

PART I

CHARTER*

Article I. Home Rule Government

- Sec. 1. Incorporation.
- Sec. 2. Annexation.
- Sec. 3. Form of government and council.

Article II. City Council

IN GENERAL

- Sec. 1. Membership and term.
- Sec. 2. Election procedures.
- Sec. 3. Runoff elections.
- Sec. 4. The mayor pro tem.
- Sec. 5. Disability of mayor.
- Sec. 6. Mayor's general powers.
- Sec. 7. Compensation.
- Sec. 8. Judge of elections.
- Sec. 9. Restrictions upon council members.
- Sec. 10. Rules of the council.
- Sec. 11. Removal.
- Sec. 12. Vacancy in office of mayor.
- Sec. 13. Vacancies in office of council member.
- Sec. 14. Meetings of the council.
- Sec. 15. Contract before election.
- Sec. 16. Interference.
- Sec. 17. Investigation.
- Sec. 18. Council responsibility.

RECALL

- Sec. 19. Power of recall.
- Sec. 20. Filing, examination and certification of petition.
- Sec. 21. Recall election.
- Sec. 22. Recall ballot.

***Editor's note**—Printed herein is the city Charter as adopted at a special election held May 6, 2000. Amendments to the Charter are indicated by parenthetical history notes following amended provisions. Obvious misspellings have been corrected without notation. The absence of a history note indicates that the provision remains unchanged from the original. For stylistic purposes, a uniform system of headings, catchlines and expression of numbers in text has been used. Additions made for clarity are indicated by brackets.

State law reference—Home rule charters, V.T.C.A., Local Government Code ch. 9.

MATHIS CODE

- Sec. 23. Results of recall election.
- Sec. 24. Limitation on recall.
- Sec. 25. City secretary.
- Sec. 26. Municipal court.
- Sec. 27. Independent audit.
- Sec. 28. Internal audit.

Article III. City Manager

- Sec. 1. Appointment; qualifications; term; removal; compensation.
- Sec. 2. Powers and duties.

Article IV. Administration

- Sec. 1. Creation of departments.
- Sec. 2. Fiscal year; budget submission, contents, and adoption; appropriation.
- Sec. 3. Interdepartmental transfer of funds.
- Sec. 4. Revenue in excess of total estimated income.
- Sec. 5. Money drawn from city treasury.
- Sec. 6. Accounts maintained.
- Sec. 7. Funds in treasury.

Article V. Boards and Commissions

- Sec. 1. General.
- Sec. 2. Appeals to city council.

Article VI. Employment Regulations

- Sec. 1. Classified service.
- Sec. 2. Civil service board.
- Sec. 3. Participation in political activity.

Article VII. Taxation and Bonds

- Sec. 1. Taxation.
- Sec. 2. Authority to issue bonds.

Article VIII. Public Utilities, Franchises and Leases

- Sec. 1. Inalienability of public property.
- Sec. 2. Power to grant franchise or lease.
- Sec. 3. Ordinance granting franchise or lease.
- Sec. 4. Transfer of franchise or lease.
- Sec. 5. Regulation of franchises and public utilities.
- Sec. 6. Regulation of leases.
- Sec. 7. Effect on existing contracts.

CHARTER

Sec. 8. Power of eminent domain.

Article IX. General Powers and Provisions

- Sec. 1. General powers.
- Sec. 2. Contracts.
- Sec. 3. Action by citizens.
- Sec. 4. Existing ordinances.
- Sec. 5. Printed ordinances as evidence.
- Sec. 6. City not required to give bond.
- Sec. 7. Public property exempt from execution sale.
- Sec. 8. City inhabitants, freeholders or taxpayers not disqualified.
- Sec. 9. Notice of personal injuries required.
- Sec. 10. Council action validated.
- Sec. 11. Construction of charter.
- Sec. 12. Judicial notice.
- Sec. 13. Separability clause.

CITY CHARTER
OF
CITY OF MATHIS, TEXAS

ARTICLE I. HOME RULE GOVERNMENT

Sec. 1. Incorporation.

The inhabitants of the City of Mathis, Texas, within its corporate limits as established pursuant to the Texas Local Government Code and the general laws of the State of Texas, are hereby constituted a body politic and corporate, in perpetuity, under the name "City of Mathis," hereinafter referred to as the "city," with such powers, privileges, rights, duties and immunities as are herein provided.

Sec. 2. Annexation.

The city shall have the power by ordinance to fix the boundary limits of the city and to provide for the alteration and extension of the boundary limits.

State law references—Municipal boundaries, V.T.C.A., Local Government Code ch. 41; municipal annexation, V.T.C.A., Local Government Code ch. 43.

Sec. 3. Form of government and council.

The municipal government provided by this charter shall be known as the "Council Manager Government." Pursuant to its provisions and subject only to the limitations imposed by the state constitution and by this charter, all powers of the city shall be vested in an elective council, hereinafter referred to as the "the council," which shall enact local legislation, determine policies, appoint the city manager, and which council and city manager shall execute the laws and administer the government of the city.

State law reference—Form of government of home rule municipality, V.T.C.A., Local Government Code ch. 26.

ARTICLE II. CITY COUNCIL

IN GENERAL

Sec. 1. Membership and term.

(a) The city council shall consist of a mayor elected by majority vote at large and five council members elected by majority vote at large, each of which shall run for office in a numbered place position. Any person having the qualifications provided by law and this charter who is a resident of the city shall be eligible as a candidate for mayor or any one of the five council member places.

(b) The mayor and members of the city council shall be elected for terms of two years and shall hold office until their respective successors have been elected and qualified. The mayor and council members in places 3 and 5 shall be elected in odd-numbered years and the remaining three council members in places 1, 2 and 4 shall be elected in even-numbered years. The regular election shall be held each year on the first Saturday in May unless the city council designates an alternative date allowed by state law at least six months prior to the regular election.

