

HOME RULE CHARTER  
OF THE  
CITY OF MERCEDES, TEXAS

ARTICLE I

POWERS OF THE CITY

SECTION 1.01 GENERAL POWERS; INCORPORATION:

The inhabitants of the City of Mercedes, Hidalgo County, Texas, within the corporate limits as now established or as hereafter established in the manner provided by this charter, shall continue to be and are hereby constituted a municipal body politic and corporate, in perpetuity, under the name of the "City of Mercedes" hereinafter referred to as "the City" with such powers, privileges, rights, duties and immunities as are herein provided.

Mercedes shall be a Home Rule City, with full power of local self government, including the right to amend this Charter, as provided by the Constitution and the laws of this state. It shall have and may exercise all the powers granted to cities by the Constitution and laws of this state. It shall have and may exercise all the powers granted to cities and the Constitution or laws of Texas including specifically those powers made available to cities of more than 5,000 inhabitants by what is known as the Home Rule Amendment to the Constitution of Texas (Article XI, Section 5) and the Home Rule Enabling Act (Chapter 13, Title 28 of the Revised Civil Statutes of the State of Texas, 1925), as now or hereafter amended. The City may acquire property within or without its corporate limits for any municipal purpose; may cooperate with the government of Texas or any agency thereof, or with the federal government or any agency thereof, or with the government of any county, city or political subdivision to accomplish any lawful purpose for the advancement of the health, morals, safety, convenience or welfare of the City or its inhabitants; may sell, lease, mortgage, hold, maintain and control such property as its interest may require; provided the City shall not sell, convey, lease, mortgage, or otherwise alienate any city-owned public utility without prior approval by the qualified voters of the City; and may exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this Charter or the Constitution or laws of Texas. The enumeration of particular powers in this Charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated herein, implied thereby or appropriate to the exercise thereof, the City shall have and may exercise all other powers which under the Constitution and general laws of this state it would be competent for this Charter to specifically enumerated.

SECTION 1.02 EMINENT DOMAIN:

The City shall have the full power and right to exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this charter or by the Constitution and laws of the State of Texas. The City may exercise the power of eminent domain in any manner authorized or permitted by the Constitution and laws of this State for use by municipal, railroad or public utility corporations. The power of eminent domain hereby conferred shall include the right of the City to take the fee in land so condemned and such power and authority shall include the right to condemn public property for such purposes. The City shall have and possess the power of condemnation for any municipal or public purposes even though not specifically enumerated in this Charter.

SECTION 1.03 STREETS AND PUBLIC PROPERTY: STREET DEVELOPMENT AND IMPROVEMENT

The City shall have exclusive dominion, control, and jurisdiction in, upon, over, and under the public streets, sidewalks, alleys, highways, public squares, and public ways within the corporate limits of the City, and in, upon, over, and under all public property of the City. With respect to each and every public street, sidewalk, alley, highway, public square, or other public way within the corporate limits of the City, the City

shall have the power to establish, maintain, alter, abandon, or vacate the same; to regulate, establish, or change the grade thereof; to control and regulate the use thereof; and to abate and remove in a summary manner any encroachment thereon.

The City shall have the power to develop and improve or cause to be developed and improved, any and all public streets, sidewalks, alleys, highways, and other public ways within the corporate limits of the City by laying out, opening, narrowing, widening, straightening, extending and establishing building lines along the same; by purchasing, condemning, and taking property therefore; by filling, grading, raising, lowering, paving, repaving and repairing, in a permanent manner, the same; and by constructing, reconstructing, altering, repairing, and realigning curbs, gutters, drains, sidewalks, culverts, and other appurtenances and incidentals in connection with such developments and improvements. The City may make or cause to be made any one or more of the kinds or classes of development and improvement authorized hereinabove, or any combination or parts thereof. The cost of such development and improvement shall be paid by the City, or partly by the City and partly by assessments levied against the property abutting thereon and the owners thereof, and such assessments may be levied in any amounts and under any procedure now or hereafter permitted by state law.

If improvements be ordered constructed in any part of the area between and under rails, tracks, double-tracks, turnouts and switches, and two feet on each side thereof, of any railway, using, occupying, or crossing any such highway, portion or portions thereof, ordered improved, then the City Commission shall have the power to assess the whole cost of improvements in such areas against such railway, and shall have power, by ordinance to levy a special tax upon such railway, and its road-bed, ties, rails, fixtures, rights and franchises, which tax shall constitute a lien thereon superior to any other lien or claim except State, county, and City ad valorem taxes, and which may be enforced either by sale of said property in the manner provided by law for the collection of ad valorem taxes by the City, or by suit in any court having jurisdiction. The ordinance levying such tax shall prescribe the time, terms and conditions of payment thereof, and the rate of interest shall not exceed the highest rate allowed by law and same, if not paid when due, shall be collectible, together with interest, expenses of collection and reasonable attorney's fees if incurred. The City Commission shall have the power to cause to be issued assignable certificates in evidence of any such assessments.

As an alternate and cumulative method of developing, improving, and paving any and all public streets, sidewalks, alleys, highways and other public ways within the corporate limits, the City shall have the power and authority to proceed in accordance with Chapter 106, page 489, Acts 1927, Fortieth Legislature, First Called Session, as now or hereafter amended; to adopt plans and specifications pursuant thereto; to pay the contractor, in cash, that part of the cost which may be assessed against the abutting property and the owners thereof; to reimburse itself for the amount paid such contractor by levying assessments against the abutting property and the owners thereof, after the hearing and notice prescribed in the aforesaid statutes, in an amount permitted by said statutes and not in excess of the enhancement in value of such property occasioned by the improvements; and to issue assignable certificates in favor of the City for such assessments, said certificates to be enforceable in the manner prescribed by the aforesaid statutes. The City shall likewise have the power to make any such development, improvement or paving with its own forces if, in the opinion of the City Commission, the work can be done more expeditiously or economically, and in such event the City shall have the power to reimburse itself for the cost of such improvement in the same amount and in the same manner as if the work had been performed by a successful bidding contractor.

#### SECTION 1.04 EXTENSION OR DETACHMENT OF BOUNDARIES:

(A.) The City Commission shall have the power by ordinances to fix the boundary limits of the City of Mercedes; and to provide for the alteration, and extension of said boundary limits, the detachment of territory and the annexation of additional territory lying adjacent to the City, with or without the consent of the territory and inhabitants annexed or detached. Before the City may institute annexation or detachment proceedings, the City Commission shall provide an opportunity for all interested persons to be heard at a public hearing to be held not more than twenty (20) days nor less than ten (10) days prior to institution of such proceedings. Notice of such hearing shall be published in a newspaper published in the City of Mercedes, or if none, in a newspaper having general circulation in the City and in the territory proposed to

be annexed or detached. The notice shall be published at least once in such newspaper not more than twenty (20) days nor less than ten (10) days prior to the hearing. However, amendments not affecting the boundary limits set forth in the proposed ordinance may be incorporated into the proposed ordinance without the necessity of re-publication of said notice. Annexation or detachment of territory by the City shall be brought to completion within ninety (90) days of the date on which the City Commission institutes annexation or detachment proceedings or be null and void. Provided, however, any period of time which the City is restrained or enjoined from annexing or detaching any such territory by a court of competent jurisdiction shall not be computed in such ninety (90) day limitation period. Upon final passage of any such ordinance, the corporate limits of the City shall thereafter include (exclude) the territory so annexed (detached); and when any additional territory has been so annexed, the same shall be part of the City of Mercedes, and the inhabitants thereof shall be entitled to all the rights and privileges of all citizens, and shall be bound by the acts and ordinances, resolutions; and regulations of the City. Upon the final adoption of any ordinance detaching territory from the City, the corporate limits of the City shall be reduced by the territory so detached, but said territory shall still be liable for its pro rata share of any debts incurred while said area was part of said City, and the City shall continue to levy, assess, and collect taxes on the property within said territory to pay the indebtedness incurred while said area was a part of the City as though the same has not been excluded from the boundaries of the City.

