availability of the private-enforcement remedies established in Section 15-136. Abortion remains and is to be regarded as an illegal act under city law and a criminal act under state law, except when abortion is necessary to save the life of the mother.

(l) Mistake of law shall not be a defense to the penalty established Subsection (h).

(m) Any official of the city of Alvin, Texas, who becomes aware that an individual or organization is performing or aiding or abetting abortions in violation of in violation of any statute enacted by the Texas legislature, including articles 4512.1 and 4512.2 of the Revised Civil Statutes, as well as sections 171.0031(a)(1) and 245.010(a) of the Texas Health & Safety Code, shall report that individual or organization to the district attorney of Brazoria County, or to the district attorneys with jurisdiction over that individual or organization, for criminal prosecution under articles 4512.1 and 4512.2 of the Revised Civil Statutes and section 7.02 of the Texas Penal Code.

Sec. 15-136. Private Right of Action

(a) Any person, other than an officer or employee of a state or local governmental entity in this state, may bring a civil action in state court against any person who violates or intends to violate sections 15-132, 15-133, 15-134, or 15-135.

(b) If a claimant prevails in an action brought under this section, the court shall award:

(1) injunctive relief sufficient to prevent the defendant from violating section 15-132, 15-133, 15-134, or 15-135 in the future;

(2) statutory damages in an amount of not less than \$10,000 for each violation of section 15-132, 15-133, 15-134, or 15-135 that the defendant committed; and

(3) costs and attorney's fees.

(c) Notwithstanding Subsection (b), a court may not award relief under this section if the defendant demonstrates that the defendant previously paid

statutory damages in a previous action for the particular conduct that violated section 15-132, 15-133, 15-134, or 15-135.

(d) There is no statute of limitations for an action brought under this section.

(e) The following are not a defense to an action brought under this section:

(1) ignorance or mistake of law;

(2) a defendant's belief that the requirements of this section, or the requirements of sections 15-132, 15-133, 15-134, or 15-135, are unconstitutional or were unconstitutional;

(3) a defendant's reliance on any court decision that has been overruled on appeal or by a subsequent court, even if that court decision had not been overruled when the defendant engaged in conduct that violates sections 15-132, 15-133, 15-134, or 15-135;

(4) a defendant's reliance on any state or federal court decision that is not binding on the court in which the action has been brought;

(5) nonmutual issue preclusion or nonmutual claim preclusion;

(6) the consent of the unborn child's mother to the abortion; or

(7) any claim that the enforcement of sections 15-132, 15-133, 15-134, or 15-135 or the imposition of civil liability against the defendant will violate the constitutional rights of third parties, except as provided by section 15-137.

(f) An action under this section must be brought in state court and not in the local or municipal courts;

(g) This section may not be construed to impose liability on any speech or conduct protected by the First Amendment of the United States Constitution, as made applicable to the states through the United States Supreme Court's interpretation of the Fourteenth Amendment of the United States Constitution, or by Article 1, Section 8 of the Texas Constitution;

(h) Neither the city of Alvin, Texas, nor any state or local official may intervene in an action brought under this section. This subsection does not prohibit a person or entity described by this subsection from filing an amicus curiae brief in the action.

(i) A civil action under this section may not be brought by any person who impregnated the abortion patient through an act of rape, sexual assault, incest, or any other unlawful act.

(j) Under no circumstance may a civil action under this section be brought against the mother of the unborn child that has been aborted, or the pregnant woman who seeks to abort her unborn child.

Sec. 15-137. Civil Liability: Undue Burden Defense

(a) A defendant against whom an action is brought under Section 15-136 does not have standing to assert the rights of women seeking an abortion as a defense to liability under that section unless:

- (1) the United States Supreme Court or the Supreme Court of Texas holds that the courts of this state must confer standing on that defendant to assert the third-party rights of women seeking an abortion in state court as a matter of federal or state constitutional law; or
- (2) the defendant has standing to assert the rights of women seeking an abortion under the tests for third-party standing established by the United States Supreme Court.

(b) A defendant in an action brought under Section 15-136 may assert an affirmative defense to liability under this section if:

- (1) the defendant has standing to assert the third-party rights of a woman or group of women seeking an abortion in accordance with Subsection (a); and
- (2) the defendant demonstrates that the relief sought by the claimant will impose an undue burden on that woman or that group of women seeking an abortion, or otherwise violate the rights of women seeking abortions under the United Constitution.

(c) A court may not find an “undue burden” under Subsection (b) unless the defendant introduces evidence proving that:

- (1) an award of relief will prevent a woman or a group of women from obtaining an abortion; or
- (2) an award of relief will place a substantial obstacle in the path of a woman or a group of women who are seeking an abortion.

(d) A defendant may not establish an “undue burden” under this section by:

- (1) merely demonstrating that an award of relief will prevent women from obtaining support or assistance, financial or otherwise, from others in their effort to obtain an abortion; or

- (2) arguing or attempting to demonstrate that an award of relief against other defendants or other potential defendants will impose an undue burden on women seeking an abortion.
- (e) The affirmative defense under Subsection (b) is not available if the United States Supreme Court overrules *Roe v. Wade*, 410 U.S. 113 (1973), or *Planned Parenthood v. Casey*, 505 U.S. 833 (1992).
- (f) Nothing in this section shall in any way limit or preclude a defendant from asserting the defendant's personal constitutional rights as a defense to liability under Section 15-136, and a court may not award relief under Section 15-136 if the conduct for which the defendant has been sued was an exercise of state or federal constitutional rights that personally belong to the defendant.