(c) Newly elected council members shall take office at the first council meeting after the votes are canvassed from the regular election; provided, however, that in the event a run-off election is required, the council members shall take office at the first council meeting after the votes are canvassed from the run-off election.

(d) In order to effect a transition upon the adoption of this Charter, the mayor and aldermen serving in place 3 and place 5 shall become the mayor and council members in place 3 and place 5, respectively, and shall continue serving their unexpired terms until the canvass of the election of May 5, 2001. The aldermen elected in place 1, place 2 and place 4 in the May 6, 2000, election shall become the council members in place 1, place 2 and place 4, respectively, and shall serve two-year terms. Upon the conclusion of the elections in May 2002, this transition provision shall automatically expire.

Sec. 2. Election procedures.

(a) Candidates for mayor or city council shall file with the city secretary within the time provided by law an application to appear on the ballot. The candidate shall not owe delinquent taxes to the city, and the application shall meet the requirements of the Texas Election Code, as the same may be amended from time to time.

(b) The city council by ordinance may enact rules and regulations governing elections not inconsistent with this Charter or state or federal law.

Sec. 3. Runoff elections.

If no candidate for mayor or city council receives a majority of all votes cast for such office at any regular or special election, there shall be held on the second Saturday following any such election a run-off election at which the two candidates receiving the highest number of votes in the regular or special election shall stand for election.

Sec. 4. The mayor pro tem.

(a) The city council shall nominate and confirm one of the council members who shall be known and designated as mayor pro tem, and he or she shall receive no extra pay by reason of being or acting as mayor pro tem.

(b) Whenever a regular or special meeting is scheduled to be held and both the mayor and mayor pro tem are absent, a majority of the council members present may proceed to elect one of those present as acting mayor for such meeting who shall preside and discharge the duties of the mayor. The absence of the mayor and mayor pro tem shall be noted in the minutes with a short statement of the reason for absence, if known.

(c) When it is anticipated that both the mayor and mayor pro tem will be absent from the city, or unable to perform the duties of the office of mayor on the day of the meeting of the city council, the council by a majority vote shall name a member to be mayor pro tem for the particular meeting, and he or she shall be entitled to perform the duties and have the powers of the mayor on such occasion.

Sec. 5. Disability of mayor.

If for any reason the mayor is absent from the city or unable to perform the duties of his or her office, the mayor pro tem shall act as mayor and during such absence or disability shall perform the duties and have the powers of the mayor.

Sec. 6. Mayor's general powers.

(a) The mayor shall not have the right to vote except in case of a tie.

(b) Every ordinance, resolution or motion passed by the council shall, before it takes effect, be presented to the mayor for his or her approval and signature. If he or she approves it, he or she shall sign, but if he or she disapproves it he or she shall state his or her objections thereto in writing and return it to the next regular meeting of the council after presentation with his or her veto. If he or she does not return it with such disapproval nor sign it, such motion, ordinance or resolution shall, upon the expiration of the time for its return to the council, be in effect and force as if he or she had approved it.

(c) In case of veto of any ordinance, resolution or motion by the mayor, the council may pass same over his or her veto by the affirmative vote of a majority of the council. If the mayor's veto is sustained, the matter shall not come before the council again within six months without the previous written consent of the mayor. The mayor may veto all or any item of any ordinance making appropriations but the veto shall extend only to the item disapproved. Those items which he or she approves shall become effective, but those disapproved shall not become effective unless passed over his or her veto as herein specified.

(d) The mayor shall have the power to administer oaths and exercise such other powers, prerogatives and authority as are conferred on him or her by this charter and state and federal law.

Sec. 7. Compensation.

(a) Each member of the city council, with the exception of the mayor, shall receive as compensation the sum of \$50.00 for each regular meeting attended.

(b) The mayor shall receive as compensation the sum of \$100.00 for each regular meeting attended.

(c) The city council shall make provisions for travel and training allowances for the mayor and its members.

(d) The provisions of this section shall become effective immediately after the election and qualification for office of the first city council following its adoption.

Sec. 8. Judge of elections.

The city council shall be the judge of the election and qualification of its own members, subject to review by the courts in case of contest.

Sec. 9. Restrictions upon council members.

No member of the council shall be elected or appointed to any office created, or the compensation of which was fixed or increased, by action of the council passed while serving as a member thereof, until the expiration of one year following cessation of such member's service on the council.

Sec. 10. Rules of the council.

The city council shall determine its own rules of procedure; may punish its members for disorderly conduct; may compel the attendance of its members; and may impeach a member in the manner herein provided.

Sec. 11. Removal.

(a) A council member shall be subject to removal by the council or by any other means authorized by law for:

- (1) Willful violation of any code of ethics or conflicts of interest provision under state or federal law or city ordinance.
- (2) Willful violation of any express prohibition of this charter.
- (3) Misconduct, malfeasance, incompetence, inability or willful neglect in performance of official duties.
- (4) Conviction of any felony, or any misdemeanor involving moral turpitude.
- (5) Failing to maintain any residency requirement provided by law.

(6) Absence from three consecutive regular council meetings without leave of absence first had, except due to circumstances over which the council member had no control.

(b) A removal action by the council may be instituted on its own initiative, or shall be instituted upon petition by five or more registered voters, and any final decision to remove a member shall be by the majority vote of all council members holding office, with the exception of the challenged member. The council may provide by ordinance for the referral of any disciplinary matter involving a council member to the ethics commission for recommendation. The challenged member shall have the right to written articles of impeachment, an opportunity to be heard, to be represented by counsel, to summon witnesses who shall be required to give testimony, and to reasonable advance notice of the hearing. The burden of proof shall be by a preponderance of the evidence and shall be on those bringing the charges. The hearing shall be open to the public, and the conclusions and findings of the council shall be final. If the member is removed, a complete statement of the reasons therefor shall be filed with the city secretary. The council shall additionally have the authority to reprimand or suspend a member for a period of not more than thirty days if removal is not warranted.