(B.) ANNEXATION BY ANY OTHER METHOD PROVIDED BY LAW

Additional territory may also be annexed to the City in any manner and by any procedure that may now be provided by law or that may be hereafter provided by law. Same shall be in addition to the methods hereinabove provided.

(C.) EXTENSION OF MUNICIPAL UTILITIES

The City shall within the time limits prescribed by state law, provide or cause to be provided such area with governmental and proprietary services, the standard and scope of which are substantially equivalent to the standard and scope of governmental and proprietary services furnished by the City in other areas of the City which have characteristics or topography patterns of land utilization, and population density similar to that of the particular area annexed. Should the City fail to extend or provide for such extension within three (3) years, the owners of the annexed territory may petition the City Commission to de-annex the territory. If the City Commission fails to act on said petition within three (3) months of the date of filing, the owners may then resort to suit in district court to require de-annexation.

## ARTICLE II

### CITY COMMISSION

#### SECTION 2.01 NUMBER, ELIGIBILITY, ELECTION, AND TERM:

The legislative and governing powers of the City of Mercedes shall be vested in a Commission, which shall consist of a Mayor and four Commissioners, to be known as the City Commission.

Only qualified voters of the City shall be eligible for election to the City Commission.

The Mayor and the other members of the City Commission shall be elected from the City at large.

Terms of each shall extend three (3) years

No person shall serve more than three (3) consecutive terms on the Mercedes City Commission.

SECTION 2.02 MAYOR:

The Mayor shall be a member of the City Commission and may vote on all matters coming before that body, but shall have no veto power. He shall preside at meetings of the Commission, shall be recognized as head of the city government for all ceremonial purposes and by the governor for purposes of military law, but shall have no administrative duties. The City Commission shall elect from among its members a Mayor Pro-Tem, who shall act as Mayor during the absence or disability of the Mayor.

SECTION 2.03 STIPEND: EXPENSES:

The City Commission shall determine the stipend of the Mayor and City Commissioners by ordinance, but no ordinance increasing such stipend shall become effective until the date of commencement of the terms of the Mayor or City Commissioners elected at the next regular election, provided that such election follows the adoption of such ordinance by at least six months. The Mayor and City Commissioners shall receive their actual and necessary expenses incurred in the performance of their duties of office, except they shall not be reimbursed for their time, other than as provided above in this section.

SECTION 2.04 GENERAL POWERS:

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

SECTION 2.05 PROHIBITIONS:

Except where authorized by law, no Mayor or City Commissioner may hold any other City office, city employment or compensated position with any other City-funded entity during the term for which he was elected nor shall any City Commissioner benefit financially from any referrals or recommendations made by or through the City. No former Mayor or City Commissioner shall hold any compensated appointive office of the City or any City employment until one year after the term to which he was elected to the City Commission has expired, except as noted in Section 3.01.

Also, neither the City Commission nor any of its members shall in any manner dictate the appointment or removal of any City administrative officers or employees whom the City Manager or any of his subordinates are empowered to appoint, but they may discuss such appointments and removals at times and places where such discussions are permitted by law.

And, except for the purpose of investigations under Section 2.09, the City Commission or its members shall deal with City officers and employees who are subject to the supervision of the City Manager solely through the City Manager, and neither the City Commission nor its members shall give any order to any such officer or employee, either publicly or privately.

SECTION 2.06 VACANCIES; FORFEITURES; FILLING OF VACANCIES:

VACANCIES

The office of a City Commissioner or Mayor shall become vacant upon his death, resignation, removal from office in any manner authorized by law or forfeiture of his office.

FORFEITURES

A City Commissioner or Mayor shall forfeit his office if he (1) lacks at any time during his term of office

any qualification for the office prescribed by the Charter or by law, (2) violates any express prohibition of this Charter, (3) is convicted of a crime involving moral turpitude, or (4) fails to attend three consecutive regular meetings of the City Commission without being excused by the City Commission, and said absence shall be excused only by a majority vote of the City Commission at the meeting from which the Commissioner or Mayor is absent, or at the next regular meeting.

#### FILLING OF VACANCIES

A vacancy in the City Commission shall be filled for the remainder of the unexpired term by election at the next available uniform election date provided by State law; provided that if the unexpired term shall be one (1) year or less, the City Commission may choose to fill such vacancy by appointment.

#### SECTION 2.07 JUDGE OF QUALIFICATIONS:

The City Commission shall be the judge of the election and qualification of its members and the grounds for forfeiture of office. A member charged with conduct constituting grounds for forfeiture of his office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in a newspaper published in the City, or, if none, in a newspaper of general circulation in the City, at least ten (10) days in advance of the hearing. Decisions made by the City Commission under this section shall be subject to review by the courts.

#### SECTION 2.08 CITY SECRETARY:

The City Manger shall have the power to employ and discharge an officer of the City who shall have the title of City Secretary. The City Secretary shall give notice of City Commission meetings to its members and the public, keep the journal of its proceedings and perform such other duties as are assigned to him by this Charter or the City Commission.

#### SECTION 2.09 INVESTIGATIONS:

The City Commission may make investigations into the affairs of the City and the conduct of any City department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Failure to comply with any orders issued under this section shall be punishable by a fine not to exceed \$200.

#### SECTION 2.10 INDEPENDENT AUDIT:

The City Commission shall provide for an independent annual audit of all City accounts and may provide for such audits more frequently as it considers necessary. Such audits shall be made by a certified public accountant or firm annually and shall be submitted to the City Commission no later than 90 days from the closing of the fiscal year. The City Commission shall cause to be prepared and published in a newspaper published in the City of Mercedes, or if none exists, in a newspaper having general circulation in the City, a complete financial statement of the affairs of the City once each year.

#### SECTION 2.11 PROCEDURE:

##### (A.) MEETINGS

The City Commission shall meet regularly on the first and third Tuesday of each month at times and places established by rule. Special meeting may be conducted on the call of the Mayor or of three City Commission members, with adequate notice to be given to each member. All meetings shall be conducted in compliance with the Texas Open Meetings Law.

#### RULES AND JOURNAL:

**(B) RULES AND JOURNAL:**

The City Commission shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record. In lieu of adopted rules by the City Commission, the City Commission shall conduct its meeting in accordance with the latest edition Robert's Rules of Order.

**(C.) VOTING**

On any vote, except on procedural motions, a roll call vote be called for by the majority of the City Commission and a record of ayes and nays entered in the journal. Three (3) members of the City Commission shall constitute quorum. No action of the City Commission shall be valid or binding unless adopted by the affirmative vote of three (3) or more members. Provided, however, that if because of vacancies o the City Commission the total membership of the City Commission is reduced to less than three (3), then a quorum shall consist of all remaining members of the City Commission, and all actions must be by affirmative vote of all remaining members of the City Commission.

**SECTION 2.12 ACTION REQUIRING AN ORDINANCE:**

In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the City Commission shall be by ordinance which:

Adopt or amend an administrative code or establish, alter or abolish any city department, office or agency;  
Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed.

