



Mayor Oscar D. Montoya
Mayor Pro-Tem Joe Martinez
Commissioner Armando Garcia

Commissioner Jacob Howell
Commissioner Ruben Saldana
City Manager Alberto Perez

MERCEDES CITY COMMISSION
REGULAR MEETING
NOVEMBER 1, 2022 – 6:30 P.M.
MERCEDES CITY HALL – COMMISSION CHAMBERS
400 S. OHIO AVE., MERCEDES, TX 78570

“At any time during the course of this meeting, the City Commission may retire to Executive Session under Texas Government Code 551.071(2) to confer with its legal counsel on any subject matter on this agenda in which the duty of the attorney to the City Commission under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Texas Government Code. Further, at any time during the course of this meeting, the City Commission may retire to Executive Session to deliberate on any subject slated for discussion at this meeting, as may be permitted under one or more of the exceptions to the Open Meetings Act set forth in Title 5, Subtitle A, Chapter 551, Subchapter D of the Texas Government Code.”

1. **Call Meeting to Order**
2. **Establish Quorum**
3. **Invocation**
4. **Pledge of Allegiance**
5. **Open Forum-**

Maximum length of time of forum is forty-five minutes with individual presentations limited to a maximum of five minutes. The City Commission can take no formal action on any city related matter discussed during the open forum. Persons who wish to participate in this portion of the meeting shall sign up as they arrive, indicating the topic about which they wish to speak. No one will be able to sign up **AFTER 6:20 PM**. The information required for signing up must be completed by that time. No public comments will be allowed during any agenda item unless recognized by the Mayor or if the item requires a public hearing. State your name and address before beginning your presentation.

There can be no comments about specific employees. By Charter, the City Manager is exclusively given authority over personnel matters, including complaints against city personnel. All complaints against city personnel will be addressed pursuant to Mercedes Personnel Policies.

Comments must not be repeated and the Commission is not required to answer any question from the public. Any person who decides to directly question any member of the City Commission will be asked to discontinue their comments. The City Secretary's office representative will be responsible for notifying each presenter that their five-minute time limit has expired.

6. **Presentations:**

- a. Recognition of TYFA Youth Football players/coaches/parents for being ranked #1 in the state and for their community efforts in clean ups and anti-bullying. (Comm. Howell & Martinez)

7. **Consent Agenda:** *(All matters listed under Consent Agenda are considered to be routine by the Governing Body and will be enacted by one motion. There will be no separate discussion of these items; however, if discussion is desired, that item(s) will be removed from the Consent Agenda and will be considered separately.)*

- a. Approval of Minutes for Meeting(s) held October 18, 2022.
- b. Second and final reading of Ordinance 2022-26 regarding Animal Control Services.
- c. Approval of Budget Amendment 2223-004 to transfer funds from the Utilities division to Meter Readers division.
- d. Approval of Budget Amendment 2223-005 to transfer fund from Animal Control to Building Maintenance.

8. **Management Item(s):** *Present, Discuss, Consider, and Possibly Take Action Regarding:*

- a. Reappointment of existing member to the Mercedes Historic Preservation Commission.
- b. Naming and placing a bike plate on one of the City of Mercedes Patrol Bikes in honor of David G. (Comm. Howell & Martinez)

9. **Bids/Contracts:** *Present, Discuss, Consider, and Possibly Take Action Regarding:*

- a. Accepting a health insurance carrier. (Human Resources)
- b. Approving the negotiation and execution of a contract to provide professional services for the development of a water and wastewater master plan.

10. **Executive Session:** *Chapter 551, Texas Government Code, Section 551.071 (Consultation with Attorney), Section 551.072 (Deliberation regarding Real Property), Section 551.074 (Personnel Matters) and Section 551.087 (Economic Development)*

- a. Discussion regarding Economic Development negotiations with Project STM – Section 551.087
- b. Discussion regarding DCM Acquisition of Real Estate – Mercedes Original Townsite Lot 14 Blk 50 – Section 551.072
- c. Discussion regarding duties and responsibilities of the City Manager – Section 551.074
- d. Consultation with Attorney to provide an update on litigation matters – Section 551.071

11. **Open Session:** *Discuss, Consider, and Possibly Take Action Regarding*

- a. Item A from Executive Session.
- b. Item B from Executive Session.

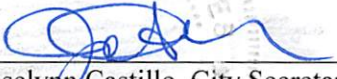
- c. Item C from Executive Session.
- d. Item D from Executive Session.

12. Adjournment

Notice is hereby given that the City Commissioners of the City of Mercedes, Texas will meet in a ***Regular Meeting*** on Tuesday, November 1, 2022 at 6:30 P.M. Said meeting will be conducted in the Commission Chambers of the City Hall located at 400 S. Ohio, Mercedes, Texas for the purpose of considering and taking formal action regarding the items listed above. This notice is given in accordance with Vernon's Texas Codes Annotated, Texas Government Code, Section 551.001 et. Seq.

WITNESS MY HAND AND SEAL OF THE CITY THIS THE 28TH DAY OF OCTOBER, 2022.

ATTEST:



Joselynn Castillo, City Secretary
Time of Posting: 6:20 P.M.

ACCESSIBILITY STATEMENT

The City of Mercedes recognizes its obligations under the Americans with Disabilities Act of 1990 to provide equal access to individuals with disabilities. Please contact the City Manager's Office at (956) 565-3114 at least 48 hours in advance of the meeting with requests for reasonable accommodations, including requests for a sign language interpreter.

CONSENT ITEM :

DATE: October 27, 2022

FROM: Alberto Perez

ITEM: **Action Item:**

Discussion and possible action to recognize TFYA Youth Football players/coaches/parents for being ranked #1 in the state and for their community efforts in clean ups and anti-bullying.

Howell/Martinez

BACKGROUND INFORMATION:

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: N/A

LEGAL REVIEW: Martie Vela-Garcia

ATTACHMENTS: N/A

DRAFT MOTION:

**MERCEDES CITY COMMISSION
REGULAR MEETING
OCTOBER 18, 2022 – 6:30 P.M.
MERCEDES CITY HALL – COMMISSION CHAMBERS**

MEMBERS PRESENT:	Oscar D. Montoya Sr.	Mayor
	Joe Martinez	Mayor Pro-Tem
	Ruben Saldana	Commissioner (m.teams)
	Armando Garcia	Commissioner
	Jacob Howell	Commissioner

STAFF PRESENT:	Alberto Perez	City Manager
	Joselynn Castillo	City Secretary
	Martie Garcia-Vela	City Attorney
	Javier Ramirez	Asst. City Manager
	Nereida Perez	Finance Director
	Javier Campos	Fire Chief
	Marisol Vidales	Library Director
	Ervin Vilchis	IT Director
	Kristine Longoria	HR Specialist
	Roberto Castillo	PW Director

OTHERS PRESENT: Rebeka Moreno, Gerardo Ramirez, Jose Hernandez, Salvador Gonzalez, Roy Rocha, Kristina , Joseph Trevino.

1. CALL MEETING TO ORDER

Mayor Montoya called the meeting to order at 6:30 P.M.

2. ESTABLISH QUORUM

Four members of the commission were present. Commissioner Saldana attended virtually.

3. INVOCATION

Commissioner Howell said the invocation.

4. PLEDGE OF ALLEGIANCE

Mayor Montoya led in the Pledge of Allegiance.

5. OPEN FORUM-

- Ms. Yolanda Molina addressed the commission about her concerns with the citizens concerns not being addressed. She noted that the curb was cleaned and thanked the commission. She stated another concern is the police force, she hopes they are well protected and compensated and get everything they need. She stated that some employees walk on water, she stated that some do not show respect to the citizens. Elected commission can always be replaced.
- Mr. Ramon Mejia addressed the Commission. He stated that there are already budget amendments in the beginning of the year and that means that administration doesn't know what they are doing. He stated that the HR department can help resolve problems between individuals and help develop a positive working relationship. He stated 10 employees quit because they never got a raise and for the way they were treated. He stated the PW director was dismissed and they hired someone that does not know about being a public works director only because he is Javier's friend.
- Mr. Norberto Lopez addressed the commission that he has been attending the meetings and hears the problems. He stated that the problems are not being resolved and the same issues are being brought up. (Spoke in Spanish)
- Mr. Joaquin Hernandez Sr. addressed the Commission about the hotel motel tax. He stated that another check for \$10,000 was issued to a promotor. He stated information was provided that the promoter account was negotiated and then another check was issued. He stated the police officers have not been paid for that same event. Mr. Hernandez added that at the last meeting staff

mentioned the concrete that was ruined and not used. He stated the company were friends with the administration. He stated Municipal services does not have a license to do electrical or AC work. He stated the AC at the recreation center had a contract since March and had 90 days to complete the work which was not finish until September. He stated that a permit was issued in October and added, that is not the right process. He stated that the bond issued does not qualify since he does not have a license to do the work.