(c) Pending charges for removal, the council may suspend the challenged member from office for a period not exceeding thirty days by the majority vote of all council members holding office, with the exception of the challenged member.

(d) Commission of any of the violations specified in subparagraphs (1) through (5) above shall additionally be grounds for forfeiture of office in proceedings pursuant to state law.

(e) A member who is removed from office, whether pursuant to this section, by recall or other legal proceeding, or who resigns after any such proceedings have been initiated, shall not be eligible to be appointed to or run as a candidate for city office for two years from the date of removal, recall or resignation.

Sec. 12. Vacancy in office of mayor.

(a) In the event of death, resignation, permanent disability, forfeiture of office, recall or impeachment of the mayor, or if for any reason a vacancy shall exist in the office of mayor, the mayor pro-tem shall serve as the mayor until the next regular election. If the mayor's position would not normally be on the ballot at the next regular election, the position of mayor will be filled at the election for the unexpired term.

(b) Any person who becomes mayor as provided above shall have all the duties and powers of the mayor for the remainder of the unexpired term of the mayor, unless sooner removed as provided in this charter. In the event a council member becomes mayor, the office of the council member shall become vacant and such vacancy shall be filled as provided in this article.

Sec. 13. Vacancies in office of council member.

In the event of death, resignation, permanent disability, forfeiture of office, recall, or impeachment of any council member, or if for any reason a vacancy shall exist in the office of any council member, the then remaining members of the council by majority vote shall forthwith fill such vacancy by appointment of a new council member having the qualifications for such vacancy or vacancies as established by law, and the appointed council member shall hold office until the next regular city election and until his or her successor has been elected and qualified, unless sooner removed as provided in this charter. At the next regular election, a person shall be elected to serve in such position for a new term or for the unexpired term, as the case may be. In the event a majority of the council members are recalled at the same recall election, then the vacancies in the offices theretofore held by them shall be filled by a special election to be held within sixty days after such vacancies occur. Such election shall be forthwith called by the then remaining council members, and if there be no remaining council members, such election shall be forthwith called by the county judge of San Patricio County, Texas.

Sec. 14. Meetings of the council.

(a) The city council shall meet in regular session at least once each month at city hall or at another governmentally owned place within the corporate limits of the city. Special sessions and workshop sessions may be held in any public place, and the council shall prescribe the manner in which such sessions shall be called.

(b) A workshop session is a council meeting for the sole purpose of gathering information or discussing public business without taking action. In the event a workshop session is scheduled on the same day as and prior to a regular or special session, no discussion shall be held at the workshop of items previously scheduled for such regular or special session.

(c) A majority of the council members holding office shall constitute a quorum. All meetings of the council shall be open to the public except as may be authorized by the laws of the state. The city secretary shall take minutes of all regular, special and workshop sessions of the council, except closed sessions, which minutes shall be open to the public in the archives of the city.

(d) The council shall act only by ordinance, resolution, or motion. Any such method shall be valid except where a particular method is required by law or this charter. Ordinances shall be confined to one subject which shall be clearly expressed in the title, but ordinances making appropriations may embrace more than one subject, provided that each shall be confined to the subject of appropriations. The following actions, in addition to others specified by law or this charter, shall be by ordinance only:

- (1) amendment or repeal of any existing ordinance;

- (2) adoption, amendment or repeal of a code of ordinances or code of technical regulations;
- (3) conveyance or authorization of the conveyance of any real property;
- (4) to prescribe a fine or penalty or establish any rule or regulation for the violation of which a fine or other penalty is imposed;
- (5) to regulate the rates charged by a public utility; and
- (6) to adopt any legislation.

(e) The ayes and nays shall be taken upon the passage of all ordinances or resolutions and entered in the minutes. Every ordinance or resolution shall require on its final passage, the affirmative vote of a majority of all council members holding office.

(f) No ordinance shall be passed finally on the date it is introduced but the same shall be considered and voted upon at two regular meetings, except in the case of emergency and then only when requested in writing by the mayor or a majority of the members of the council, and the finding of an emergency by the council shall be conclusive. No ordinance granting any franchise shall ever be passed as an emergency measure. For the purposes of this subsection, an "emergency" shall be defined as a condition involving an immediate need to preserve and protect public property, the need for the immediate and efficient utilization of physical resources in the city, the need for the immediate and equitable institution of zoning changes in order to protect the health, safety and welfare, or an immediate action necessary for the efficient and effective administration of the city's affairs.

(g) Every ordinance imposing any fine, penalty or forfeiture shall be published in one issue of a newspaper of general circulation in the city, which publication may be of the full ordinance or a summary thereof which fully discloses the purposes, intent and effect of such ordinance, after which publication said ordinance shall be in force unless a later date shall be provided in the ordinance.

State law references—Open meeting requirements, V.T.C.A., Government Code ch. 551; penalty for ordinance violations, V.T.C.A., Local Government Code § 54.001.

Sec. 15. Contract before election.

It shall be unlawful for the city council, within the period beginning thirty days before any regular election and extending to the taking of office for the newly elected council, to take any council action whereby any appropriation of money not included in the budget is made or contract or obligation of the city is to be created or franchise granted, or any zoning or rezoning ordinance passed or hearing held without a two-thirds vote of the council, and any such council action taken without a two-thirds vote shall be void.

Sec. 16. Interference.

Neither the council nor any of its members shall instruct or request the city manager or any of his or her subordinates to appoint to or remove from office or employment any person except a person appointed to office by the council under the provisions of this charter. Except for the purposes of inquiry and investigation, enforcing an ordinance of the city, or enforcing a penal law, the council shall deal with the administrative service of the city solely through the city manager, and shall not give orders to any of the manager's subordinates. Any such inquiry, investigation or enforcement action shall only be made upon the affirmative vote of a majority of the city council. Willful violation of the foregoing provisions of this charter by any member of the council shall constitute official misconduct.

Sec. 17. Investigation.