Levy taxes, except as otherwise provided in this Charter with respect to the property tax levied by adoption of the budget;

Grant, renew or extend a franchise;

Regulate the rate charged for its services by a public utility;

Authorize the borrowing of money;

Convey or lease or authorize the conveyance or lease of any lands of the City;

Adopt with or without amendment ordinance proposed under the initiative power;

Amend or repeal any ordinance previously adopted, except with respect to repeal of ordinances reconsidered under the referendum power.

**SECTION 2.13 PROCEDURE FOR PASSAGE OF ORDINANCES:**

The City Commission shall legislate by ordinance, and the enacting clause of every ordinance shall be, "Be It Ordained by the City Commission of the City of Mercedes..." The City attorney shall approve all ordinances adopted by the City Commission, as to the legality thereof or shall file with the City Secretary his written legal objections thereto. Evidence of approval of an ordinance by the City Attorney may be notation on the ordinance itself, or by separate paper or instrument. Every ordinance enacted by the City Commission shall be signed by the Mayor, Mayor Pro-Term or by two City Commissioners and shall be filed with and recorded by the City Secretary. All ordinances shall be read in open meeting of the City Commission on two different days, each of which may be by caption only reading provided, however, that upon request of any person in attendance at the meeting, the first reading shall be total and verbatim; providing further that the rule herein described requiring ordinances to be read on two different days may be dispensed with for the purpose of adopting emergency ordinances which shall upon consent of three or more members of the City Commission be adopted. Unless otherwise provided by law or by this Charter, no ordinance shall become effective until the expiration of ten (10) days following the date of its final passage, except where an ordinance relating to the immediate preservation of the public peace, health or safety is adopted as an emergency measure by the favorable votes of three or more members of the City Commission and contains a statement of the nature of the emergency. The City Secretary shall give notice of the passage of every ordinance imposing a penalty, fine or forfeiture for a violation thereof, and of every other ordinance required by law or this Charter to be published, by causing the said ordinance, or its caption and penalty, to be published at least once within ten (10) days after passage in a newspapers published in the City of Mercedes, or if none, in a newspaper of general circulation in the City.

**SECTION 2.14 OFFICIAL BONDS FOR CITY EMPLOYEES:**

The City Manager and City Secretary and other such City officers and employees as the city Commission may require, shall, before entering upon the duties of their offices enter into a good and sufficient fidelity bond in a sum to be determined by the City Commission, payable to the City of Mercedes and conditioned upon the faithful discharge of the duties of such persons and upon the faithful accounting for all monies credits, and things of value coming into the hands of such persons, and such bonds shall be signed as surety by some company authorized to do business under the laws of Texas and the premium on such bonds shall be paid by the City of Mercedes, and such bonds must be acceptable to the City Commission.

#### SECTION 2.15 CODES OF TECHNICAL REGULATIONS:

The City Commission may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally, except that:

The requirements of Section 2.13 for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as the adopting ordinances.

A copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the City Secretary pursuant to subsection 2.16 (A).

Copies of any adopted code of technical regulations shall be made available by the City Secretary for distribution to interested citizens, in accordance with regulations established by the City Commission.

#### SECTION 2.16 AUTHENTICATION; RECORDING; CODIFICATION RECOMMENDATION:

##### (A.) AUTHENTICATION AND RECORDING

The City Secretary shall authenticate by his signature and record in full in a properly indexed book kept for the purpose of all ordinances and resolutions adopted by the City Commission.

(B.) Within four years after the adoption of this Charter, the City Commission shall provide for the preparation of a general codification of all city ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the City Commission by ordinance and shall be published in bound or loose-leaf form, together with this Charter and any amendments thereto, pertinent provisions of the Constitution and other laws of the State of Texas, and such code of technical regulations and other rules and regulations as the City Commission may specify. This compilation shall be known and cited officially as The Mercedes City Code. Copies shall be furnished to City officers, libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the City Commission. The Mercedes City Code shall be subject to republication at regular intervals after the first such Code is created, preferably each ten (10) years.

##### (C.) PRINTING OF ORDINANCES AND RESOLUTIONS

The City Commission shall cause each ordinance and resolution having the force and effect of law and each amendment to this Charter to be printed promptly following its adoption, and the printed ordinances, resolutions and Charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the City Commission. Following publication of the first Mercedes City Code and at all times thereafter, the ordinances, or resolutions and Charter amendments shall be printed in substantially the same styles as the Code currently in effect and shall be suitable in form for integration therein. The City Commission shall make such further arrangements as it deems desirable with respect to reproduction and distributions of any current changes in or additions to the provisions of the Constitution and other laws of the State of Texas, or the codes of technical regulations and other rules and regulations included in the Code.

#### SECTION 2.17 MAYOR AS CHIEF EXECUTIVE OFFICER

The Mayor of the City of Mercedes is the Chief Executive Officer of said City. This provision in no way

alters the duties of the City Manager as set out in this Charter.

### ARTICLE III

#### CITY MANAGER

##### SECTION 3.01 APPOINTMENT, QUALIFICATIONS, AND COMPENSATION:

The City Commission shall appoint a City Manager and fix his compensation. He shall be chosen by the City Commission solely on the basis of executive and administrative training, experience, and ability. The City Commission may in its discretion offer an employment contract to the City Manager at any time and on such terms as the City Commission shall deem proper. In absence of a contract, the City Manager shall hold office at the will of the City Commission. No member of the City Commission shall, during the time for which he is elected, and for two years thereafter, be appointed City Manager.

##### SECTION 3.03 ACTING CITY MANAGER:

By letter filed with the City Secretary, the City Manager shall designate, subject to approval of the City Commission, a qualified City administrative officer to exercise the powers and perform the duties of City Manager during his temporary absence or disability. During such absence or disability, the City Commission may revoke such designation at any time and appoint another officer of the City to serve until the City Manager shall return or his disability shall cease.

##### SECTION 3.04 POWERS AND DUTIES OF THE CITY MANAGER:

The City Manager shall be the chief administrative office of the City. He shall be responsible to the City Commission for the administration of all City affairs placed in his charge by or under this Charter. He shall have the following powers and duties:

He shall appoint and, when he deems it necessary for the good of the service, suspend or remove all City employees and appointive administrative officers provided for by or under this Charter, except as otherwise provided by law, this Charter or personnel rules adopted pursuant to this charter. He may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.

He shall direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law.

He shall attend all City Commission meetings and shall have the right to take part in discussion but may not vote.

He shall see that all laws, provisions of this Charter and acts of the City Commission, subject to enforcement by him or by officers subject to his direction and supervisions, are faithfully executed.

He shall prepare and submit the annual budget and capital program to the City Commission.

He shall submit to the City Commission and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year.

He shall make such other reports as the City Commission may require concerning the operations of City departments, offices and agencies subject to his direction and supervision.

He shall keep the City Commission fully advised as to the financial condition and future needs of the City and make such recommendations to the City Commission concerning the affairs of the City as he deems desirable.

He shall perform such other duties as are specified in this Charter or may be required by the City Commission.

#### ARTICLE IV ADMINISTRATIVE DEPARTMENTS

##### SECTION 4.01 GENERAL PROVISIONS:

###### (A.) CREATION OF DEPARTMENTS

The City Commission may establish City departments, offices or agencies in addition to those created by this Charter and may prescribe the functions of all departments, offices and agencies, except that no function assigned by this Charter to a particular department, office or agency may be discontinued or, unless this Charter specifically so provides, assigned to any other.