6. CONSENT AGENDA: *(All matters listed under Consent Agenda are considered to be routine by the Governing Body and will be enacted by one motion. There will be no separate discussion of these items; however, if discussion is desired, that item(s) will be removed from the Consent Agenda and will be considered separately.)*

- a. **Approval of Minutes for Meeting(s) held October 3, 2022.**
- b. **Second and final reading of Ordinance 2022-24 to Convey the Abandoned Alley located at 0.069 of one-acre (3,000 Sq. Ft.) of Land, being a portion of a 20' Public Alley located between Missouri avenue and Texas Avenue of the Original townsite of Mercedes to the Development Corporation of Mercedes**
- c. **Second and final reading of Ordinance 2022-25 on Conveyance of Property to the Development Corporation of Mercedes described as Lot 20, Valle De Palmas Subdivision, Unit 2**
- d. **Approval of Agreement for the Temporary Closure of State Right-of-Way for Veterans Day Parade.**
- e. **Approval of 4th Quarterly Investment Report**
- f. **Approval of Budget Amendment 2223-01 for Planning Department from Human Resources**
- g. **Approval of Budget Amendment 2223-02 for Public Works Admin from Human Resources**
- h. **Approval of Budget Amendment 2223-03 for Public Work Streets from Public Works Utilities**

Mayor Pro-Tem Martinez motion to approve item A thru E and review the others separately. Commissioner Garcia seconded. Upon a called vote, the motion passed unanimously. Ms. Longoria stated they are requesting to transfer money from Human Resources to the Planning department for the Chief Building Official. Mayor Pro-Tem Martinez made a motion to accept items F thru H. Commissioner Garcia seconded. The position had been vacant for two years.

7. CITY MANAGER COMMENTS:

- a. **Introduction of Public Works Director; b. Introduction of Building Official; c. Introduction of Customer Service Specialist; d. National Night Out Event**

Mr. Ramirez informed the Commission of the new employees. Mr. Roberto Castillo, Public Works Director, provided a brief work history. Mr. Alvaro De Leon, Building Official, was not present. Mayor Montoya welcomed Mr. Castillo to the City. Mr. Perez stated it was critical to hire a building official to help move development projects forward. Mr. Perez stated he is focusing on answering phone calls and improve customer service. Ms. Rebeka Moreno, Customer Service Specialist, provided a brief description of her work history with the City of Mercedes. Commissioner Howell commended the citizens for informing the Commission about the issue with the phones not being answered. Ms. Brianna Casares informed and invited everyone to the National Night Out event on October 29, 2022 at the Mercedes Premium Outlets.

8. ORDINANCE/RESOLUTIONS: *Present, Discuss, Consider, and Possibly Take Action Regarding:*

- a. **Resolution 2022-13 authorizing the Resale of Foreclosed Real Estate Properties for failure to pay ad valorem taxes. (H. Gutierrez)**

Commissioner Howell motioned to approve. Mayor Pro-Tem Martinez seconded. Upon a called vote, the motion passed unanimously.

- b. **Ordinance 2022-26 regarding Animal Control Services.**

Mr. Perez stated staff revisited the animal control ordinance to update. He stated that city receives complaints about animal control and this is to help make the city a safer environment. Commissioner Howell motioned to approve. Commissioner Garcia seconded. Commissioner Howell stated this is needed and currently have two employees for animal control. Mayor Montoya stated that animal control needs new equipment to help the staff do their job better. Mayor Pro-Tem Martinez asked about the licensing. Mr. Perez stated that is to help track the animals and he stated that a clinic could be prepared as an event. Mayor Pro-Tem Martinez had concerns with the licensing wording, and giving staff authority to walk onto private property. Mayor Pro-Tem Martinez asked if we can ban vicious animals and asked if the shots have to be from veterinarian or can the person do the shots. Commissioner Saldana thanked staff for putting the ordinance together. Commissioner Saldana asked if the ordinances can be placed online for the public

viewing. Commissioner Howell stated that paying \$30 every year is an issue, he recommends having a payment for additional dogs. Mayor Pro-Tem Martinez stated he is ok with the \$30 fee each year as long as the money can go back to animal control for equipment or vaccine clinics. Upon a called vote, the motion passed unanimously.

Mayor Pro-Tem Martinez made a motion to go to item 9C and 9B then go to Item 9A. Commissioner Howell seconded. Upon a called vote, the motion passed unanimously.

9. MANAGEMENT ITEM(S): *Present, Discuss, Consider, and Possibly Take Action Regarding:*

a. Public Hearing: Fiscal Year (36) 2023-2024 Needs Assessment for the County of Hidalgo Urban County Program.

Mayor Montoya opened the public hearing at 7:45 P.M.

- Ms. Corey Hernandez from Amigos del Valle is asking for assistance to provide meals to the home bound. They currently have 27 people that go to the center and 17 home bound from Mercedes. She stated they currently work with the Food Bank. Mr. Perez stated the city can assist with helping send the food to the home bound.
- Mr. Joe Garcia from Nuestra Clinica del Valle, requesting \$15,000 to serve 125 residents.
- Mr. Ramirez stated the commission can go back to the original numbers to assist the Child Advocacy Center, Amigos del Valle, and Nuestra Clinica Del Valle. Mr. Ramirez stated that the rest of the funds can go to streets and parks.

Mayor Montoya closed the public hearing at 8:00 P.M.

- Approving the proposed FY (36) 2023-2024 Urban County Budget
Commissioner Howell made a motion go to the previous or original amounts for the three programs and the rest to go to streets and park improvements. Mayor Pro-Tem Martinez seconded. Upon a called vote, the motion passed unanimously.

b. Approval of changes to the Library Policy. (M. Vidales)

Ms. Vidales addressed the changes to the library policy, to include a policy for the hotspots. Mayor Pro-Tem Martinez motioned to approve. Commissioner Garcia seconded. Upon a called vote, the motion passed unanimously.

At this time, Mayor Pro-Tem Martinez motioned to move to items 10 before item 9A. Commissioner Howell seconded. Upon a called vote, the motion passed unanimously.

c. Letter of Request for support for the 1st Annual South Texas Farm Fest.

Ms. Carolina Gomez Loya, Cindy Loya, Kaitlyn Henry, Matthew Lackey, Ashley Gonzalez were present. Ms. Gomez Loya stated this is an event to raise money to have a museum dedicated to the history of Mercedes. Ms. Ashley Gonzalez stated its to highlight farmers and having the kids involved and envisioned making this an annual event. It's a five-dollar admission for the event. They are asking for \$5,000 for support to pay for the carnival. The event is November 5, 2022 from 10 AM to 10 PM at the Mercedes Safe Dome. Commissioner Howell motion to approve with contingent to finding funds. Commissioner Garcia seconded. Upon a called vote, the motion passed unanimously. The event will have food trucks, a pageant, super farmer contest, live music, rides for the kids and an outdoor market.

10. BIDS/CONTRACTS: *Present, Discuss, Consider, and Possibly Take Action Regarding:*

a. Renewal of Contract with Montalvo Insurance for Workers Comp Services. (K. Longoria)

Ms. Longoria informed the Commission about the renewal for the workers comp insurance. Recommendation to go in network. Commissioner Howell made a motion to approve. Mayor Pro-Tem Martinez seconded. Upon a called vote, the motion passed unanimously.

b. Selecting an Audit Firm for FYE 21-22 and possibly FYE 22-23. (N. Perez)

Ms. Perez stated the city received 4 bids. From Adrian Webb, BML, Luis Orozco, and Martinez, Rosario. Ms. Perez stated that Adrian Webb stated they can have the audit done in 60 days. Commissioner Howell motioned to select Luis Orozco. Ms. Perez stated that the City has had issued previously with Luis Orozco company due to timing delays. Mr. Perez feels confident that the recommended firm will be more timely.

Commissioner Howell rescinded his motion. Mayor Pro-Tem Martinez made a motion to go with staff recommendation of Adrian Webb. Commissioner Garcia seconded. Upon a called vote, the motion passed unanimously. At a question, Ms. Perez stated that its one year with an option of an additional year.

- c. The Interlocal Agreement with the County of Hidalgo: Office of the Tax Assessor Collector. (N. Perez)
Ms. Perez stated the tax assessor collector submitted their fees which increased. Mayor Pro-Tem Martinez motion to approve. Commissioner Saldana seconded. Upon a called vote, the motion.

11. MONTHLY DEPARTMENTAL REPORTS

Finance/Court, Library, Planning, City Secretary/HR, Fire Dept, Police Dept. – Commissioner Howell asked about the new building. Mr. Perez informed him of the current status of the building.

Mayor Pro-Tem Martinez made a motion to go back to item 9A. Commissioner Garcia seconded. Upon a called vote, the motion passed unanimously.

Mayor Pro-Tem Martinez made a motion to go into executive session. Commissioner Garcia seconded. Upon a called vote, the motion passed unanimously. The meeting went into executive session at 8:01 P.M.

12. EXECUTIVE SESSION: *Chapter 551, Texas Government Code, Section 551.071 (Consultation with Attorney), Section 551.072 (Deliberation regarding Real Property), Section 551.074 (Personnel Matters) and Section 551.087 (Economic Development)*

- a. Discussion regarding personnel matters – Section 551.074
- b. Consultation with legal regarding joint project with EDC – Section 551.071 & Section 551.087
- c. Consultation with legal regarding contract – Section 551.071

Mayor Montoya called the meeting to order at 8:29 P.M.