The council shall have the express power to inquire into the official conduct of any department, division, agency, office, officer or employee of the city, and for that purpose shall have the power to administer oaths, subpoena witnesses, compel the production of books, papers and other evidence material to the inquiry. Refusal to attend and testify or to produce books, papers and other evidence material to the inquiry, shall result in forfeiture of any office, employment, emoluments or contract then accruing to the person so refusing. The council may provide by ordinance additional penalties for contempt in failing or refusing to obey any such subpoena, or to produce any such books, papers or other evidence and shall have the power to punish any such contempt in the manner provided by such ordinance.

Sec. 18. Council responsibility.

All duties and responsibilities not expressly or implicitly delegated to the city manager by this charter shall be the duties and responsibilities of the council. The mayor and each of the other council members shall be responsible for and shall require the city manager as the chief executive officer of the city to enforce all laws, federal, state and municipal.

RECALL**Sec. 19. Power of recall.**

The people of the city reserve the power to recall the mayor or any other council member and may initiate the process by filing with the city secretary a petition signed by at least ten percent of the voters registered to vote for a successor to the challenged council member. A person wishing to initiate a recall petition shall procure a form from the city secretary. Each page of the petition shall contain:

- (a) the name and position of the challenged council member;

- (b) a general statement of the grounds for recall, which shall not be subject to challenge;
- (c) the printed name, residence address (by street and number, or, if none, by other sufficient description), and voter registration number of each signer;
- (d) the signature of each signer in ink;
- (e) the date of issuance by the city secretary and the name and address of the person or group to whom the petition was issued;
- (f) the printed name and address of the person circulating the petition; and
- (g) an affidavit of the person circulating the petition that he or she personally circulated such page, that he or she personally observed the making of each signature thereon, and that he or she believes that each signature is genuine.

The person procuring the form shall legibly fill in the name and position of the challenged council member and the general grounds for recall, and present the form to the city secretary. The city secretary shall then fill in the date of issuance, make such copies as are needed for the city secretary's records, and return the original to the person presenting it.

Sec. 20. Filing, examination and certification of petition.

All petition pages comprising a recall petition shall be assembled and filed with the city secretary as one instrument. Within twenty days after a recall petition is so filed, the city secretary shall determine whether the same is signed by the required ten percent of the registered voters. The city secretary shall declare void any petition page which does not have an affidavit as required in the preceding section. If the certificate of the city secretary shall show the recall petition to have total signatures of registered voters in number less than the required ten percent, the city secretary shall notify the person filing the petition, and it may be supplemented within ten days from the date of such notice by filing supplementary petition pages bearing signatures of other registered voters. Within ten days after such supplementary pages are filed, the city secretary shall again examine the original petition, as supplemented, and shall certify the results thereof to the council at its next regular meeting, stating the number of signatures certified. If the petition, as supplemented, is found to have total signatures of registered voters in number less than the required ten percent, the city secretary shall return the petition, as supplemented, to the person filing the same, without prejudice to the filing of a new petition for the same purpose.

Sec. 21. Recall election.

Whenever a recall petition is certified by the city secretary to have the signatures of the required ten percent of registered voters and the council member whose removal is sought does not resign within five days after such certification to the council, the council shall forthwith order and hold a recall election within not less than thirty, nor more than sixty days

from certification. In the event at any one time there is before the council more than one recall petition certified by the city secretary as to which the council is then obligated to order a recall election, the council shall order and hold, on the same date, recall elections on all such petitions so certified.

Sec. 22. Recall ballot.

The form of ballots used at recall elections shall conform to the requirements of state law.

Sec. 23. Results of recall election.

If a majority of the votes cast are for recall, the office shall immediately become vacant and shall be filled as provided in this charter.

Sec. 24. Limitation on recall.

No recall petition shall be filed within the first four months after the office holder takes office or within the four months immediately preceding the date of the next regular election for the challenged office. No office holder shall be subjected to more than one recall election during a single term of office.

Sec. 25. City secretary.

The council shall appoint the city secretary who shall serve at the pleasure of the council. The city secretary shall appoint any assistant secretaries and keep the records of the council, and shall have such other duties and responsibilities as may be assigned by this charter and the council.

Sec. 26. Municipal court.

(a) There shall be a court for the trial of misdemeanors known as the municipal court, with such powers and duties as are defined and described by state law. The magistrates of the court shall be known as municipal judges, shall be appointed by council, shall have the necessary qualifications for appointment and receive such salary and term as may be fixed by ordinance.

(b) The city manager shall appoint a clerk of said court and deputy clerks, if any, who shall receive such salary as may be fixed by the manager.

Sec. 27. Independent audit.

The council shall provide for an independent annual audit for all city accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest,

direct or indirect, in the fiscal affairs of the city government or any of its officers. The council may, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three years, provided that the designation for any particular fiscal year shall be made no later than thirty days after the beginning of such fiscal year. If the state makes such an audit, the council may accept it as satisfying the requirements of this section.

Sec. 28. Internal audit.

Either the council or the city manager may at any time provide for an internal audit of the accounts of any officer or department of the city government.

ARTICLE III. CITY MANAGER

Sec. 1. Appointment; qualifications; term; removal; compensation.

The council shall appoint a city manager who shall be the chief administrative and executive officer of the city. No member of the council shall, during the time for which he or she is elected, be chosen as city manager. The city manager may be removed at the will and pleasure of the council by a majority vote of the entire membership of the council. The action of the council in removing the city manager shall be final. In the case of the absence or disability of the city manager, the council may designate some qualified person to perform the duties of the office during such absence or disability. The city manager shall receive such compensation as may be fixed by the council.

Sec. 2. Powers and duties.