###### (B.) DIRECTION BY CITY MANAGER

All departments, offices and agencies under the direction and supervision of the City Manager shall be administered by an officer appointed by and subject to the direction and supervision of the City Manager. With the consent of the City Commission, the City Manager may serve as the head of one or more such departments, offices or agencies or may appoint one person as the head of two or more of them.

###### (C.) EVALUATIONS

The City Commission will evaluate all contractual agreements for professional services one year from the date of the contract executions, and annually thereafter. Contract renewals are subject to City Commission evaluation of performance.

##### SECTION 4.02 PERSONNEL SYSTEM:

###### (A.) MERIT PRINCIPLE

All appointments and promotions of City officers and employees shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence.

###### (B.) PERSONNEL DIRECTOR

There shall be a personnel director, appointed by the City Manager as provided in Section 4.01, who shall administer the personnel system of the City.

###### (C.) PERSONNEL RULES

The personnel director shall prepare personnel rules. When approved by the City Manager, the rules shall be proposed to the City Commission, and the City Commission may by ordinance adopt them with or without amendment. These rules shall provide for:

1. The classification of all City positions, based on the duties, authority and responsibility of each position, with adequate provision of reclassification of any position whenever warranted by changed circumstances;

2. A pay plan for all City positions;
3. Methods for determining the merit and fitness of candidates for appointment or promotion;
4. The policies and procedures regulating reduction in force and removal of employees;
5. The hours of work, attendance regulations and provisions for sick and vacation leave;
6. The policies and procedures governing persons holding provisional appointments;
7. The policies and procedures governing relationships with employee organizations;
8. Policies regarding in-service training programs;
9. Grievance procedure;
10. Other practices and procedures necessary to the administration of the City personnel system.

#### SECTION 4.03 LEGAL OFFICER:

There shall be a legal officer of the City, appointed by the City Commission who shall serve as chief legal adviser to the City Commission, the City Manager and all City departments, offices and agencies, and who shall represent the City in all legal proceedings and shall perform any other duties prescribed in the Charter or ordinance.

The City Commission of the City of Mercedes may appoint one or more legal officers of the City each of whom, must be authorized to practice law in the State of Texas.

#### (A.) MUNICIPAL JUDGE

That the position of Municipal Judge of said City be created, said Judge to be appointed by the City Commission of the City of Mercedes, Texas, which appointment shall be for one-year term, subject to re-appointment each year thereafter.

### ARTICLE V FINANCIAL PROCEDURES

#### SECTION 5.01 FISCAL YEAR:

The fiscal year of the City of Mercedes shall begin on the first day of October and shall end on the last day of September of the next following calendar year. Such fiscal year shall also constitute the budget and accounting year. The City Commission shall have the power to change the dates of the fiscal year as herein defined, after published notice and a public hearing.

#### SECTION 5.02 PREPARATION AND SUBMISSION OF BUDGET:

The City Manager, at least thirty (30) days prior to the beginning of each fiscal year, shall submit to the City Commission a proposed budget, which budget shall provide a complete financial plan for the fiscal year and shall contain the following:

1. A budget message, explanatory of the budget, which details shall contain an outline of the proposed financial policies of the City for the ensuing fiscal year, shall set forth any reasons for salient

changes from the previous fiscal year in expenditure and revenue items, and shall explain all major changes in financial policy.

2. A consolidated statement of anticipated receipts and proposed expenditures for all funds.
3. An analysis of property valuations.
4. An analysis of tax rate.
5. Tax levies and tax collections by years for the five (5) preceding years.
6. General fund resources in detail.
7. Special fund resources in detail.
8. Summary of proposed expenditures by function, department, and activity.
9. Detailed estimates of expenditures shown separately for each activity to support summary 8 above.
10. A revenue and expense statement for all types of bonds.
11. A description of all bond issues outstanding, showing rate of interest, date of issue, maturity rate, amount authorized, amount issued and amount outstanding.
12. A schedule of requirements for the principal and interest of each issue of bonds.
13. The appropriation ordinance.
14. The tax-levying ordinance.

#### SECTION 5.03 CAPITAL PROGRAM:

##### (A.) SUBMISSION TO CITY COMMISSION

The City Manager shall prepare and submit to the City Commission a five-year capital program at least thirty (30) days prior to the final date for submission of the budget.

##### (B.) CONTENTS

The capital program shall include:

1. A clear general summary of its contents;
2. A list of all capital improvements which are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;
3. Cost estimates, method of financing and recommended time schedule for each such improvement; and
4. The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

#### SECTION 5.04 CITY COMMISSION ACTION ON CAPITAL PROGRAM:

(A.) NOTICE AND HEARING

The City Commission shall publish in one or more newspapers of general circulation in the City the general summary of the capital program and a notice stating:

1. The times and places where copies of the capital program are available for inspection by the public; and
2. The time and place, not less than two weeks after such publication, for a public hearing on the capital program.

(B.) ADOPTION

The City Commission by resolution shall adopt the capital program with or without amendment after the public hearing and on or before the fifteenth day of July of the then current fiscal year.

SECTION 5.05 ANTICIPATED REVENUES COMPARED WITH OTHER YEARS IN BUDGET:

In preparing the budget, the City Manager shall place in parallel columns opposite the several items of revenue; the actual amount of each item for the last completed fiscal year, the estimated amount for the current fiscal year, and the proposed amount for the ensuing fiscal year.

SECTION 5.06 PROPOSED EXPENDITURES COMPARED WITH OTHER YEARS:

The City Manager in the preparation of the budget shall place in parallel columns opposite the various items of expenditures; the actual amount of such items of expenditures for the last completed fiscal year, the estimated amount for the current fiscal year and the proposed amount for the ensuing fiscal year.

SECTION 5.07 BUDGET A PUBLIC RECORD:

The budget and all supporting schedules shall be filed with the person performing the duties of City Secretary, submitted to the City Commission and shall be a public record. The City Manager shall provide copies for distribution to all interested persons.

SECTION 5.08 NOTICE OF PUBLIC HEARING ON BUDGET:

At the meeting of the City Commission at which the budget is to be submitted, the City Commission shall fix the time and place of public hearing on the budget and shall cause to be published in one or more newspapers published in the City of Mercedes, or if none, in a newspaper having general circulation in the City, a general summary of the proposed budget and a notice of the hearing setting forth the time and place thereof at least seven (7) days before time of such hearing.

SECTION 5.09 PUBLIC HEARING ON BUDGET:

At a time and place set forth in the notice required by Section 5.08, or at any time and place to which such public hearing shall from time to time be adjourned, the City Commission shall hold a public hearing on the budget submitted and all interested persons shall be given an opportunity to be heard for or against any item or the amount of any item therein contained.

**SECTION 5.10 PROCEEDINGS ON BUDGET AFTER PUBLIC HEARING:**

As a result of such public hearing, the City Commission may insert new items or decrease the items of the budget, except items in proposed expenditures fixed by law, but where it shall increase the total proposed expenditures, it shall also provide for an increase in the total anticipated revenue to at least equal all proposed expenditures.

**SECTION 5.11 VOTE REQUIRED FOR ADOPTIONS:**

The budget shall be adopted by the favorable vote of a majority of the members of the whole City Commission.

**SECTION 5.12 DATE OF FINAL ADOPTION:**

The budget shall be finally adopted before the expiration of the fiscal year, and should the City Commission fail to so adopt a budget, the then existing budget together with its tax-levying ordinance and its appropriation ordinance, shall be deemed adopted for the ensuing fiscal year.