13. OPEN SESSION: *Discuss, Consider, and Possibly Take Action Regarding*

- a. **Item A from Executive Session.** No action was taken on this item.
- b. **Item B from Executive Session.** No action was taken on this item.
- c. **Item C from Executive Session.** No action was taken on this item

14. ADJOURNMENT

Mayor Pro-Tem Martinez motioned to adjourn. Commissioner Garcia seconded. Upon a called vote, the motion passed unanimously. The meeting adjourned at 8:29 P.M.

ORDINANCE NO. 2022-26

AN ORDINANCE AMENDING ANIMAL CONTROL ORDINANCES 2018-19, 2013-12 AND 2015-04; PROVIDING FOR A PROPER DEFINITION SECTION; PROVIDING FOR ENFORCEMENT THEREOF; PROVIDING FOR LICENSING AND RABIES VACCINATION; PROVIDING FOR MICROCHIP IMPLANTATION AS OF A CERTAIN DATE; PROVIDING FOR PERMITS FOR ANIMAL ESTABLISHMENTS; PROVIDING FOR THE OWNERS' RESPONSIBILITY INCLUDING TETHERING AND CONFINEMENT; OUTLINING WHAT 'NUISANCES' ARE AS RELATED TO ANIMAL CONTROL; PROVIDING FOR HONORABLE DISPOSITION OF DEAD ANIMALS; REITERATING THAT ANIMAL CRUELTY IS UNLAWFUL; PROVIDING A PROTOCOL FOR ANIMAL BITES; PROVIDING FOR VICIOUS ANIMAL DECLARATION AND THE CONFINEMENT OF SAID VICIOUS ANIMALS; PROVIDING FOR IMPOUNDMENT OF ANIMALS; PROVIDING FOR FINES OF VIOLATIONS HEREOF; PROVIDING FOR A SEVERABILITY AND CUMULATIVE PROVISION; AND PROVIDING FOR THE PUBLICATION OF THIS ORDINANCE'S CAPTION

WHEREAS, The City of Mercedes, Texas, is a Home Rule City that will, from time to time, assess and adopt ordinances for the orderly regulation of certain issues; and,

WHEREAS, The City of Mercedes has, over the years, adopted several versions of animal control regulations to better serve its citizens; and,

WHEREAS, The City has determined that the previous animal control ordinances are in need for re-assessment and enhancement to better serve its citizens.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF MERCEDES, COUNTY OF HIDALGO, STATE OF TEXAS THAT THE FOLLOWING PROVISIONS SHALL HEREAFTER BE ADOPTED, ENFORCED, AND COMPLIED HEREAFTER:

Section I—Definitions

Unless otherwise expressly stated, the following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section:

Abandon means to fail to adequately provide an animal with one (1) or more of the necessities of life, including but not limited to, air, food, potable water, sanitary conditions, shelter, protection from the heat, cold, or other environmental conditions, or under other circumstances that may cause bodily injury, serious bodily injury, or death of the animal, for twenty-four (24) or more hours, or to leave an animal in the care, custody, or control of another person without his or her consent.

Abuse means an act that continually causes an animal to be overloaded or forced to work or conduct itself in a manner unsuitable to its species, breed, condition, or health.

Altered means spayed or neutered.

Animal means all domesticated and undomesticated living creatures, except humans. This ordinance is generally directed for domesticated animals or pets, however, it may also be imposed to other undomesticated animals.

Animal Control Officer means a person designated by the City of Mercedes to receive reports of stray animals and pick-up such strays, investigate animal bite reports and general animal nuisance reports, and otherwise carry out the provisions of Texas law and municipal ordinances and policies relating to animal control.

Animal establishment means any pet shop, grooming shop, animal auction, performing animal exhibition, kennel, or animal shelter. This term shall not include veterinary medical facilities, licensed research facilities, facilities operated by government agencies, or licensed animal dealers.

Animal Shelter means any facility designated or recognized by the City of Mercedes for the purpose of impounding and caring for animals.

At large an animal shall be deemed to be at large when off the property of the owner or harbored and not under restraint or control. Nothing in this ordinance shall be construed to prohibit the owner of any animal from escorting such animal properly leashed to premises other than those of such owner for purposes of exercise, visitation, companionship, participation in shows and exhibitions, or treatment and care by a veterinarian or kennel for hire to the public; from transporting such animal in an automobile or other vehicle; or from training or exhibiting such animal without leash on private premises or public shows and exhibition premises, under conditions where such unleashed animals are otherwise restrained from leaving such premises.

Cat means a domestic feline of either sex, including one neutered or sterilized.

City means the City of Mercedes.

City enforcement agent means any designee of the city animal control officer, ~~any animal control~~ Code Enforcement officer, or law enforcement officer that is employed by the city.

Chief of Police means the head of the police department of the City of Mercedes or a designated representative.

Conviction means a conviction in a federal court or a court of any state or foreign nation or political subdivision of a state or foreign nation that has not been reversed, vacated, or pardoned. "Conviction" includes disposition of charges against a person by probation or deferred adjudication.

Cruelty means an overt act committed that harms or needlessly kills an animal or committed out of depraved indifference for the animal's wellbeing, including but not limited to torture, maiming, beating, or otherwise committing violence that causes injury or death.

Dangerous Animal is any dog or other animal which demonstrates a propensity to assault, bite, scratch or harass people or other animals without provocation.

Dog means a domestic canine of either sex, including one neutered or sterilized.

Designee means any person or entity authorized to exercise authority as assigned by the ~~Public Works Director~~ **City Manager**, which may include an animal control officer, Code Enforcement Officer, a police officer, a regional entity, and/or a licensed veterinarian.

Elements means the harsh forces of the weather such as wind, rain, heat, cold, ice, snow, etc.

Enclosure means a fence or structure suitable to fully prevent the escape of the animal.

Euthanasia means to put an animal to death in a humane manner.

Exotic animal means an animal of a non-domesticated species not commonly kept as a household pet. Exotic animals may or may not be native to the area and may or may not be governed by existing wildlife regulations.

Extreme Weather means Extreme events or occurrences of unusually severe weather or climate conditions that can cause devastating impacts on communities and agricultural and natural ecosystems. Weather-related extreme events are often short-lived and include heat waves, freezes, heavy downpours, tornadoes, tropical cyclones, floods and hurricanes.

Fenced yard means an area that is completely surrounded by a substantial fence of sufficient strength, height, construction, materials, and design as to prevent:

- (a) any animal confined within from escaping; or
- (b) the head of a dog confined within from extending over, under, or through the fence.

Feral means an animal that is wild, untamed, or has no ascertainable owner.

Harboring means the act of keeping and caring for an animal or of providing premises to which the animal returns for food, shelter or care. (Note: Feeding, caring and keeping animals for more than 3 days)

Humane manner means care of an animal including, but not limited to, adequate heat, ventilation, sanitary shelter, wholesome food, sufficient water, and regular personal contact consistent with normal caring requirements and feeding habits of the animal's size, species, and breed.

Immediate or **Immediately** means at once and without delay.

Intact Animal means an animal that has not been surgically sterilized.

Kennel means any person, group of persons, partnerships or corporation engaged in keeping five or more dogs, above the age of 6 months or older; or are in the business of boarding, breeding, buying, letting for hire, or the training of dogs above 6 months old for a fee, or the selling of any combination of pets; and of which the subject site meets one of the following criteria:

- (1) Any building, lot, yard, shed or other place in which five or more dogs, more than six months old, are kept;
- (2) (reserved)

NOTE: A kennel's confinement area for the 5 or more dogs (more than 6 months old) must be a minimum of 100' from the nearest residential structure on adjoining properties.

Notice means by personal service, certified mail (return receipt requested), or a written notice left at the

entrance to the premises where the animal is harbored.

Notify and notification unless otherwise stated in this chapter, a requirement to notify the department, means to contact the department at 959-565-6147 and speak with an employee of the department or leave a voicemail. Notification shall be made immediately, but only as soon as can be done so safely. **The Mercedes Police Department may be contacted after the hours of 5:00 P.M, weekends, and holidays.**

Neglect means an act involving failure to provide for animal health or safety, including but not limited to provide adequate food, water, shelter, exercise, or necessary veterinary care or failure to adequately confine an animal in an un-congested manner appropriate to its species, breed, age, and condition.

Nuisance means an animal that damages, soils, defiles, or defecates on private property other than the owner's or on public walks and recreation areas unless such waste is immediately removed and properly disposed of by the owner; causes unsanitary, dangerous, or offensive conditions to surrounding properties; causes a disturbance by excessive barking or other noise-making; or chases vehicles or molests, attacks, or interferes with persons or other domestic animals on public or private property.

Livestock and Domestic Fowl means all cattle, cows, calves, bulls, horses, donkeys, mules, sheep, swine, rabbit, and goats of every class, whatever, or the young of any such animal. The term domestic fowl shall include all chickens, ducks, turkeys, geese, pigeons, guineas, and parakeets, of every class whatever, and the young of any such fowl.