The powers and duties of the city manager shall be as follows:

- (a) To see that all laws and ordinances are enforced.
- (b) To exercise control over all city departments and subdivisions thereof except as otherwise provided by Charter.
- (c) To execute all appropriately authorized deeds, contracts, agreements or franchises and to see that all terms and conditions imposed in favor of the city or its inhabitants in any such transactions are faithfully kept and performed, and in case of any violation thereof to take such action as may be necessary and proper to enforce or terminate the same.
- (d) To attend all meetings of the council, with the right to take part in the discussion, but having no vote and to receive notice of all special meetings in the same manner as such notice is given to members of the council. Any action taken at any meeting of

the council of which the city manager has not been notified shall be of no force or effect, except, however, the action of designating a person to perform those duties in the city manager's absence.

- (e) To recommend such measures to the council as may be deemed necessary or expedient.
- (f) To keep the council fully advised as to the financial condition and needs of the city and provide them monthly financial reports.
- (g) To act as budget officer, and, as such, prepare and submit the annual budget to the council.
- (h) To operate the city within its budget.
- (i) To perform such other duties as may be prescribed by the city charter or by ordinance or resolution of the council; and to be responsible to the council for the proper administration of all the city affairs.
- (j) To appoint and remove all officers and employees not otherwise specified by this charter.

ARTICLE IV. ADMINISTRATION

Sec. 1. Creation of departments.

(a) The council shall 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 assigned to any other unless so specified by this charter.

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

Sec. 2. Fiscal year; budget submission, contents, and adoption; appropriation.

(a) The city's fiscal year shall be set by ordinance, but shall not be changed more often than every four years except by two-thirds vote of the council.

(b) At least thirty days prior to the beginning of the fiscal year, the city manager shall submit to the council a budget proposal estimating city revenues and expenses for the next year.

(c) Expenditures in the proposed budget will not exceed estimated revenues.

(d) The proposed budget shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year and shall be in such form as the manager deems desirable or the council may require.

(e) The city council shall adopt a balanced budget prior to the beginning of the fiscal year. If it fails to adopt the budget by this date, the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month to month basis, with all items in it prorated accordingly, until such time as the council adopts a budget for the ensuing fiscal year.

(f) The city council shall appropriate monies as provided in the budget.

Sec. 3. Interdepartmental transfer of funds.

Upon written recommendation of the city manager, the city council may at any time transfer the unencumbered balance of an appropriation made for the use of one department, division or purpose, to any other department, division or purpose.

Sec. 4. Revenue in excess of total estimated income.

If at any time the total accruing revenue of the city shall be in excess of the total estimated income thereof as set forth in the budget, the council may from time to time appropriate such excess to such uses as will not conflict with any uses for which revenues specifically accrue.

Sec. 5. Money drawn from city treasury.

No money shall be drawn from the city treasury, nor shall any obligation for the expenditure of money be incurred, except in pursuance of appropriations made by the council, and whenever an appropriation is so made, the city secretary shall forthwith give notice to the city manager. At the close of each fiscal year the unencumbered balance of each appropriation shall revert to the fund from which it was appropriated.

Sec. 6. Accounts maintained.

The city's accounts and records thereof shall be maintained and reported in accordance with generally accepted accounting principles.

Sec. 7. Funds in treasury.

All moneys actually in the treasury to the credit of the fund from which they are to be drawn, and all moneys applicable to the payment of the obligation of appropriation involved that are anticipated to come into the treasury before the maturity of such contract, agreement or obligation, from taxes or assessments, or from sales of service products or by-products, or from any city undertaking, fees, charges, accounts and bills receivable, or

other credits in process of collection, and all moneys applicable to the payment of such obligation or appropriation, which are to be paid into the city treasury prior to the maturity thereof, arising from the sale or lease of lands or other property, and moneys to be derived from lawfully authorized bonds sold and in the process of delivery, shall, for the purpose of such certificate, be deemed in the treasury to the credit of the appropriate fund and subject to such certification.

ARTICLE V. BOARDS AND COMMISSIONS

Sec. 1. General.

Subject to the provisions of any law of the State of Texas to the contrary, the council may create, change or abolish, any board, commission or committee of the city whether established by charter or ordinance. The city council shall adopt goals and objectives for any board, commission or committee it creates and such rules and regulations involving membership, rules of conduct, attendance at meetings or any other matter as it may deem necessary or advisable.

Sec. 2. Appeals to city council.

Subject to state law, an appeal may be taken to the city council from any decision of any board, commission, committee, or other body. Such appeals shall be perfected by filing a sworn notice of appeal with the city secretary within thirty days from the rendition of the decision of the board, committee or other body. Prior to the institution of any appeal in a court of law by an aggrieved person from a decision of such board, commission, committee or other body, appeal must first be perfected to the city council.

ARTICLE VI. EMPLOYMENT REGULATIONS

Sec. 1. Classified service.

The policy of the city is the establishment of a personnel system based on merit and not on any other consideration. There shall be a classified service in which all appointments shall be made on the basis of qualifications and fitness, and promotions shall be made on the basis of merit. The classified service shall include all employees of the city except employees filling those positions designated by the council as exempt. All personnel actions shall be consistent, uniform and fair. Disciplinary actions shall not be based on unlawful or discriminatory reasons such as race, sex, religion, national origin, creed, disability, age, color or political beliefs.

Sec. 2. Civil service board.

There shall be a civil service board, which shall consist of three persons, citizens of the city. The city council shall appoint the members of such board. The term of office of each member of such board shall be for three years, or until a successor is appointed. The civil service board, subject to the approval of the council, shall adopt, amend and enforce a code of rules and regulations providing for appointment, employment or suspension in all positions in the classified service. The civil service board established herein shall promulgate rules and regulations that insure fair treatment of employees in hiring, promotions, grievances and disciplinary actions including suspensions, dismissals, or terminations in accordance with the policy stated herein.

Sec. 3. Participation in political activity.

With the exception of members of council, no employee or officer of the city shall in any way participate in political activity of any nature while on duty, in uniform or upon city property. With the exception of members of the council, no employees or officers of the city shall at any time take part in any political activity on city related issues except to provide factual information at the direction of the city manager, to express their own opinion privately, and to cast their vote.