**SECTION 5.13 EFFECTIVE DATE OF BUDGET; CERTIFICATIONS; COPIES MADE AVAILABLE:**

Upon final adoption, the budget shall be in effect for the fiscal year. A copy of the budget, as finally adopted, shall be filed with the person performing the duties of City Secretary and such other officials as may be designated by law. The final budget shall be printed, mimeographed or otherwise reproduced and copies shall be made available for the use of all offices, departments, and agencies and for the use of interested persons and civic organizations.

**SECTION 5.14 BUDGET ESTABLISHES APPROPRIATIONS:**

From the effective date of budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes therein stated.

**SECTION 5.15 BUDGET ESTABLISHES AMOUNT TO BE RAISED BY PROPERTY TAX:**

From the effective date of the budget, the amount stated therein as the amount to be raised by property tax shall constitute a determination of the amount of the levy for the purposes of the City in the corresponding tax year; provided however, that in no event shall such levy exceed the legal limit provided by the laws and Constitution of the State Texas.

**SECTION 5.16 CONTINGENT APPROPRIATION:**

Provision shall be made in the annual budget and in the appropriation ordinance for a contingent appropriation in amount not more than three (3%) per centum of the total general fund budget resources, to be used in case of unforeseen items of expenditure. Such contingent appropriation shall be under the control of the City Manager and distributed by him, after approval of the City Commission. Expenditures from this appropriation shall be made only in case of established emergencies and a detailed account of such expenditures shall be recorded in the Minutes of the City Commission.

**SECTION 5.17 ESTIMATED EXPENDITURES SHALL NOT EXCEED ESTIMATED RESOURCES:**

The total estimated expenditures of the general fund and debt service fund shall not exceed the total estimated resources of each fund (prospective income plus cash on hand). The classification of revenue and expenditure accounts shall conform as nearly as local conditions will permit to the uniform classification as promulgated by the National Committee on Governmental Accounting or some other nationally accepted classification.

**SECTION 5.18 AMENDMENTS AFTER ADOPTION:**

**(A.) SUPPLEMENTAL APPROPRIATIONS**

If during the fiscal year the City Manager certifies that there are available for appropriations revenues in excess of those estimated in the budget, the City Commission by ordinance may make supplemental appropriations for the year up to the amount of such excess.

**(B.) EMERGENCY APPROPRIATIONS**

To meet a public emergency affecting life, health, property or the public peace, the City Commission may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with the provisions of Section 2.13. To the extent that there are no available unappropriated revenues to meet such appropriations, the City Commission may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals thereof in any fiscal year shall be paid not later than the last day of the then current fiscal year.

**(C.) REDUCTION APPROPRIATIONS**

If at any time during the fiscal year it appears probable to the City Manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the City Commission without delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The City Commission shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce one or more appropriations.

**(D.) TRANSFER OF APPROPRIATIONS**

At any time during the fiscal year the City Manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and, upon written request by the City Manager, the City Commission may by ordinance transfer part or all of any unencumbered appropriation balance from one department to another.

**(E.) LIMITATIONS: EFFECTIVE DATE**

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

**SECTION 5.19 LAPSE OF APPROPRIATIONS:**

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; if three years pass without any disbursement from or encumbrance of the appropriation, the purpose of any such appropriation shall be deemed abandoned.

**SECTION 5.20 PURCHASE PROCEDURE:**

All purchases made and contracts executed by the City shall be pursuant to a requisition from the head of the office, department or agency whose appropriation will be charged, and no contract or order shall be binding upon the City unless and until the City Manager certifies that there is to the credit of such office,

department or agency a sufficient unencumbered appropriation and an allotment balance to pay for the supplies, materials, equipment or contractual services for which the contract or order is to be issued. Before the City makes any purchase or contract for supplies, materials, equipment, or contractual services, opportunity shall be given for competition except as provided below. The City Commission may be ordinance convey upon the City Manager general authority to contract for expenditures without further approval of the City Commission for all budgeted items not exceeding the maximum amount State Law allows for expenditures without competitive bids. All contracts for expenditures shall be let to the lowest and best responsible bidder after there has been an opportunity for competitive bidding as provided for by law or by ordinance, except where expenditures are below the limit set by State Law, no competitive bids shall be required; provided that the City Commission or the City Manager in such cases as he is authorized to contract for the City, shall have the right to reject any and all bids. Contracts for personal or professional services shall not be let on competitive bids.

## ARTICLE VI

### MUNICIPAL PLANNING AND ZONING

#### SECTION 6.01 PLANNING COMMISSION

The City Commission shall appoint a City Planning Commission consisting of five members who shall be residents of and own real property in the City and shall serve without compensation. The City Manager and the President of the Board of Trustees of the Mercedes Independent School District shall be ex-officio members and shall have the right to submit any suggestions, plans and enter into any discussion before the City Planning Commission, but shall not be entitled to vote on any official matters.

#### SECTION 6.02 TERM OF OFFICE:

The members shall be appointed for a two (2) year term with two being appointed in even number of years and three being appointed in odd number of years.

#### SECTION 6.03 VACANCIES:

Vacancies occurring in the Planning Commission shall be filled within thirty (30) days by the City Commission for the remainder of the unexpired term. Membership shall be accompanied by active participation in the activities of the Planning Commission, and any member who is absent three consecutive regular meetings, shall automatically be dropped from membership and the Planning Commission shall immediately notify the City Commission that a vacancy exists.

#### SECTION 6.04 ORGANIZATION:

The actual Planning Commission shall elect a chairman from its membership annually and shall establish rules of procedure which shall include the following:

- (A.) A quorum shall consist of a majority of the membership and an affirmative vote of the majority of the membership shall be necessary to pass upon pending questions.
- (B.) The chairman shall be entitled to vote upon any questions.
- (C.) Minutes shall be kept of the proceedings of the Planning Commission and shall be a public record.
- (D.) All meetings shall be open to the public.

#### SECTION 6.05 POWERS AND DUTIES:

The Planning Commission shall have the power and be required to:

- (A.) Be responsible to and act as an advisory body to the City Commission.
- (B.) Make, amend, extend, and add to a master plan for the physical development of the City.
- (C.) Recommend to the City Commission approval or disapproval of proposed changes in the zoning plan.
- (D.) Review all plans for platting or sub-dividing of land within the City and within adjacent areas as permitted by law and submit findings and recommendations to the City Commission.
- (E.) Require information from other departments of the City government in relation to its work.
- (F.) Submit annually to the City Manager, not less than ninety (90) days prior to the beginning of the budget year, a list of recommended capital improvements found necessary or desirable.
- (G.) Perform such other duties and be vested with such other powers as the City Commission may prescribe in accordance with the laws of the State of Texas.

#### SECTION 6.06 DIRECTOR OF PLANNING:

When the City Commission shall determine that it is necessary or feasible, there shall be a Director of Planning who shall be appointed by the City Manager and who shall be qualified by special training and experience in the field of City Planning. The Director of Planning shall serve as the regular technical adviser of the Planning Commission, shall have the status of a director of a department, and shall have such other duties and responsibilities as the City Commission may establish.