Owner means a person having the right of custody, legal or apparent, of an animal who keeps or harbors an animal or knowingly permits an animal to remain on or about any premises occupied by that person.

Properly fitted means, with respect to a collar or harness, a collar or harness that is appropriately sized for the dog based on the dog's measurements and body weight; does not choke the dog or impede the dog's normal breathing or swallowing; and does not cause pain or injury to the dog.

Restrain means to control an animal by physical means.

Restraint means a chain, rope, tether, leash, cable or other device that attaches a dog to a stationary object or trolley system.

Stray means any animal for which there is no identifiable owner or keeper.

Tethering means to tie (an animal) with a rope or chain so as to restrict its movement.

Unlawful Restraint – A person who owns or has custody or control of a dog and who uses a chain, rope, tether, leash, cable, or other device that attaches a dog to a stationary object or trolley system shall comply with Chapter 821, Subchapter D, Section 821.076 through 821.081 of the Texas Health and Safety Code, as amended. Dogs must have a properly fitted collar and restraint system as required by Subchapter D, Chapter 821 of the Texas Health and Safety Code.

Vaccinated means properly injected with a rabies vaccine licensed for use in that species by the United States of Agriculture, and administered by a veterinarian licensed to practice in the State of Texas.

Vicious means an animal that without justification attacks a person or domestic animal causing physical injury or death or that behaves in a manner that a reasonable person would believe poses an imminent

threat of serious injury or death to one or more persons or domestic animals.

Wild animal includes all species of animals which exist in a natural unconfined state and are usually not considered domesticated.

Section 2—Enforcement, Seizures, and Penalties

- (a) The Public Works Director or his/her designee(s) is hereby granted the authority to carry out the function of, and to enforce the provisions of this Ordinance, (NOTE: Animal Control personnel is under the Public Works Department)
- (b) Unless otherwise provided in this section, the Public Works Director or his/her designee(s), inclusive of the Code Enforcement Officer, are authorized to issue a citation to any owner, lessee, or occupant of any premises within the City limits for a violation of these regulations. The citation issued shall state the alleged violation, the date of the violation, and the section of this ordinance allegedly violated.
- (c) Any person who shall violate any provision of this chapter may be issued a notice to appear or summons to appear for such violation, and upon conviction, the person shall be deemed guilty of a misdemeanor and punished in accordance with Section 16 of the Ordinance.
- (d) City enforcement agents are authorized to seek a warrant or order from a court of competent jurisdiction to enforce this chapter, pursuant to all applicable local, state, and federal laws
- (e) City enforcement agents shall have the power to search, seize, and impound an animal with a warrant or court order under one or more of the following conditions:
 - (1) when the city enforcement agent has probable cause to believe that the animal creates a nuisance as described in Section 1 of this ordinance;
 - (2) when the city enforcement agent has probable cause to believe that the animal has been abandoned or is being treated inhumanely as described in this ~~chapter~~ section;
 - (3) when the city enforcement agent has probable cause to believe that the animal has rabies or has been exposed to rabies;
 - (4) when the city enforcement agent has probable cause to believe that the animal is not being quarantined for rabies observation under appropriate conditions as defined in this ~~chapter~~ section;
 - (5) when the city enforcement agent has probable cause to believe that the animal meets the definition of a dangerous animal as defined in ~~this chapter~~ section 1; or
 - (6) when the city enforcement agent has probable cause to believe that the animal is being possessed or harbored in violation of this ~~chapter~~ section;
- (f) City enforcement agents shall have the power to search, seize and impound an animal without a warrant or court order, with probable cause under the following conditions:
 - (1) on public property, in all cases;
 - (2) on private property, if:
 - (a) the consent of the resident or property owner, or someone with apparent authority to

consent, is obtained **in writing**: or

- (b) exigent circumstances exist, the city enforcement agent reasonably believes that there is imminent danger of serious bodily injury or death to a human being, another animal, or the animal in question, and there is insufficient time to obtain a warrant.

(3) upon the request of a peace officer if the owner is not available and there is no one ~~seventeen~~ **eighteen (18)** ~~(17)~~ years of age or older to accept responsibility for the animal.

(g) the city enforcement agent is authorized to use necessary force, including but not limited to breaking a vehicle's window, to make lawful seizures of animals pursuant to this ~~chapter~~ **section**, subject to all local, state, and federal laws and court orders.

Section 3—Licensing and Rabies Vaccination

- (a) All dogs and cats over the age of ~~16 weeks~~ **6 months** must be individually licensed unless they are:
 - 1. Residents of the jurisdiction for less than ~~60~~ **30** days;
 - 2. Residents of a veterinary clinic, animal shelter or impoundment facility; or
 - 3. Residents of a licensed kennel.
- (b) No license shall be issued under this Ordinance unless the application is accompanied by a certificate from a veterinarian licensed to practice in any State or territory of the United States in accordance with the most prevailing Compendium of Animal Rabies Prevention and Control.
- (c) Cat and dog licenses shall be issued by the Public Works Director or designee upon compliance with the requirements of this ~~Code~~ **Ordinance** and payment of the required fee **of \$30**, regardless if the dog or cat is altered or un-altered.
- (d) The licensing period shall be for ~~3~~ **1** year. License renewals may be applied for within ~~60~~ **30** days prior to the expiration date. New residents must apply for a license within 30 days of establishing residence. **Renewal fee will be \$30 per year.**
- (e) License fees shall be waived for dogs serving the blind or deaf; or trained dogs that are government-owned used for law enforcement purposes **with proper licensing for service dog**. All other licensing provisions shall apply.
- (f) **Upon acceptance of the license application and fee, the Public Works Director or his/her designee shall issue a durable license tag including an identifying number and year of the issuance. Both rabies and license tags must be attached to the collar of the dog or cat. Tags must be worn at all times and are not transferable. ~~Designated facilities may be entitled to a processing fee of \$5 per licensed issued.~~**
- (g) In any prosecution under this Code it shall be presumed that at the time of the alleged offense an animal was not currently vaccinated, and that no valid license had been issued for the animal, unless it was wearing a valid license tag issued pursuant to this section.

(h) In addition to the licensing and tag requirements above, all dogs over the age of six months must be implanted with an identifying microchip which magnifies the ability to find the owner of record and the animal's place of residency should it have strayed without a tag. If an owner who offers any dog over the age of 6 months for sale, trade, or adoption, he/she must provide the microchip identification number in writing and the valid dog license number at the time of the sale, trade, or adoption. It is further declared that if an impounded dog is discovered not to have the microchip identification, the owner shall also have the animal implanted with a microchip by a veterinarian selected by the owner. The owner shall pay the cost of the city transporting the animal to the selected veterinarian for the implantation and, when written certification that the implant has occurred and all associated fees and expenses are paid, the animal shall then be released to the owner. If adoption is being considered for a dog of at least 6 months old, the identifying microchip device should be included in the cost of such adoption. This microchip regulation shall commence to be imposed on January 1, 2019 and thereafter Upon approval of this ordinance.

Section 4— Business Permits

- (a) No person shall operate an animal establishment, inclusive of a kennel or a pet shop, without first obtaining a Business Permit in compliance with this section and all other applicable ordinances, inclusive of the prevailing Zoning Ordinance.
- (b) The Business Permit period shall begin with the first day of the fiscal year and shall run for one year. Renewal application for permit may be made within 60 days prior to the expiration date. Application for a permit to establish a new breeding animal establishment may be made at any time.
- (c) The annual Business Permit shall be issued upon payment of the applicable fee: See Fee Chart.
1. For each kennel authorized to harbor a maximum of 6 dogs or cats-~~\$50~~ \$75
 2. For each kennel authorized to harbor between 7-12 dogs or cats- ~~\$100~~ \$125
 3. For each kennel authorized to harbor 13 or more dogs or cats - ~~\$150~~ \$175
 4. For each pet shop-~~\$50~~ \$75
 5. For other animal establishments-~~\$50~~ \$75
- (d) Every facility regulated by this ordinance shall be considered a separate enterprise requiring an individual Business Permit.
- (e) The City of Mercedes may revoke any Business Permit or license if the person holding the permit or license refuses or fails to comply with this ordinance, the regulations promulgated by the State of Texas, or any other law governing the protection and safe-keeping of animals.
- (f) If an applicant is shown to have withheld or falsified any material information on the application, the City may refuse to issue the Business Permit, or may revoke said Business Permit or license.
- (g) It shall be a condition of issuance of any permit for an animal establishment that the City Enforcement Agent of Mercedes shall be permitted to inspect any and all animals and the

premises where such animals are kept during reasonable and normal business hours. Where a permit is revoked for any cause of pending appeal of any such action, the City **Enforcement Agent of Mercedes** shall have the power of entry on the premises and into all areas where animals are being kept. A person denied a permit may not re-apply for a period of at least 30 days. Each re-application shall disclose any previous denial or revocation, and shall be accompanied by the typical filing fee.