ARTICLE VII. TAXATION AND BONDS**Sec. 1. Taxation.**

(a) The city council shall have power, and is hereby authorized annually, after the budget is adopted, to levy and collect taxes up to the maximum authorized by the Constitution of Texas based on the assessed value of all real and personal property in the city, not exempt by the Constitution and laws of Texas from taxation.

(b) If for any cause the city council shall fail or neglect to pass a tax ordinance for any year, levying taxes for that year, the tax ordinance last passed shall be considered in force and effect as the tax ordinance for the year for which the city council so failed to pass a tax ordinance, and the failure to pass such ordinance in any year shall not invalidate the collection of the tax for that year.

(c) The city council may also levy, assess and collect any other types of taxes as provided by state law, provided that no such tax shall be greater than is authorized by such statute.

Sec. 2. Authority to issue bonds.

(a) The city council shall have the power and authority by resolution duly passed, to borrow money on the credit of the city and may issue bonds of the city therefor. It shall also have the power and is hereby authorized to issue bonds for the purpose of refunding outstanding bonds of the city.

(b) No bonds shall be issued for a term of longer than one year or to refund outstanding bonds at the same or a higher rate of interest and for such maturities that the aggregate amount to be paid on refunding, principal and interest, will exceed the aggregate amount due, principal and interest, on the entire outstanding bonds proposed to be refunded, unless approved by a majority vote of the qualified voters of the city voting at an election called for such purpose, except as authorized by state law.

ARTICLE VIII. PUBLIC UTILITIES, FRANCHISES AND LEASES

Sec. 1. Inalienability of public property.

The control and use of the public streets, sidewalks, alleys, bridges, parks, public buildings and any other public property of the city is declared to be inalienable by the city, except by ordinances not in conflict with the provisions of this charter; provided, however, the council may by ordinance grant, or authorize an officer or employee of the city to grant, sidetrack or switch privilege easements to common carriers, and daily, weekly, monthly or annual leases or use privileges of public streets, sidewalks, alleys, bridges, parks, public buildings and any other public property, all upon such terms and with the imposition of such conditions and limitations in such easements and leases or use privileges as the council may elect. No act or omission by the council or any officer or agent of the city shall be construed to grant, renew, extend or amend by estoppel or indirection any right, franchise, lease, easement or use permit affecting said public streets, sidewalks, alleys, bridges, parks, public buildings and any other public property.

Sec. 2. Power to grant franchise or lease.

(a) The council shall have the power by ordinance to grant, renew, and extend all franchises of all public utilities of every character operating within the city and all leases of property of the city; and, with the consent of the franchise holder or the lessee, to amend the same; provided, however, that

- (1) no franchise shall be granted for a term of more than thirty years; and
- (2) no lease covering any property of the city shall be granted for a term of more than sixty years.

Sec. 3. Ordinance granting franchise or lease.

(a) Every ordinance granting, renewing, extending or amending a franchise or a lease of property of the city shall be read at two regular meetings of the council, and shall not be finally acted upon until the twenty-eighth day after the first reading thereof. Within five days following each of the two readings of the ordinance, a description of the franchise or lease, including the names of the parties, the term, payments to the city and the purpose of the

franchise or lease, shall be published one time in a newspaper of general circulation in the city, and the expense of such publication shall be borne by the prospective franchise holder or lessee. Copies of the full text of any such ordinance shall be made available to the public at no charge in the office of the city secretary. With the exception of any ordinance authorized by election provided herein, no ordinance granting, renewing, extending or amending a lease or franchise of more than one year shall become effective until the expiration of sixty days following the date of its final adoption by the council, and every such ordinance shall be subject to referendum procedure provided by state law, section 282.003 of the Texas Local Government Code [V.T.C.A., Local Government Code § 282.0003], as amended now or in the future.

(b) Notwithstanding any other provision of this charter, any ordinance granting or authorizing the execution of a lease having a term of one year or less may be finally passed and the lease authorized without publication of any notice, and in cases of declaration of emergency may be passed without necessity of two readings.

Sec. 4. Transfer of franchise or lease.

No franchise or lease of property of the city shall be transferred by the holder thereof except with the approval of the council expressed by ordinance, which approval shall not be unreasonably withheld.

Sec. 5. Regulation of franchises and public utilities.

Except as limited by state or federal law, the city shall have the following rights to regulate franchisees and any public utilities operating in the city, whether under franchise or otherwise:

- (a) To forfeit any such franchise at any time for failure of the holder to comply with the terms of the franchise, but such power shall be exercised only by ordinance duly adopted after notice and hearing.
- (b) To adopt reasonable regulations concerning the use and restoration of the streets, easements and other public property, and to adopt reasonable regulations to insure safe, efficient and continuous service to the public.
- (c) To require the expansion of facilities as are necessary to provide adequate service to the public, taking into consideration the cost of the extension and the rates charged for the services.
- (d) To require every franchisee or public utility to furnish to the city, without cost to the city, full information regarding the location, character and extent of all facilities of such franchisee or public utility in, over, under or used upon the streets, alleys,

easements and other public or private property in the city; and to regulate and control the location, relocation or removal of such facilities in public property without cost to the city.

- (e) To require every franchisee or public utility to allow other franchisees or public utilities to use its tracks, poles, bridges, tunnels and viaducts, provided that the use does not materially interfere with the owner's purposes nor materially impair the safety of said facilities.
- (f) To prescribe the form of accounts to be kept by any franchisee or public utility.
- (g) To examine and audit at any time during regular business hours, the accounts and other records of any franchisee or public utility.
- (h) To require annual and other reports, including reports on the local operations of the franchisee or public utility, which shall be in such form and contain such information taken from the books and records of the company as the city shall prescribe.
- (i) To require collection of any compensation or rental not now or hereafter prohibited by law.
- (j) To require any franchisee or public utility who requests an increase in rates, charges or fares, to reimburse the city for fifty percent of reasonable expenses incurred in employing rate consultants to advise the city on such requested increase.
- (k) To regulate by ordinance the rates, charges and fares of every franchisee or public utility operating in the city to the extent allowed by law; provided that no such ordinance shall be passed as an emergency measure. Any public utility or franchisee requesting an increase in its rates, charges or fares shall have, at the hearing on such request, the burden of establishing by clear and convincing evidence the value of its property and the amount and character of bids expenses and revenues. No franchisee or public utility shall institute any legal action to contest any rate, charge or fare fixed by the council until such public utility has filed a motion for rehearing with the council specifically setting out each ground of its complaint against the rate, charge or fare fixed by the council, and until the council shall have acted upon such motion, or had a period of sixty days within which to act upon such motion for rehearing.