Sec. 15-138. Severability

(a) Mindful of *Leavitt v. Jane L.*, 518 U.S. 137 (1996), in which in the context of determining the severability of a state statute regulating abortion the Supreme Court of the United States held that an explicit statement of legislative intent is controlling, the provisions and applications of this article shall be severable as follows:

- (1) It is the intent of the city council that every section, provision, subsection, sentence, clause, phrase, or word in this article, and every application of the provisions in this article, are severable from each other. If any application of any provision in this article to any person, group of persons, or circumstances is found by a court to be invalid or unconstitutional, then the remaining applications of that provision to all other persons and circumstances shall be severed and may not be affected. All constitutionally valid applications of the provisions in this article shall be severed from any applications that a court finds to be invalid, leaving the valid applications in force, because it is the city council's intent and priority that the valid applications be allowed to stand alone. Even if a reviewing court finds a provision of this article to impose an undue burden in a large or substantial fraction of relevant cases, the applications that do not present an undue burden shall be severed from the remaining applications and shall remain in force, and shall be treated as if the city council had enacted an provision limited to the persons, group of persons, or circumstances for which the provision's application do not present an undue burden. The city council further declares that it would have enacted this article, and each provision, section, subsection, sentence, clause, phrase, or word, and all constitutional applications of this article, irrespective of the fact that any provision, section, subsection, sentence, clause, phrase, or word, or

applications of this article were to be declared unconstitutional or to represent an undue burden.

- (2) If any court declares or finds a provision in this article facially unconstitutional, when there are discrete applications of that provision that can be enforced against a person, group of persons, or circumstances without violating the Constitution, then those applications shall be severed from all remaining applications of the provision, and the provision shall be interpreted, as a matter of city law, as if the city council had enacted a provision limited to the persons, group of persons, or circumstances for which the provision's application will not violate the Constitution.
- (3) If any provision of this article is found by any court to be unconstitutionally vague, then the applications of that provision that do not present constitutional vagueness problems shall be severed and remain in force, consistent with the declarations of the city council's intent in Subsections (a)(1) and (a)(2), and the provision shall be interpreted, as a matter of city law, as if the city council had enacted a provision limited to the persons, group of persons, or circumstances for which the provision's application do not present constitutional vagueness problems.
- (4) No court may decline to enforce the severability requirements in Subsections (a)(1), (a)(2), and (a)(3) on the ground that severance would "rewrite" the ordinance or involve the court in legislative or lawmaking activity. A court that declines to enforce or enjoins a locality or government official from enforcing a subset of an ordinance's applications is never "rewriting" an ordinance, as the ordinance continues to say exactly what it said before. A judicial injunction or declaration of unconstitutionality is nothing more than a non-enforcement edict that can always be vacated by later courts if they have a different understanding of what the Constitution requires; it is not a formal amendment of the language in a statute or ordinance. A judicial injunction or declaration of unconstitutionality no more "rewrites" an ordinance than a decision by an executive official not to enforce a duly enacted statute or ordinance in a limited and defined set of circumstances.
- (5) If any federal or state court ignores or declines to enforce the requirements of Subsections (a)(1), (a)(2), (a)(3), or (a)(4), or holds a provision of this article invalid or unconstitutional on its face after failing to enforce the severability requirements of Subsections (a)(1),

(a)(2), (a)(3) and (a)(4), for any reason whatsoever, then the Mayor shall hold delegated authority to issue a saving construction of this article that avoids the constitutional problems or other problems identified by the federal or state court, while enforcing the provisions of this article to the maximum possible extent. The saving construction issued by the Mayor shall carry the same force of law as an ordinance; it shall represent the authoritative construction of this article in both federal and state judicial proceedings; and it shall remain in effect until the court ruling that declares invalid or enjoins the enforcement of the original provision in this article is overruled, vacated, or reversed.

(6) The Mayor must issue the saving construction described in Subsection (a)(5) within 20 days after a judicial ruling that declares invalid or enjoins the enforcement of a provision of this article after failing to enforce the severability requirements of Subsections (a)(1), (a)(2), (a)(3), and (a)(4). If the Mayor fails to issue the saving construction required by Subsections (a)(5) within 20 days after a judicial ruling that declares invalid or enjoins the enforcement of a provision of this article after failing to enforce the severability requirements of Subsections (a)(1), (a)(2), (a)(3), and (a)(4), or if the Mayor's saving construction fails to enforce the provisions of the article to the maximum possible extent permitted by the Constitution or other superseding legal requirements, as construed by the federal or state judiciaries, then any person may petition for a writ of mandamus requiring the Mayor to issue the saving construction described in Subsection (a)(5).

D. EFFECTIVE DATE

This ordinance shall go into immediate effect upon a majority vote within the Alvin, Texas City Council meeting.

PASSED, ADOPTED, SIGNED and APPROVED,

Mayor of the City of Alvin, Texas

City Secretary of the City of Alvin, Texas

FURTHER ATTESTED BY “WE THE PEOPLE,” THE CITIZENS and WITNESSES
TO THIS PROCLAMATION, THIS _____ DAY OF _____, THE YEAR OF
OUR LORD _____.

WITNESS: _____

WITNESS: _____