- (h) No Business Permit shall be issued for the 'Sale of Animals' if the proposed site of such sale is on a roadside or any other outdoor or un-enclosed location.
- (i) Any animal establishment shall be kept and maintained in a clean manner, free from odors detectable at or near neighboring property.
- (j) Exemption may be considered to subsection (h) hereof if the sale of the offspring of an owner's pet takes place on the owner's premises, and there is compliance with any other applicable ordinances.

Section 5 — Owners' Responsibility

- (a) It shall be unlawful to allow any animal to run at large within the City. The Public Works Director or designee is hereby granted the authority to pick up and cause to be impounded any animal found running at large in the City. The impoundment notice and hearing procedures of this **Ordinance Code** shall apply in the case of any such animal.
- (b) Dogs must be securely confined, leashed, or under the control of a competent person at all times. See Section 6 of this **Ordinance Code**.
- (c) Cats are not required to be leashed. Owners are responsible for the behavior of their cats so that they do not become a nuisance. Any owner of a cat that is allowed to be unleashed is liable for any damages or nuisance caused by such cat. Upon a finding by the court that a particular cat is a nuisance or causes damages, the court may remove the privilege of allowing a particular cat to be unleashed or physically unrestrained.
- (d) A cat that is allowed to run at large by the owner must be surgically altered, must have a license and identification tag with the owner's name and correct phone number listed on the tag, and must not become a nuisance in the city. A cat owner who follows these guidelines shall be responsible for any damage caused by such cat. A cat that causes nuisance problems or damages away from the owner's property shall be restricted to its owner's private property.
- (e) No **animal dog-or-cat** shall be allowed to cause a nuisance. The owner of every **animal dog-or-cat** shall be held responsible for every behavior, nuisance-like or otherwise, of such **animal dog-or-cat** under the provisions of this **Ordinance Code**.
- (f) Generally. No owner shall fail to provide his animal with good wholesome food and water, proper shelter and protection from the elements (cold, heat, rain and storm advisories), veterinary care when needed to prevent suffering, and humane care and treatment. A resident, tenant, and/or owner shall have the right to keep, harbor, pen, and/or oversee a maximum of 4 dogs over the age of 6 months old; it is thus prohibited for said resident, tenant, and/or owner to have 5 or more

dogs on their premises unless it is a licensed 'kennel' meeting the distance requirement to area residential structures, as defined herein. Any owner of an animal shall maintain a clean and healthful shelter and living area for any animal being kept, which area shall be free of accumulated waste, debris, pests, fleas, and ticks so that the animal shall be free to walk or lie down without coming in contact with such waste, debris, or pests. All such shelters or living areas must be cleaned and maintained regularly so as to promote proper health for the animals being kept. The City **Enforcement Agent** ~~of Mercedes~~ shall have the inherent right to inspect such premises.

- (g) No owner shall abandon any animal. Abandonment consists of leaving such animal for a period in excess of 24 hours without providing for someone to feed, water and check the animal's condition. No owner shall leave an animal by a roadside or other similar area; or leave such animal on either public or private property without the property owner's consent and agreement to care for the animal. If an animal is found so abandoned, such animal may be taken by the City designee and impounded in a designated facility, animal shelter, or other facility such as the Humane Society; and there confined in a humane manner. Such animal, if taken from private property, shall be kept for not less than 72 hours in accordance with the procedures set forth by state laws. If the animal is so abandoned, the owner or the person who has been charged with the animal's care shall be subject to a citation for violation of this section.

Section 6 — Animals Kept on Premises, Tethering and Confinement

- (a) Except in licensed kennels meeting the minimum 100' separation requirement to residential structures on adjoining properties, the maximum number of dogs kept on residentially used premises shall not exceed 4 after attaining the age 6 months or older. Also, one single litter of puppies, aged from birth through 6 months, may be permitted to remain at which time the owner will have to comply with Section 5 (f) of this Code.
- (b) Fences for all dogs must be of sufficient height, strength, and structurally sound repair to safely contain the dogs on the premises and prevent children from entering the yard or enclosure. Fences to confine dogs adjudicated as 'vicious' must adhere to additional safety requirements as specified in this Code.
- (c) A dog may be tethered only in full compliance with the provision of this section.
 - 1. No person shall tether a dog using any device that is directly attached to its neck, but instead via a tying device attached to a properly fitted collar or harness made of leather or nylon, and not be of the choker type. This regulation does not prohibit the *proper* use of a choker collar in the *training* of dogs;
 - 2. Dogs cannot be tethered as a primary method of confinement. Tethers can be used as a secondary control within an area fenced to prevent children from entering the yard or enclosure;
 - 3. Using a collar exceeding one and a half inches wide for any dog weighing less than 60

pounds, or using a collar exceeding 2 inches for dogs weighing 60 pounds or more;

4. Except by using a tying device at least 10 feet in length or five times the dog's length, whichever is longer, with a swivel device on the anchor and collar to prevent tangling, and made of 3/16" links of a minimum grade 30 with load limits of 800 pounds for animals that weigh between 30 and 80 pounds, and 1/2" links of a minimum grade 30 with a load limit of 1,500 pounds for animals that weigh from 80 pounds or greater;
 5. A dog may be tethered using a device that weighs more than 1/8 of the dog's body weight;
 6. A dog may not be kept tethered onto any lamppost, light pole, or other similar improvement because such will allow the un-accompanied animal to go into, upon or over any sidewalk, alley, street, or any property not belonging to the dog's owner;
 7. A dog may be tethered on its owner's property for no more than 8 hours per day, but only if it has access to water and shelter from the elements at all times; and the owner, keeper or authorized person is on the premises or within its view and a reasonable distance therefrom; a dog may not be tethered at any time during a heat advisory; or
 8. A dog may be tethered anywhere other than its owner's property for more than 10 minutes, but only if it is in a safe place and the owner, keeper or authorized person, is never out of sight of the dog or more than 50 feet away.
 9. A person who owns or has custody or control of a dog may not leave a dog outside and unattended by use of a chain, rope, tether, leash, cable, or other device that attaches a dog to a stationary object or trolley system that: unreasonably limits the dog's movement: between the hours of 10:00 P.M and 6:00 A.M.; or is located within five hundred (500) feet of a school; or occurs during extreme weather conditions as defined in Subchapter D, Chapter 821 of the Texas Health and Safety Code.
- (d) The premises upon which animals are kept, whether indoors or outdoors, shall be maintained in a secure, clean and sanitary condition.
- (e) No person shall transport or carry on any public roadway any animals in a motor vehicle unless the animal is safely enclosed within the vehicle, and if traveling in an unenclosed vehicle (including but not limited to convertibles, pick-up trucks, jeeps, and flatbed trucks), the animal shall be confined by a vented container or cage, or by chain, rope or other device cross-tied to prevent the animal from falling or jumping from the motor vehicle or from strangling on a single leash.
- (f) Any failure to comply with this section may result in confiscation of the dog, and citation(s) being issued against the person in charge of said dog.

Section 7— Nuisances

- (a) Nuisances include but are not limited to frequent running at large, excessive noise, soiling of public property and of private property not owned or rented by the pet owner, and noxious odors

or unsanitary conditions caused by failure to clean the dog's resident property.

- (b) Dogs must be prevented from causing a nuisance by barking, howling, or yelping in a habitual, consistent, or persistent manner that continually disturbs the peace of the neighborhood.
- (c) Owners must immediately remove feces deposited by their dogs on public property, public and private right-of-way's, and private property not owned or rented by the animal owner; furthermore, owners or the person in charge of such dogs shall remove within a reasonable time such feces from their own properties (whether owned or rented) should the feces/urine induce an odor issue that is offensive to the normal senses of adjoining private residents, and as confirmed by the investigating Animal Control Officer, Code Enforcement Officer, or Health Officer.
- (d) The Animal Control Officer, or Code Enforcement Officer, shall investigate each complaint and may issue a citation to anyone found violating this section.
- (e) Dog owners who repeatedly violate nuisance laws will be subject to increased fines and to requirements that they provide a remedy for the offending behavior or activity. If the violation involves lack of sanitation on the subject property, Health Officials may also make periodic visits to assure that sanitation is maintained. If an extreme unhealthy issue is clearly evident, in addition to citations being issued, the Health Official may recommend to the Municipal Court Judge at a called hearing that the animals should be removed from the property, either by the owner or through an order of confiscation to thus take firm measures to restore a healthy environment.

Section 8 —Dead Animals

- (a) The City shall provide, by contract or otherwise, for the removal and disposition of animal carcasses from the streets, avenues, alleys and other public places of the City.
- (b) It shall be unlawful for any person to throw or place any dead or injured animal or fowl or related body part, in or upon any public place within or belonging to the City, the County of Hidalgo, the State of Texas, or any property belonging to an irrigation district.
- (c) It shall be unlawful for any person to bury or cause to be buried within the City any dead animal, except as provided herein. Any person having in the person's possession or upon their premises any dead animal shall immediately dispose of the animal in any one of the following manners:
 - 1. Removal from the City for appropriate disposition;
 - 2. Cremation at a licensed facility;
 - 3. Disposal at a site or facility certified to accept putrescible wastes; or
 - 4. Burial on the person's private property at a depth greater than two feet (2') below ground level.