#### SECTION 6.07 THE MASTER PLAN:

The Master Plan for the physical development of the City of Mercedes shall contain the Planning Commission's recommendations for growth, development and beautification of the City. A copy of the Master Plan, or any part thereof, shall be forwarded to the City Manager who shall thereupon submit such plan, or part, thereof, to the City Commission with his recommendations thereon. The City Commission may adopt this plan as a whole or in parts and may adopt any amendment thereto, after at least on public hearing on the proposed action. The City Commission shall act on such plan, or part thereof, within sixty (60) days following its submission by the City Manager. If the such plan, or part thereof, should be rejected by the City Commission the Planning Commission may modify such plan, or part thereof, and again forward it to the City Manager for submission to the City Commission. All amendments to the Master Plan recommended by the Planning Commission shall be submitted in the same manner as that outlined above to the City Commission for approval, and all recommendations to the City Commission from any City department affecting the Master Plan must be accompanied by a recommendation from the Planning Commission.

#### SECTION 6.08 LEGAL EFFECT OF MASTER PLAN:

Upon adoption of the Master Plan by the City Commission, no subdivision, street, park nor any public way, ground or space, public building, or structure, and no public utility, whether publicly or privately owned which is in conflict with the Master Plan, shall be constructed or authorized by the City until and unless the location and extent thereof shall have been submitted to and approval by the Planning Commission. In case of disapproval, the Planning Commission shall communicate its reasons to the City Commission, which shall have the power to overrule such disapproval and upon such overruling the City Commission or the appropriate office, department or agency shall have power to proceed. The widening, narrowing, relocating, vacating or change in the use of any street, river or water-course, or other public way or ground or the sale of any public building or real property shall be subject to similar submission and approval, and failure to approve may be similarly overruled by the City Commission. The failure of the Planning Commission to act within thirty (30) days after the date of official submission to the Planning Commission shall be deemed approval, unless a longer period be granted by the City Commission or the submitting official. That where

any person or persons, firm or corporation shall have made substantial investments in or improvements upon or if they are in the process of making such improvements upon any properties in reliance upon the Master Plan then in existence in the area where said improvements are made or are to be made, said plans as to such area shall not be changed if the same would work a detriment to the aforementioned unless written approval is first obtained from such person or persons, firm or corporation or unless it is absolutely necessary to make such a change in order to protect the health and safety of the residents of said City.

## ARTICLE VII NOMINATIONS AND ELECTIONS

### SECTION 7.01 ELECTIONS GOVERNED BY STATE LAWS:

All regular and special elections held by the City under the provision of this Charter shall be in accordance with the general laws of the State of Texas as now existing, or as hereinafter amended, for the holding of municipal elections.

### SECTION 7.02 ANNUAL ELECTIONS:

An election shall be held whenever a regular term of office for a member of the City Commission shall expire, on the first Saturday in May, at such places as the City Commission may direct, and of which thirty (30) days notice shall be given. Such election shall be ordered and notice thereof shall be given, and the election officers and supervisors appointed by the general laws of the State of Texas relative to the holding of regular municipal elections. The presiding officers and judges must be qualified voters in the City. The City Commission shall provide for their compensation, and by ordinance regulate and define their powers and duties. No irregularity in the notice herein provided for shall invalidate such election.

#### (A) NUMBERED PLACES FOR CITY COMMISSIONERS

That the four seats now held by the Four City Commissioners be numbered consecutively from one to four inclusive; that the numbers assigned to each chair be initially drawn by lot; that candidates for the office of the City Commission shall file for and run for a specifically numbered post instead of at large as heretofore, and that the person receiving the majority of votes of those running for that particularly enumerated post shall be elected City Commission to fill that specifically numbered post.

### SECTION 7.03 SPECIAL ELECTIONS:

The City Commission may at any time, by resolution or ordinance call a special election to be held within the City for the purpose of voting upon any proposition to be decided by the electors of the City, and of which special election thirty (30)-days notice shall be given and the election officers and supervisors appointed as provided for by the general laws of the State of Texas relating to special municipal elections. The presiding officers and judges of such special election must be qualified voters in the City. The City Commission shall provide for their compensation, and by ordinance regulate and define their powers and duties.

### SECTION 7.04 NAMES ON BALLOT:

The names of all candidates for office, except such as may have withdrawn, died, or become ineligible,

shall be printed on the official ballots without party designation. The order on the ballot of the names of the candidates for each respective City Commission place shall be determined by lot in a drawing to be held under the supervision of the City Secretary, at which drawing each candidate or his named representative shall have a right to be present.

**SECTION 7.05 ELECTIVE OFFICERS; STAGGERED TERMS:**

The only elective officers of this City shall be four (4) Commissioners and the Mayor. The four (4) Commissioners and the Mayor shall each hold office for three (3) years and until their successors are elected and qualified. In all elections for officers of this City, the candidate receiving the majority of the number of votes cast for such office shall be elected to that office. No person shall serve more than three (3) consecutive terms on the Mercedes City Commission. Serving any part of the term shall constitute serving a term under the provisions of this amendment, except that the serving of part of an unexpired term of a vacant position on the City Commission shall not constitute serving a term hereunder.

**SECTION 7.06 DELETED BY AMENDMENT NO. XXVII**

**SECTION 7.07 HOW CANDIDATES FILE FOR PLACE ON BALLOT:**

Any qualified person who desires to become a candidate for election to a place on the City Commission shall file with the City Secretary at least thirty (30) days prior to the election day on an application for his name to appear on the ballot. Such application shall contain a sworn statement by the provisions of this charter to hold the office he seeks.

**SECTION 7.08 RETURNS OF ELECTIONS:**

The returns of every municipal election shall be delivered by the election judges to the City Secretary not later than three (3) hours after the closing of the polls. The City Commission shall canvass the returns and declare the official results of the election not later than fifty-four (54) hours after the closing of the polls.

**SECTION 7.09 FAILURE TO QUALIFY AFTER ELECTION:**

In the event that any elective officer of the City shall fail to qualify within fifteen (15) days after his election has been duly certified and the result thereof declared, unless prevented by good and sufficient cause, such office shall be declared vacant and a special election shall be called by the City Commission for the purpose of filling such vacancy, according to Section 2.06 (C).

**SECTION 7.10 OATH OF OFFICE:**

Every officer of the City shall, before entering upon the duties of his office take and subscribe to the following oath or affirmation to be filed and kept in the office of the City Secretary:

"I, \_\_\_\_\_, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of \_\_\_\_\_, of the City of Mercedes, State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this State and the Charter and ordinances of this City; and I furthermore solemnly swear (or affirm), that I have not directly or indirectly paid, offered, or promised to pay, contributed, nor promised to contribute any money or valuable thing, or promised any public office or employment, as a reward for the giving or withholding a vote at the election at which I was elected, or if the notice is one of appointment, to secure my appointment. So help me God."

## ARTICLE VIII

### INITIATIVE, REFERENDUM, AND RECALL

#### SECTION 8.01 POWER OF INITIATIVE:

The people of the City reserve the power of direct legislation by initiative, and in the exercise of such power may propose any ordinance, except ordinances appropriating money or levying taxes, or ordinances repealing ordinances appropriating money or levying taxes, not in conflict with this Charter, the State Constitution, or the State laws. Any initiated ordinance may be submitted to the City Commission by a petition signed by registered qualified voters equal to in number to at least thirty-three (33%) percent of the number of persons voting in the last City election, or 500 persons, whichever number is larger.