Sec. 6. Regulation of leases.

Every grant, renewal, extension or amendment of a lease of property of the city, whether so provided in the lease or not, shall be subject to the right of the city:

- (a) To terminate such lease at any time for failure of the lessee to comply with the terms of the lease or the terms of this section, such power to be exercised only by ordinance duly adopted after notice and hearing.

- (b) To impose reasonable regulations to insure proper care, maintenance and upkeep of the property of the city.
- (c) To prescribe the form of accounts to be kept by every lessee if the rental or the license fees payable to the city are determined in whole or in part by the volume of business done by the lessee.
- (d) To examine and audit at any time during regular business hours the accounts and other records of the lessee.
- (e) To require annual and other reports, including reports on the operations of the lessee, which shall be in such form and contain such information as the city shall prescribe.

Sec. 7. Effect on existing contracts.

No revision of the charter shall amend, enlarge or diminish any franchise or contract rights effective prior to such revision of the charter, unless otherwise provided in the franchise or contract.

Sec. 8. Power of eminent domain.

The city shall have the right and power to acquire any interest in a leasehold, a franchise or any public utility, or any portion thereof, under the power of eminent domain of the city as exercised pursuant to the procedures provided by state law or by ordinance.

ARTICLE IX. GENERAL POWERS AND PROVISIONS

Sec. 1. General powers.

(a) The city shall have and may exercise, for any municipal purpose, all powers enumerated in the laws of the State of Texas, and which may be added thereto at any time in the future, and the following powers to the fullest extent it deems necessary, desirable, or convenient except as clearly prohibited or limited by state law or this charter:

- (1) To use a corporate seal.
- (2) To sue and be sued.
- (3) To contract.
- (4) To define and abate nuisances.
- (5) To levy and collect taxes.
- (6) To borrow money by issue or sale of bonds, warrants, notes or other method.
- (7) To appropriate and expend monies.

- (8) To acquire and own property or any interest therein, within and without the corporate limits, by purchase, eminent domain, gift, devise, exaction, or any other means whatsoever.
- (9) To sell, lease or otherwise convey city property, real or personal.
- (10) To manage and control all city property.
- (11) To establish, improve and maintain a comprehensive system of streets and public ways and all appurtenances related thereto, and to control and regulate any use thereof; provided, no street or alley may be opened or closed except after notice by one publication in a newspaper of general circulation in the city and by mail to the last known address of all owners within four hundred fifty feet therefrom and hearing by the city council.
- (12) To assess the cost of street, sidewalk and related improvements against abutting property owners and fix a lien against such abutting property in any manner authorized by state law, or any city ordinance, which procedures are hereby adopted as alternatives which may be exercised.
- (13) To levy and collect assessments against property benefitted by improvements, and fix liens thereto, according to procedures established by ordinance or law.
- (14) To assess property for costs incurred by the city in exercise of its governmental or regulatory powers, and to fix liens against such property, according to procedures established by ordinance or law.
- (15) To regulate land use and development.
- (16) To regulate construction and maintenance of buildings and structures.
- (17) To construct public works and improvements.
- (18) To own and operate airports.
- (19) To acquire any public utility upon approval by the qualified city voters, and a four-fifths vote of the city council.
- (20) To own and operate any public utility.
- (21) To require and grant franchises, licenses and permits.
- (22) To regulate public utilities and franchise holders, including their rates and charges.
- (23) To regulate the laying of gas, water, sewer, electrical, telephone, television and other pipes, lines and cables in the city's jurisdiction.
- (24) To promote health and sanitation, and prevent, suppress or relieve disease and epidemic.
- (25) To regulate the processing and dispensing of foodstuffs.

- (26) To take measures to prevent, avoid or relieve the effects of natural or man-made disasters.
 - (27) To adopt regulations to promote fire safety.
 - (28) To establish, provide, maintain or regulate any social or human service program or activity.
 - (29) To regulate any activity, business, occupation, profession or trade.
 - (30) To establish and maintain yacht basins, piers, docks, warehouses and any other water-related facilities.
 - (31) To regulate all water areas, and all activities therein or connected therewith.
 - (32) To operate a jail.
 - (33) To promote economic prosperity in the community.
 - (34) To advertise and provide public information.
 - (35) To regulate animals.
 - (36) To adopt regulations for drainage and flood control.
 - (37) To provide and support libraries, museums, parks, arts, music, education, literature, recreational and cultural activities.
 - (38) To establish criminal and civil penalties for ordinance violations.
 - (39) To take all measures, including but not limited to the right to permit, prohibit, regulate or license, any activity in order to promote and protect the health, morals, comfort, safety; convenience and welfare of the city's inhabitants, and exercise all manner of governmental and regulatory power.
- (b) The enumeration of particular powers in this charter is not exclusive. The city shall have and may exercise all powers which it would be competent for this charter specifically to delegate, except as clearly prohibited or limited in this charter.
- (c) The city is empowered to use all methods and do all things it deems necessary or convenient to carry out the powers in this section within the limits of the law.

Sec. 2. Contracts.

- (a) All contracts shall be authorized by the city council, except that the city manager may authorize contracts which do not require expenditures exceeding the limit at which competitive bids are required under the Texas Local Government Code, as amended, and may exceed that sum in the case of emergency which shall be reported to the council.