Section 9 -- Unlawful Restraint of a Dog

- a) An owner may not leave a dog outside and unattended by use of a restraint unless the owner provides the dog access to:
 - 1. adequate shelter;

2. an area that allows the dog to avoid standing water and exposure to excessive animal waste;
 3. shade from direct sunlight; and
 4. potable water
- b) An owner may not restrain a dog outside and unattended by use of a restraint that;
1. is a chain;
 2. has weights attached;
 3. is shorter in length than the greater of:
 - (A) five times the length of the dog, as measured from the tip of the dog's nose to the base of the dog's tail; or
 - (B) 10 feet; or
 4. is attached to a collar or harness not properly fitted.
- c) A person commits an offense if the person knowingly violates this section. The restraint of each dog that is in violation is a separate offense.

Section 10 — Animal Cruelty

- (a) It is unlawful for anyone to beat, cruelty ill-treat, torment, overload, overwork or otherwise abuse an animal, or cause, instigate or permit any dogfight, cockfight, bullfight or other combat between animals or between animals and humans.
- (b) It is unlawful to breed or train an animal for fighting with any other animal.
- (c) Having charge, custody, or possession of any animal or fowl, either as owner or otherwise, and unjustifiably fail to provide it with proper food, proper drink, proper shelter, proper veterinary care, and/or with humane care and treatment constitutes animal cruelty.
- (d) No person shall leave any animal in any standing or parked vehicle in such a way as to intentionally, knowingly, recklessly, or with criminal negligence endanger the animal's health or safety. Any Animal Control Officer or Police Officer is hereby authorized to use reasonable force, including the breaking of a window, if the animal's health or life is at risk where after said animal shall be impounded. The attending city's official shall then leave a notice on the vehicle bearing the name of the officer removing the animal, a telephone number where he/she can be contacted, and the location where the animal may be claimed by the owner. It is declared that any person violating this section shall reimburse the City for the full cost and expense incurred by the city in the care, medical treatment, and impoundment of the animal, including the removal from a vehicle before regaining possession of the animal.
- (e) This section is not intended to contravene the provisions for animal cruelty contained in the Texas Penal Code.
- (f) No method of slaughtering or handling in connection with slaughtering shall be deemed to comply with the public policy of the United States unless it is humane. In the case of cattle, calves, horses,

mules, sheep, swine, and other livestock, all animals are rendered insensible to pain by a single blow, or an electrical, chemical, or other means that is rapid and effective, before being shackled, hoisted, thrown, cast, or cut; or

- (g) Any failure to comply with this section may result in confiscation of the animal with citation(s) being issued against the person(s) found to be in (alleged) violation of this Code.

Section 11 — Prohibited Animals; Distance Requirements

- (a) It shall be unlawful to keep any wild animals inside the City limits unless it is permitted through a bona fide circus for a temporary stay.
- (b) It shall be unlawful to release or to allow any wild or vicious animal to be running at large and unrestrained.
- (c) It shall be unlawful for any person to raise, keep, pen or harbor any livestock or domestic fowl upon any premises within ~~150-~~ 200 feet from any residential property, measured to the nearest property line of such residence (other than that of the occupant of the premises where the same are kept); or within 200' from any hotel, church, school, nursing home, daycare, or similar facility, within the corporate limits, as measured to said structural improvements where people occupy said structures or its auxiliary buildings. This section shall not apply to the raising of livestock temporarily harbored pursuant to an exhibit or exposition held within the City, but where such harboring shall mandate the approval of the Code Enforcement Officer and the City's Health Official to assess containment, distance to surrounding residents, health control measures, and any historical evidence of previous compliance of sanitary management practices.
- (d) All livestock or domestic fowl shall be kept in suitable sanitary pens or enclosures, which shall be cleaned daily, and daily disinfected and sprayed with insecticides and kept in such a manner as not to become unsanitary offensive or disagreeable to persons of ordinary sensibilities residing in the vicinity thereof. The livestock or domestic fowl shall not be kept or maintained so as to breed flies or in any manner cause any injury to the health of the public or any person residing in the vicinity of said pen or enclosure.
- (e) No person shall import, transport or release or cause to release within City Limits any live animal, gamete, viable egg or hybrid of any species listed as invasive to the area by the U.S. Fish and Wildlife Service or the Texas Parks and Wildlife agencies, except by authorized permit for responsible zoological, educational, medical or scientific purposes.

Section 12 —Animal Bites

- (a) Any wild animal which has bitten a person should be caught and euthanized, and the brain immediately submitted to a qualified laboratory for rabies examination. Rodents, rabbits, birds, and reptiles are not considered to be transmitters of the rabies virus and should not be submitted for laboratory examination for rabies.

- (b) Any dog or cat which has bitten a person shall be quarantined for observation of rabies for a period of no less than ten (10) days from the date of the bite. The procedure and place of observation shall be designated by the investigating officer or responsible agency. Such confinement shall be at the expense of the owner. Stray dogs or cats whose owners cannot be located shall be confined in the animal shelter. The owner of any dog or cat which has been reported to have inflicted a bite on a person shall, on demand, produce the dog or cat for impoundment, as prescribed in this section. Refusal to produce the dog or cat constitutes a violation of this section, and each day of such refusal shall constitute a separate and individual violation.
- (c) A dog declared 'vicious' which has bitten a person shall be quarantined for observation of rabies for a period of no less than ten (10) days from the date of the bite. The fee will be required for release of the 'vicious' dog. No dog that has been declared 'vicious' must have more than two (2) violations of this chapter. The dog will be euthanized in a humane manner.
- (d) An animal control officer or Code Enforcement Officer is empowered to issue a citation to the owner of a dog or cat which has bitten a person as described in the fee chart below. ~~or for a violation of this section.~~

Section 13—Vicious Animal Declaration

- (a) An animal that may be suspected of being 'vicious' may be investigated by the Public Works Director or his/her designee. Upon such investigation, if the City finds that the animal's behavior and instinct is said to be 'vicious', said animal shall be so classified.
- (b) No animal may be declared 'vicious' for injury or damage sustained by a person who was committing a willful trespass or other tort upon the premises of the animal's owner.
- (c) No animal may be declared vicious for injury or damages sustained by a person who was teasing, tormenting, abusing, or assaulting the animal.
- (d) No animal may be declared 'vicious' for injury or damages sustained If the dog was defending or protecting its owner from unjustified attack or assault, or was protecting or defending its young or other animals from harm or attack.
- (e) No dog shall be deemed 'vicious' simply by its breed.
- (f) Within 5 days of declaring an animal 'vicious', the Public Works Director or designee shall notify the animal's owner in writing of the declaration by personal service. In the alternative, service may be by certified mail or by posting on the animal owner's property. The notice shall:
 - a. Identify the requirements and conditions for maintaining a 'vicious' animal as set forth in Section ~~13~~ 14 of this Code; and
 - b. Order the owner to immediately comply with the confinement and other requirements of Sections 5 & 6, and advise the owner of his/her right to a hearing under this Section.
- (g) The owner of an animal declared 'vicious' shall have the right, within 5 days after service of the notice, to personally serve upon the Public Works Director, designee or ~~any police officer~~ the municipal court clerk a written request for a hearing to contest the 'vicious' animal declaration.

The City's recipient shall then file the hearing request with the Municipal Court where after a hearing shall be held within a reasonable time therefrom.

- (f) The hearing under this section shall be before a Municipal Judge of the City and shall be formal, and strict rules of evidence shall apply. The owner may be represented by counsel, present oral and written evidence, and cross examine witnesses.
- (g) At the hearing, all interested persons shall be given the opportunity to present evidence of the issue of the dog's alleged viciousness. Criteria to be considered in a hearing required herein may include but not be limited to:
 - 1. Provocation
 - 2. Observable behavior of the dog;
 - 3. Site and circumstances of the incident; and
 - 4. Statements from interested parties and/or witnesses.
- (h) The Municipal Judge shall issue a decision within two business days after the close of the hearing under this section and shall notify the owner in writing of the decision.
- (i) The Municipal Judge may uphold the 'vicious' animal declaration, in which event the owner shall comply with all of the requirements and conditions for keeping a 'vicious' animal as set forth in Section ~~13~~ 14.
- (j) The decision by the Municipal Judge shall be final.
- (k) The owner will be responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the dog at the animal shelter through the appeals process.
- (l) It shall be unlawful by the owner or keeper of a deemed 'vicious' dog to not fully comply with the confinement provisions for such dogs, as regulated in this Code.

Section 14 — Requirements for Keeping a Vicious Animal

- (a) The owner of 'vicious' animal shall be subject to the following requirements:
 - 1. Confinement. All 'vicious' animals shall be securely confined upon the premises of the owner indoors or outdoors in an enclosed and locked kennel. Confinement shall comply with the provisions of Sections 5 & 6.
 - 2. A dangerous dog may be off the owner's premises or out of its enclosure only if it is muzzled and restrained by a substantial chain or leash having a minimum tensile strength of three hundred (300) pounds, and not exceeding four (4) feet in length, attached to a leather or nylon collar or harness (not a choke chain). The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but must prevent it from biting any person or animal. No person under the age of eighteen (18) shall be in charge or control of a 'vicious' dog. No person physically incapable of restraining or controlling a 'vicious' dog, either due to weight or strength of the dog, shall

be in charge or control of such a dog.