#### SECTION 8.02 POWER OF REFERENDUM:

The people reserve the power to approve or reject at the polls any legislation enacted by the City Commission which is subject to the initiative process under this Charter, except those ordinances authorizing the issuance of bonds (either tax bonds or revenue bonds), whether original or refunding bonds, shall not be subject to such referendum. Prior to or within thirty (30) days after the effective date of any ordinance which is subject to referendum, a petition signed by registered, qualified voters of the City equal in number to at least (33%) of the number of persons voting in the last regular City election, or 500 persons, whichever number is larger, may be filed with the City Secretary, requesting that any such ordinance be either repealed or submitted to the vote of the people. When such a petition has been certified as sufficient by the City Secretary, the ordinance specified shall be suspended if it shall have gone into effect, until and unless it is approved by the voters as herein provided.

#### SECTION 8.03 FORM OF PETITIONS

Initiative petition papers shall contain the full text of the proposed legislation in the form of an ordinance, including descriptive caption. Referendum petition papers shall contain the full text of the ordinance sought to be referred. The signatures to the initiative or referendum petitions need not be all appended to one paper, but each signer shall sign his name in ink or indelible pencil, together with a notation showing his residence address. No signature shall be counted where there is reason to believe it is not the actual signature of the purported signer or that it is a duplication of name and no signature shall be counted unless the residence address of the signer is shown. Attached to each separate petition paper there shall be an affidavit of the circulator thereof that he, and he only, personally circulated the foregoing paper, that it bears a stated number of signatures, that all signatures appended thereto were made in his presence and that he believes them to be the genuine signatures of the persons whose names they purport to be.

#### SECTION 8.04 FILING, EXAMINATION AND CERTIFICATIONS OF PETITIONS:

Within thirty (30) days after an initiative or referendum petition is filed, the City Secretary shall determine whether the same is properly signed by the requisite number of qualified voters. The City Secretary shall declare void any petition paper which does not have an affidavit attached thereto as required in Section 8.03 of this Article. In examining the petition the City Secretary shall write the letters "D.V." in red ink opposite the names of signers found not qualified. After completing examination of the petition the City Secretary shall certify the results thereto the City Commission at its next regular meeting. If the certificate of the City Secretary shall show an initiative or referendum petition to be insufficient, the City Secretary shall notify the person filing the petition and it may be amended within ten (10) days from the date of such notice by filing a supplementary petition upon additional papers signed and filed as provided for in the original petition. Within thirty (30) days after such amendment is filed, the City Secretary shall examine the amended petition and certify as to its sufficiency. If the amended petition is then found to be insufficient no further proceeding shall be had with regard to it.

**SECTION 8.05 COMMISSION CONSIDERATION AND SUBMISSION TO VOTERS:**

When the City Commission receives an authorized initiative petition certified by the City Secretary to be sufficient, the City Commission shall either:

Pass the initiated ordinance without amendment within thirty (30) days after the date of the certification to the City Commission; or

Submit said initiated ordinance without amendments to a vote of the qualified voters of the City at a regular or special election to be held within ninety (90) days after the date of the certification to the City Commission; or

At such election submit to a vote of the qualified voters of the City said initiated ordinance without amendment, and alternative ordinance on the same subject proposed by the City Commission; the voters being given the opportunity to accept either or reject both.

When the City Commission receives an authorized referendum petition certified by the City Secretary to be sufficient, the City Commission shall reconsider the referred ordinance, and if upon such reconsideration such ordinance is not repealed within thirty (30) days, it shall be submitted to the qualified voters of the City at a regular or special election to be held not more than ninety (90) days after date of the certification to the City Commission.

No ordinance on the same subject as an initiated ordinance which has been defeated or on the same subject as a referred ordinance which has been approved at any election may be initiated by the voters within two (2) years from the date of such election.

**SECTION 8.06 RESULTS OF ELECTIONS:**

Any number of ordinances may be voted on at the same election in accordance with the provisions of this Article. If a majority of the legal votes cast is in favor of an initiated ordinance, it shall thereupon be effective as an ordinance of the City. An ordinance so adopted may be repealed or amended at any time after the expiration of two (2) years by a vote of three-fifths (3/5) of the City Commission members qualified and serving. A referred ordinance which is rejected by a majority of the legal votes cast in a referendum election shall be deemed thereupon repealed.

**SECTION 8.07 POWER OF RECALL:**

The people of the City reserve the power to recall an elected officer of the City of Mercedes and may exercise such power by filing with the City Secretary a petition signed by at least 33% of the number of persons voting in the last City election, or 500 persons, whichever number is larger, demanding the removal of such elected officers. The petition shall be signed and verified in the manner required for an initiative petition.

**SECTION 8.08 RECALL ELECTION**

The provisions regulating examination, certification and amendment of initiative petition shall apply to recall petitions. If the petition is certified by the City Secretary to be sufficient, the Mayor and City Commissioners not involved in the petition shall order and hold without recourse an election forthwith to determine whether such officer shall be recalled.

**SECTION 8.09 RESULTS OF RECALL ELECTION:**

If 40% or more of the votes cast at a recall election shall be against removal of the Mayor or City Commissioner named on the ballot, he shall continue in office. If more than 60% of the votes cast at such

election be for the removal of the Mayor or City Commissioner named on the ballot, the Mayor and City Commissioners shall immediately declare his office vacant and such vacancy shall be filled in accordance with the provisions of this Charter for the filling of vacancies.

Should the Mayor and City Commissioners fail or refuse to order any of the elections as provided for in this Article, when all the requirements for such election have been compiled with by the petitioning qualified voters in conformity with this Article of the Charter, then it shall be deemed to be the duty of the District Judge or other Judge having jurisdiction, upon proper application being made therefore, to order such elections and to enforce the carrying into effect of the provisions of this Article of the Charter.

#### SECTION 8.10 LIMITATION ON RECALL:

Excluding the first six months of elective office to which he was elected, any member of the City Commission may be subjected to as many as two (2) recall elections and no more, during any one term of office.

### ARTICLE IX GENERAL PROVISIONS

#### SECTION 9.01 PUBLICITY OF RECORDS:

All records and accounts of every office, department or agency of the City shall be open to inspection by any citizen or by a representative of the press at all reasonable times and under such reasonable regulations as may be established by the City Commission, except records and documents the disclosure of which would tend to defeat the lawful purpose which they are intended to accomplish. All procedures shall be in compliance with the Texas Public Information Act.

#### SECTION 9.02 PERSONAL FINANCIAL INTEREST

Any City officer or employee who has a substantial financial interest direct or indirect or by reason of ownership of stock in any corporation in any contract with the City or in the sale of any land, material, supplies or services to the City or to a contractor supplying the City shall make known that interest and shall refrain from voting upon or otherwise participating in his capacity as a City officer or employee in making of such sale or in the making or performance of such contract. Any City officer or employee who willfully conceals such a substantial financial interest or willfully violates the requirements of this Section shall be guilty of malfeasance in office or position and shall forfeit his office or position. Violation of this Section with the knowledge express or implied of the person or corporation contracting with or making a sale to the City shall render the contract or sale voidable by the City Manager or the City Commission.

#### SECTION 9.03 OFFICERS NOT TO BE INTERESTED IN FRANCHISES:

No person shall be barred from seeking or holding any elective or appointive office in the City of Mercedes, by virtue of being directly or indirectly in the employ of any person, company or corporation holding or seeking to hold any Public Utility Franchise from the City of Mercedes; provided however, that at any time the Mayor or any other member of the City Commission or any elective or appointive officer of the City shall be directly or indirectly in the employ of any person, company or corporation holding or seeking to hold any Public Utility Franchise from the City or shall receive directly or indirectly any wage, commission, fee, gift, favor or payment from such Public Utility franchise holder, he/she shall make known that interest and shall refrain from voting upon or otherwise participating in any dealings between the City and such person, company or corporation. Any City officer who willfully violates the requirements of this Section shall be guilty of malfeasance in office and shall forfeit his/her office. Violations of this Section with the knowledge express or implied of the person, company or corporation having dealings with the City shall render such dealings voidable by the City Manager or the City Commission.