(b) No contract shall be binding until it has been (1) signed by the city manager or the manager's authorized representative, and (2) approved or objected to in writing by the city attorney, which objection shall be filed with the city secretary. Provided, however, as to standard contracts for multiple transactions, the city attorney need only approve the standard form.

(c) All contracts must be competitively bid or proposed as required by state law. After approval of specifications by the city manager, advertisement of such contracts shall be published in a newspaper of general circulation in the city at least once in each week for two consecutive weeks, inviting competitive bids or proposals. All bids or proposals submitted shall be sealed and delivered in the manner required by the specifications. At the time announced in such notice, the bids or proposals shall be opened in the presence of one or more city employees designated by the city manager and in the presence of those bidders desiring to be present, except that confidentiality may be provided in accordance with state law. The council shall determine the most advantageous bid or proposal for the city. The city shall always have the right to reject any and all bids or proposals. In the event all bids or proposals are rejected, the city may call for new bids or proposals at its discretion, which shall be advertised in like manner as the original.

(d) No contract shall ever be made which binds the city to pay for personal services to be rendered for any stated period of time; but all contracts for personal service shall be restricted to the doing of some particular act or thing, and upon its completion no further liability shall exist on the part of the city.

Sec. 3. Action by citizens.

Any taxpayer of the city may maintain an action in the proper court to restrain the execution of any illegal, unauthorized or fraudulent contract or agreement on behalf of the city, and to restrain, any disbursing officer of the city from paying any illegal, unauthorized or fraudulent bills, claims or demands against the city or any salaries or compensation to any person in the administrative service whose appointment has not been made pursuant to the provisions of law. In case any such illegal, unauthorized or fraudulent bills, claims or demands, or any such salary or compensation shall have been paid, a taxpayer may maintain an action in the name of the city against the officer making such payment and the party receiving the same, or either of them, to recover the amount so paid, and any recovery after deducting all expenses of the action, shall be paid into the city treasury; provided, however, that the court shall require the taxpayer to give security to indemnify the city against costs of court, unless the court shall decide that there is reasonable cause for bringing the action. The right of any taxpayer of the city to bring an action to restrain the payment of compensation to any person holding any position or employment in violation of any of the provisions of this act, shall not be limited or denied by reason of the fact that said position or employment shall have been determined to be not subject to competitive

examination; provided, however, that any judgment or injunction granted or made in any such action shall be prospective only, and shall not affect payments already made or due to such persons by the city. In case of any unsatisfied judgment or proper suit or process of law against the city, any five or more citizens who are taxpayers of the city shall upon petition, accompanied by affidavit that they believe that injustice will be done to said city in said suit or judgment, be permitted to intervene and inquire into the validity of said judgment, or defend said suit or action as fully and completely as the officers of said city would by law have the right to do.

Sec. 4. Existing ordinances.

All ordinances of the city not inconsistent with the provisions of this charter, shall remain in full force and effect until altered or repealed by the city council; provided, that the power to pass such ordinances under former charters has not been repealed expressly or implied by the terms of this act.

Sec. 5. Printed ordinances as evidence.

All ordinances of the city published in book or pamphlet form and purporting to be published "By authority of the City Council of the City of Mathis," shall be received by all the courts of the State of Texas as prima facie evidence of the due passage and publication of such ordinances as appear therein; provided, that no person shall be precluded from showing by competent evidence, that any ordinance published "By authority of the City Council of the City of Mathis," as aforesaid, is not a true copy of the original ordinance.

Sec. 6. City not required to give bond.

It shall not be necessary in any action, suit or proceeding in which the city is a party for any bond, undertaking or security to be demanded or executed by or on behalf of said city in any of the state courts, but all such actions, suits, appeals or proceedings shall be conducted in the same manner as if such bond, undertaking or security had been given as required by law, and said city shall be just as liable as if security or bond had been duly executed.

Sec. 7. Public property exempt from execution sale.

The property, real and personal, belonging to the city shall not be liable to be sold or appropriated under any writ of execution, nor shall the funds belonging to the city in the hands of any persons be liable to garnishment, but the city manager shall answer in a writ of garnishment for the city.

Sec. 8. City inhabitants, freeholders or taxpayers not disqualified.

No person shall be an incompetent judge, justice, witness or juror by reason of his being an inhabitant or a freeholder, or a taxpayer of the city in any action or proceeding in which said city may be a party at interest.

Sec. 9. Notice of personal injuries required.

Before the city shall be liable for damages for personal injuries of any kind, the person injured or someone in that person's behalf shall file with the city secretary in the manner prescribed by ordinance notice in writing of such injury within one hundred eighty days after the same has been sustained, reasonably describing the injury claimed and the time, manner and place of the injury. The failure to so notify the city within the time and manner specified herein shall exonerate, excuse and exempt the city from any liability whatsoever.

Sec. 10. Council action validated.

Acts of the city council previously enacted in granting franchises, assessing and collecting taxes, and the disbursement of same, the enforcement of its ordinances by criminal proceedings or otherwise, the collection of fines and the disbursement of same and any and all enforcement of the penal laws of this state, are hereby in all things validated and made as valid and binding as if passed by a legal city council.

Sec. 11. Construction of charter.

This charter shall not be construed as a mere grant of enumerated powers, but shall be construed as a general grant of power and as a limitation of power on the government of the city in the same manner as the Constitution of Texas is construed as a limitation on the powers of the legislature. Except where expressly prohibited by this charter, each and every power under Article XI, section 5 of the Constitution of Texas, which it would be competent for the people of the city to expressly grant to the city, shall be construed to be granted to the city by this charter.

Sec. 12. Judicial notice.

This charter shall be deemed a public act, may be read in evidence without pleading or proof, and judicial notice shall be taken thereof in all courts and places.

Sec. 13. Separability clause.

If any section or part of a section of this charter is held to be invalid or unconstitutional by a court of competent jurisdiction, the same shall not invalidate or impair the validity, force or effect of any other section or part of a section of this charter.