3. The owner shall prominently display a sign on his premises at all entry points warning that there is a 'vicious' dog on the property, as well as on any fenced enclosure, no more than thirty (30) feet apart, and at each normal point of ingress and egress. These signs shall bear the words "Beware of Dog" or "Dangerous Dog" in letters at least three and one-half (3 ½) inches high, and shall be so placed as to be readily visible to any person approaching the enclosure. If such required signs are eroded due to sun exposure or weather conditions, such signs must be immediately replaced.
4. The Municipal Court Judge, in his/her discretion during a related hearing to preserve the safety of the general public, may require a 'vicious' dog to be spayed or neutered.
5. The Animal Control Officer or Code Enforcement Officer, in their discretion, shall have the authority to make whatever inspections are deemed necessary to ensure that the provisions recited herein are fully complied with.
6. Prior to a 'vicious' dog being sold or given away, the owner shall provide the name, address, and phone number of the new owner to the Public Works Director. Each owner shall execute a document acknowledging that said owner is aware of the 'vicious' dog classification, and that said owner shall comply with the requirements of this Code.
7. An owner of a 'vicious' dog shall have the option to have said dog humanely euthanized at his expense by the animal shelter or licensed veterinarian if said owner is unable to comply with the requirements cited herein.
8. The owner of a 'vicious' dog shall present to the Public Works Director or designee proof that the owner has procured liability insurance or a surety bond in the amount of not less than one hundred thousand dollars (\$100,000.00) covering each dog so declared for any damage or injury that may be caused by each such 'vicious' dog. The liability insurance policy or surety bond shall contain a provision requiring that the Public Works Director be notified immediately by the agent issuing the policy or bond, or by the company issuing the policy or bond, in the event the insurance policy or bond is canceled, terminated, or is about to expire. The liability insurance, or surety bond, shall be obtained prior to the issuing of a permit to keep a 'vicious' dog, and proof of coverage shall be required each year for renewal of the license to keep a 'vicious' dog.

Section 15 — Impoundment

- (a) Animals owned or harbored in violation of this Code or state law shall be taken into custody by an Animal Control Officer or other designated official and impounded. Stray animals shall be similarly impounded.
- (b) It shall be unlawful for any person to remove any impounded animal from the animal facility without the consent of the Animal Control Officer or designated official or agency.

- (c) If the owner of an impounded animal is known, immediate notice shall be given to him/her. Any impounded animal may be redeemed upon payment of fines, license fee where applicable, care and feeding charges, veterinary charges, rabies vaccination charges and such other costs as set by the City Commission of the City of Mercedes.
- (d) If such animal is not redeemed within three days, it shall be deemed abandoned and may be placed for adoption subject to payment of the license fee where applicable, impoundment fee, care and feeding charges, veterinary charges, rabies vaccination charges where applicable, and such other costs as set forth by the City Commission; if such animal is not redeemed, it may be humanely euthanized according to facility's protocol.
- (e) If the animal is to be available for adoption, an adoption fee of \$25 shall be assessed at the time. No dog or cat shall be released for adoption as a pet without being neutered. Reasonable vaccination fees, licensing fees, and veterinary costs may be assessed during the course of adoption.
- (f) The Public Works Director or designee may order the impoundment for destruction of an animal only when the animal:
 - 1. Has attacked, bitten or injured a human being or domestic animal and the circumstances indicate that there is a probability of additional similar conduct by such animal.
 - 2. Has been declared a 'vicious' animal pursuant to Section 10, and the owner, if any is ascertainable, has failed to comply with the requirements and conditions for keeping a vicious animal as provided in Section 13.
 - 3. Poses a threat of serious harm to the public's health or safety.
- (g) The Public Works Director may accept a dog or cat voluntarily forfeited from the confirmed owner for humane disposal whereby a fee of \$150 will be paid for such service.
- (h) Any animal impounded for destruction under the provision of this section may be claimed by its owner only with an order issued by the Municipal Court after a hearing pursuant to this section and in compliance with any conditions and applicable fees of such an order.
- (i) The impoundment of dogs and cats which have inflicted bites on humans shall be for a period often days for observation and shall not be released until a licensed veterinarian has declared the animal to be free of rabies.
- (j) If a dog or cat dies during the observation period, the Public Works Director shall cause the dog's or cat's remains submitted for rabies testing.
- (k) Any impounded animal on observation may be redeemed after the observation period has ended and upon payment of the license fee where applicable, care and feeding charges, veterinary charges, rabies vaccination charges, and other costs as set by the City Commission of the City of Mercedes. If such animal is not redeemed within three days, it shall be deemed abandoned and shall be humanely euthanized.
- (l) Within 2 business days of any impoundment for destruction under this Code, the Public Works

Director or designee shall notify the animal's owner in writing (Certified Mail) of the impoundment. In the alternative, service may be by posting a laminated original letter on the animal owner's property. The notice shall advise the owner to his/her right to a hearing. In the case of stray animals, an attempt to notify the owner is not necessary.

1. The owner of an animal impounded for destruction shall have the right, within 5 days after service of the notice under this section, to personally serve upon the Public Works Director or his/her designee, a written request for a hearing to contest the impoundment. The Public Works Director or designee shall immediately file the request with the Municipal Court, and a hearing may be held at the next available court date.
2. The impoundment hearing shall be informal, and strict rules of evidence shall not apply. The owner shall be represented by a counsel; present oral and written evidence, and cross examine witnesses.
3. The Municipal Judge shall issue a decision within 2 business days after the close of the hearing under this section, and shall notify the owner and Public Works Director in writing of the decision.
4. After considering all of the relevant evidence, the Municipal Judge may order the destruction of the impounded animal or may release the animal to its owner, conditional on the owner complying with the requirements for keeping a vicious animal as set forth in this Code.

Section 16 — Penalty for Violations and Redemption Rate after Impoundment

- (a) Any person found guilty of the violation of any provision of this ordinance shall be punished as published table of fees on the City website.

First violation involving an altered animal	\$50
First violation involving an intact animal	\$50
Second violation involving an altered animal	\$100
Second violation involving an intact animal	\$100
Third and subsequent violations involving an altered animal	\$150
Third and subsequent violation involving an intact animal	\$150

- (b) In addition to the fine specified in subsection (a) above, the Municipal Court Judge may sentence owners, at their own cost, to complete a Responsible Owner Course every time they are found guilty after a first violation.
- (c) In the event the Municipal Court Judge allows community service in lieu of or in addition to the imposition of a fine, whenever possible such community service shall be served at an animal shelter or similar institution.
- (d) Prior to sentencing, if the owner of an intact animal is found guilty or pleads 'no contest' to a violation of this ordinance, and said owner represents that the animal will be altered, the

Municipal Court may reset the sentencing, but only once and for no more than 30 days, for the purpose of allowing the defendant to present sufficient proof that the animal was altered after the finding of guilt or entry of the plea of ‘no contest’. Upon presentation of such proof of alteration, the fines imposed pursuant to this section may be reduced pursuant to the discretion of the Municipal Court Judge.

- (e) For redemption. The person entitled to the possession of any animal delivered to the animal control center shall be entitled to have the animal delivered to him upon presentation of satisfactory evidence of ownership, proof of compliance with any other applicable ordinance or statute governing the release of an animal to such owner, and payment of all applicable charges, fines, and/or fees, provided such animal is not infected or reasonably believed to be infected with rabies or any other infectious or contagious disease.

- (f) Except as otherwise provided in this Code, the following fees shall be charged for the impoundment of an animal in the animal control center:

First impoundment of an altered animal	\$10 \$65
First impoundment of an intact animal	\$10 \$65
Second impoundment of an altered animal	\$20 \$120
Second impoundment of an intact animal	\$20 \$120
Third and subsequent impoundment of an altered animal	\$30 \$175
Third and subsequent impoundment of an intact animal	\$30 \$175

- (g) The fees specified above for unsterilized dogs or cats shall apply unless it has been determined by external examination that the animal had already been sterilized, or the owner presents a certificate from a veterinarian establishing that the animal had been sterilized.

Section 17 — Severability

If any portion, section, subsection, phrase, sentence or clause of this ordinance shall for any reason be held invalid, such invalidity shall not affect the remaining provisions of this ordinance, or their application of other persons or sets of circumstances, and to this end, all provisions of other related Ordinances that may be in conflict herewith are hereby repealed.

Section 18 - Publication Date

The caption of this ordinance shall be published in a newspaper of local circulation in accordance to the City Charter of the City of Mercedes, Texas; and pursuant to State Law.

READ, DISCUSSED, AND APPROVED ON THIS THE 1ST DAY OF _____ IN THE YEAR OF OUR LORD, 2022.