#### SECTION 9.04 NEPOTISM:

No person related within the second degree by affinity or within the third degree by consanguinity to any elected officer of the City or to the City Manager shall be appointed to any office, position or clerkship or other service of the City, provided that nothing herein contained shall prevent the appointment, voting for or confirmation of any person who shall have been continuously employed in any such office position, clerkship, employment or duty for a period of one year prior to the election or appointment of the officer or member appointing, voting for or confirming the appointment, and to the election or appointment of the officer or member related to such employee in the prohibited degree. When a person is allowed to continue in an office, position, clerkship, employment, or duty because of the operation of the exceptions set out above, then the City Manager or member of the City Commission who is related to such person in the prohibited degree shall not participate in the deliberation or voting upon the appointment, reappointment, employment, confirmation, reemployment, change in status, compensation, or dismissal of such person, if such action applies only to such person and is not taken with respect to a bona fide class or category of employees.

#### SECTION 9.05 NOTICE OF CLAIMS:

Before the City of Mercedes shall be liable for damages for the death or personal injuries of any person or for damages to or destruction of property of any kind which does not constitute a taking or damaging of property under Article I, Section 17, Constitution of Texas, the person injured, if living, or his representatives if dead, or the owner of the property damaged or destroyed shall give the City Commission or City Manager notice in writing of such death, injury, damage or destruction duly verified by affidavit, within forty-five (45) days after same has been sustained, stating specifically in such written notice when, where and how the death, injury, damage or destruction occurred and the apparent extent of any such injury, the amount of damages sustained, the actual residence of the claimant by street and number at the date the claim is presented, the actual residence of such claimant for six months immediately preceding the occurrence of such death, injury or damage or destruction, and the names and addresses of all witnesses upon whom it is relied to establish the claim for damages, and the failure to so notify the City Commission or City Manager within the time and manner specified herein shall exonerate, excuse and exempt the City from any liability whatsoever. No act of any officer or employee of the City shall waive compliance, or stop the City from requiring compliance with the provisions of this Section as to notice, but such provisions may be waived by resolution of the City Commission made and passed before the expiration of the forty-five (45) day period herein provided and evidenced by minutes of the City Commission.

#### SECTION 9.06 SEPARABILITY CLAUSE:

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

#### SECTION 9.07 EFFECT OF THIS CHARTER ON EXISTING LAW:

All ordinances, resolutions, rules and regulations now in force under the City government of the City of Mercedes and not in conflict with the provisions of this Charter shall remain in force under this Charter until altered, amended or repealed by the City Commission after this Charter takes effect and all rights of the City of Mercedes under existing franchises and contracts are preserved in full force and effect to the City of Mercedes.

#### SECTION 9.08 INTERIM MUNICIPAL GOVERNMENT:

Upon the adoption of this Charter, the present members of the City Commission shall serve until the terms to which they were elected shall have expired and until their successors shall have qualified, or until terms of this Charter as to election of officials and terms of office have been met.

#### SECTION 9.09 CHARTER REVIEW

The City Commission shall appoint a Charter Review Commission of twelve (12) persons to investigate the workability of this Charter and to make recommendations for the implementation or amendments. Each member shall serve on the Charter Review Commission for a term of one (1) year after appointment. Such Charter Review Commission shall be appointed at least every four (4) years, but the Commission may appoint such Review Commission after two (2) years from the last Charter Review Commission.

#### SECTION 9.10 PROHIBITIONS:

No person shall be appointed to or removed from or in any way favored or discriminated against with respect to any City position or appointive City administrative office because of race, sex, political or religious opinions or affiliations.

No person who holds any compensated appointive City position shall make, solicit, or receive any contribution to the campaign funds of any political party or any candidate for public office or take any part in the management, affairs or political campaign of any political party, but he may exercise his rights as a citizen to express his opinions and to cast his vote.

Any person who by himself or with others willfully violates any of the provisions of Section 9.10 shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than \$200.

#### SECTION 9.11 GENDER/NUMBER CLARIFICATION:

Words of any gender used in this Charter shall be construed to include any other gender; and words in the singular number shall be construed to include the plural, and vice versa, unless the context requires otherwise.

### ARTICLE X TRANSITIONAL PROVISIONS

#### SECTION 10.01 OUTSTANDING EVIDENCES OF DEBT:

All valid bonds, warrants and other evidences of indebtedness of the City of Merced, now outstanding and unpaid, are hereby ratified and confirmed.

#### SECTION 10.02 ORDINANCES AND RESOLUTIONS:

All ordinances and resolutions in force at the time of the taking effect of this Charter, not inconsistent with its provisions, shall continue in force and effect until amended or repealed.

#### SECTION 10.03 INTERIM GOVERNMENT:

Upon the adoption of this Charter, the present members of the City Commission shall serve until the terms to which they were elected have expired, and until their successors shall have qualified.

#### SECTION 10.04 STATUS OF PERSONNEL:

Upon the adoption of this Charter, all City administrative officers or employees then in office, or employed by the City, shall continue in such office or position until the taking effect of some specific provision under this Charter directing that he vacate the office or position.

#### SECTION 10.05 CONTRACTS, RIGHTS, ETC., CONTINUED:

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

## ARTICLE XI

### SUBMISSION OF PROPOSED CHARTER TO VOTERS

#### SECTION 11.01 SUBMISSION OF CHARTER TO QUALIFIED VOTERS:

The Charter Commission in preparing this Charter finds and decides that it is impracticable to segregate each subject so as to permit a vote of "yes" or "no" on the same, for the reason that the Charter is so constructed that in order to enable it to work and function it is necessary that it should be adopted in its entirety. For these reasons the Charter Commission directs that the said Charter be voted upon as a whole and that it shall be submitted to the qualified voters of the City of Mercedes at an election to be held for that purpose on the 21st day of September, A.D. 1971. If a majority of the qualified voters voting in such election shall vote in favor of the adoption of this Charter, it shall become the Charter of the City of Mercedes, and after the returns have been canvassed, the same shall be declared adopted, and the City Clerk shall file an official copy of the Charter with the records of the City. The City Clerk shall furnish the Mayor a copy of said Charter, which copy of the Charter so adopted, authenticated and certified by his signature and the seal of the City, shall be forwarded by the Mayor to the Secretary of State of the State of Texas and shall show the approval of such Charter by majority vote of the qualified voters voting at such election.

In not less than thirty (30) days prior to such an election the City Commission shall cause the City Clerk to mail a copy of this Charter to each qualified voter of the City of Mercedes as appears from the tax collector's tax roll for the year ending January 31 preceding said election.

We the undersigned members of the Charter Commission, heretofore duly selected to prepare a Charter for the City of Mercedes, Texas, do hereby certify that this publication constitutes a true copy of the proposed Charter of the City of Mercedes, Texas.

-James Pinkerton, Chairman

-W.B. Lauder, Jr., Vice-Chairman

-Mrs. Marjorie Brewer, Secretary

- Hoyt E. Hager, Jr

- Salvador Barron

- Ruben Hinojosa -

-Robert Sanders

- Shelley H. Collier, Jr.

- Mrs. Lucile Schwarz -

-L.W. Clifford

- Joe Adame

- Hector Garza

- John W. Bowe -