1st Reading:

2nd Reading:

Approved as to Form: _____
Martie Garcia Vela, City Attorney

Oscar Montoya, Mayor

ATTEST:

Joselynn Castillo, City Secretary

Fee Chart

Description	Reference	Fee
License and Rabies	Section	
Cat and Dog License (3 years)	Sec.3(c)	\$30
Designated Facilities processing fee per license issued	Sec.3(f)	\$5
License to keep a ‘vicious’ dog	Sec. 14(a)8	\$50
Business Permits		
For each kennel authorized to harbor a maximum of 6 dogs or cats	Sec.4(c)1	\$50
For each kennel authorized to harbor between 7-12 dogs or cats	Sec.4(c)2	\$100
For each kennel authorized to harbor 13 or more dogs or cats	Sec.4(c)3	\$150
For each pet shop	Sec.4(c)4	\$50
For other animal establishments	Sec.4(c)5	\$50
Unlawful Restraints		
Unlawful Restraint of a Dog violation (price is for each separate offense)	Sec. 9(c)	\$200
Nuisance		
First violation of nuisance	Sec. 7(e)	\$50
Second violation of nuisance	Sec. 7(e)	\$100
Third and subsequent violation of nuisance	Sec. 7(e)	\$150
Animal Bites		
Dog or Cat bite, with owner per occurrence	Sec. 12	\$150
Dog Bite from a ‘vicious dog’ per occurrence	Sec. 12	\$200
Impoundment		
Adoption Fee	Sec.15(e)	\$25
Voluntary Forfeited Animals	Sec.15(g)	\$260
Tranquilize or euthanize an animal on site		\$150
Quarantine an animal		\$250
Deceased animal impoundment		\$45
Violations	Section 16	
First violation involving an altered animal	Sec. 16(a)	\$50

First violation involving an intact animal	Sec. 16(a)	\$50
Second violation involving an altered animal	Sec. 16(a)	\$100
Second violation involving an intact animal	Sec. 16(a)	\$100
Third and subsequent violations involving an altered animal	Sec. 16(a)	\$150
Third and subsequent violation involving an intact animal	Sec. 16(a)	\$150
Redemption Rate after Impoundment	Section 16	
First impoundment of an altered animal	Sec. 16(f)	\$10 \$65
First impoundment of an intact animal	Sec. 16(f)	\$10 \$65
Second impoundment of an altered animal	Sec. 16(f)	\$20 \$120
Second violation involving an intact animal	Sec. 16(f)	\$20 \$120
Third and subsequent impoundment of an altered animal	Sec. 16(f)	\$30 \$175
Third and subsequent impoundment of an intact animal	Sec. 16(f)	\$30 \$175

Mercedes shall pay City of Weslaco \$65 per animal impounded at City's shelter.

Mercedes shall pay City \$55 per deceased animal taken to City's shelter.

Mercedes citizens seeking to reclaim animals shall pay fee as set by City of Weslaco.

Mercedes shall pay City of Weslaco \$150.00 to tranquilize or euthanize an animal on site.

Mercedes shall pay City of Weslaco \$250.00 to quarantine an animal.



CITY OF MERCEDES

BUDGET AMENDMENT



FUND: _____

BUDGET AMENDMENT# _____

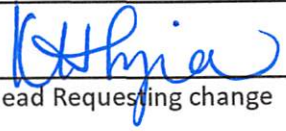
DEPARTMENT: Utilities to Meter Readers

DATE POSTED: _____

Fund	G/L ACCT#	DESCRIPTION	Approved Budget	(Decrease)	Add	Amended Budget
02	530-1010	Full Time Employees	356,885.00	(2,592.00)		354,293.00
02	530-1100	Pension Contribution	61,417.00	(352.35)		61,064.65
02	530-1120	Social Security	30,361.00	(159.12)		30,201.88
02	530-1180	Workers Comp	773.00	(3.94)		769.06
02	525-1010	Full Time Employees	61,986.00		2,592.00	64,578.00
02	525-1100	Pension Contribution	10,669.00		352.35	11,021.35
02	525-1120	Social Security	4,818.00		159.12	4,977.12
02	525-1180	Workers Comp	115.00		3.94	118.94
						-
						-

Justification/Explanation for change:

Transfer Labor postion to Meter Readers



 Dept Head Requesting change

 Finance Dept

Approved: _____

City Manager

 Mayor



CITY OF MERCED

BUDGET AMENDMENT



FUND: _____

BUDGET AMENDMENT# _____

DEPARTMENT: Animal C to Building Main

DATE POSTED: _____

Fund	G/L ACCT#	DESCRIPTION	Approved Budget	(Decrease)	Add	Amended Budget
01	523-1010	Full Time Employees	51,060.00	(2,592.00)		48,468.00
01	523-1100	Pension Contribution	9,750.00	(459.07)		9,290.93
01	523-1120	Social Security	4,403.00	(207.31)		4,195.69
01	523-1180	Workers Comp	97.00	(5.14)		91.86
01	530-1010	Full Time Employees	75,480.00		2,592.00	78,072.00
01	530-1100	Pension Contribution	13,464.00		459.07	13,923.07
01	530-1120	Social Security	6,080.00		207.31	6,287.31
01	530-1180	Workers Comp	1,200.00		5.14	1,205.14
						-

Justification/Explanation for change:

Increased Budget for Building Maintenance



 Dept Head Requesting change

 Finance Dept

Approved: _____

City Manager

 Mayor

Management Items

DATE: November 1, 2022

FROM: Marisol Vidales, Library Director

ITEM: Action to reappoint existing member to the Mercedes Historic Preservation Commission (MHPC).

BACKGROUND INFORMATION:

The Mercedes Historic Preservation Commission is a 7-member and 2-alternate member advisory board for the City of Mercedes. Its purpose is to maximize conservation & preservation of any historical landmarks for future generations to discover, and appreciate Mercedes' structural heritage...

The board's scope of work includes the following:

- Nominates properties for local historic designation
- Reviews grant applications for local historic properties
- Provides suggestions for work performed on local historic properties
- Research history on local historic properties
- Review applications for historical business awards

At this time, we do have the term of two of our regular members up for renewal which are Mrs. Donna Otto and Mr. Alejandro Medina. Unfortunately, Mr. Medina does not wish to renew his term at this time due to work constraints. Mrs. Donna Otto wishes to continue to serve on the board but under the role of an alternate member. Mrs. Otto currently fulfills the role of an archaeologist for our board. If her term is renewed it will run until October 2024.

This will leave 2 of our regular member seats and one alternate member seat vacant.

BOARD REVIEW/CITIZEN FEEDBACK: Approved

ALTERNATIVES/OPTIONS:

FISCAL IMPACT:

Proposed Expenditure/(Revenue):	Account Number(s):

Finance Review by:

LEGAL REVIEW:

ATTACHMENTS:

Staff Recommendation: Move to renew Mrs. Otto for another term and accept the resignation of Mr. Medina.

CONSENT ITEM :

DATE: October 27, 2022

FROM: Alberto Perez

ITEM: **Action Item:**

Discussion and possible action to name and place a bike plate on one of the City Patrol Bikes in honor of David G.

Howell/Martinez

BACKGROUND INFORMATION:

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: N/A

LEGAL REVIEW: Martie Vela-Garcia

ATTACHMENTS: N/A

DRAFT MOTION:

Bids/Contracts

DATE: November 1, 2022**FROM:** Kristine Longoria, Human Resource Specialist**ITEM:** Consider, discuss and possibly take action to select a health insurance carrier.

BACKGROUND INFORMATION:

Staff advertised for proposals for Health Insurance and received three bids.

Name of Bidders	Key points	Price
Blue Cross Blue Shield of Texas	Current Carrier	\$470.48
RJ Garza and Co.	HUB & MBE Certified, manage benefits plans	\$2000 per month if awarded carrier has no broker fee attached
Cano Care for Direct Primary Care	3 members max per family	\$55.00 per member

Blue Cross Blue Shield is the current health care provider for the City of Mercedes. The current rate is \$415.75 and the renewal rate is \$470.48; a 13.2% increase. City Staff did budget for an increase at 13%.

If an agent/broker is selected, please note this is not budgeted.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: Budgeted for FY 2022-2023

LEGAL REVIEW: Martie Vela-Garcia

ATTACHMENTS: N/A

DRAFT MOTION: The City recommends selecting BCBS of TX with the renewing plan rates of \$470.48 per employee.

Bids/Contracts

DATE: November 1, 2022

FROM: Javier Ramirez, Assistant City Manager

ITEM: Consider, discuss and possibly approve the negotiation and execution of a contract to provide professional services for the development of a water and wastewater master plan.

BACKGROUND INFORMATION:

The City of Mercedes is experiencing considerable growth within its city limits and ETJ. The development of a long term and comprehensive water and wastewater master plan will enable the city to adequately plan for the installation of critical infrastructure as growth progresses.

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BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: N/A

LEGAL REVIEW: Martie Vela-Garcia

ATTACHMENTS: N/A

DRAFT MOTION: Staff recommends approving the negotiation and execution of a contract to provide professional services for the development of a water and wastewater master plan.