

ORDINANCE 19- 0

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COMMERCE, TEXAS, ORDERING AND CALLING A SPECIAL ELECTION FOR THE CITY OF COMMERCE (“CITY”) TO BE HELD ON MAY 4, 2019 FOR THE PURPOSE OF ELECTING ONE (1) COUNCIL MEMBER TO PLACE NO. 3 OF THE COMMERCE CITY COUNCIL TO FILL A VACANCY IN PLACE NO. 3 FOR THE REMAINDER OF AN UNEXPIRED THREE (3) YEAR TERM EXPIRING IN ACCORDANCE WITH THE LAW UPON CANVASSING OF THE MAY, 2020 ELECTION; PROVIDING FOR ELECTION OFFICERS; DESIGNATING THE PLACE AND MANNER OF HOLDING SAID ELECTION; DESIGNATING THE EARLY VOTING POLLING PLACE; DESIGNATING THE EARLY VOTING CLERK; PROVIDING FOR THE POSTING AND PUBLICATION OF NOTICE; CALLING A RUN-OFF ELECTION, IF NEEDED; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, Chapter 34-2 of the City of Commerce Code of Ordinances provides that the Mayor and Council Members be elected by place and serve for three (3) year staggered terms in accordance with Section 18 of the Charter; and

WHEREAS, Article XI, §11 of the Texas Constitution provides that a vacancy on a governing body exceeding two (2) years shall not be filled by appointment but shall be filled by majority vote of the qualified voters at a special election called for such purposes within one hundred and twenty (120) days after such vacancy occurs, except that a municipality may provide by Charter a procedure for filling a vacancy occurring for an unexpired term of twelve (12) months other less; and

WHEREAS, a vacancy occurred in Place No. 3 on or about October 2018 due to the resignation of the incumbent Council Member duly elected to serve in Place No. 3 at the May, 2017 Election, thus there are approximately 19 months left in the term for Place No. 3; and

WHEREAS, in order to fill the vacancy in Place No. 3, the Council must call a special election to be held on a nonuniform election date; and

WHEREAS, the Council has determined it necessary to call a Special Election to fill the vacancy for Place No. 3 on January 12, 2019, in accordance with this Ordinance and the Election Order; and

WHEREAS, the meeting at which this Ordinance is considered is open to the public as required by law, and public notice of the time, place and purpose of said meeting was given as required by Section 551.043 of the Texas Government Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COMMERCE, TEXAS:

Section 1. Incorporation of Premises. The above premises are true and correct and are hereby incorporated in the body of this Ordinance as if fully set forth herein.

Section 2. Election Order; Election Date. That a Special Election of the City of Commerce, prescribed by Texas Election Code shall be held between the hours of seven o'clock a.m. (7:00 a.m.) and seven o'clock p.m. (7:00 p.m.) on the 12th day of January 2019. All resident, qualified voters of the City shall be eligible to vote at the Election. The Special Election shall be conducted in accordance with State law, this Ordinance and the Notice of Election, attached hereto and incorporated herein as **Exhibit "A"**.

Section 3. Purpose of Election. The Special Election will be held for the purpose of electing one (1) Council Member to Place No. 3 of the Commerce City Council to fill the vacancy in Place No. 3 for the remainder of its unexpired three (3) year term, such term ending in accordance with the law upon the canvassing of the May, 2020 Election. The candidate for such office receiving a majority of all votes cast for the office shall be elected to serve such term.

Section 4. Candidate Filing Deadline. That candidates for City Council shall meet the qualifications for office as specified in State law and in Section 18.2 of the Home Rule Charter of the City of Commerce. Candidates may file for Place No. 3 beginning on October 9, 2018 through November 12, 2018 between the hours of 8 a.m. to 5 p.m., Monday through Friday.

Section 5. Voting System. That voting on the date of the Election, and early voting therefore, shall be by the use of a lawfully approved voting system. The preparation of the voting equipment to be used in connection with such voting system and the official ballots for the Election shall conform to the Texas Election Code, as amended, so as to permit the electors to vote one (1) City Council Member for Place No. 3. Said ballots shall have printed therein such provisions, markings, and language as may be required by law and the Candidates shall be set forth on said ballots in substantially the following form and language:

**SPECIAL ELECTION
City of Commerce, Texas
January 12, 2019**

OFFICIAL BALLOT

Council Member, Place 3

Section 6. Election Precincts; Polling Places. That the City shall constitute one election precinct for this election and the polling place shall be the Commerce City Hall, 1119 Alamo, Commerce, Texas 75428. Judges, Alternate Judges and Clerks will be determined and appointed

in accordance with the provisions of a Joint Election Contract (“Joint Election Contract”) by and between City of Commerce and Hunt County Elections Officer.

On Election Day, the polls shall be open from 7:00 A.M. to 7:00 P.M.

Section 7. Early Voting; Early Voting Polling Place.

City Secretary Molly Jacobsen, 1119 Alamo, Commerce, Texas 75428, is hereby appointed as the Early Voting Clerk. Other deputy early voting clerks will be appointed as needed to conduct early voting by personal appearance.

Early voting shall take place during the following dates and times:

December 27, 2018 – January 8, 2019	8:15 a.m. – 4:45 p.m.;
January 3, 2019	7:00 a.m. – 7:00 p.m.;
January 8, 2019	7:00 a.m. – 7:00 p.m.

Section 8. Early Voting Ballot Board. That an Early Voting Ballot Board shall be created to process early voting results in accordance with Section 87.007 of the Texas Election Code. The Early Voting Ballot Board shall be made up of members appointed in the manner stated in the Joint Election Contract.

Section 9. Election Compliance. This election shall be held in accordance with, and shall be governed by, the election laws of the State of Texas. In all City elections, the Mayor, City Secretary or City Council shall perform each act as is required to be performed, in connection with the holding and consummation of such election, and to give effect to the intent of this Ordinance.

Section 10. Voting Qualification; Voting Materials. All registered, qualified voters of the City shall be permitted to vote at the election. In addition, the election materials enumerated in the Texas Election Code, as amended, shall be printed in English and Spanish for use at the polling places and for early voting for the Election.

Section 11. Election Returns. The Hunt County Election Administrator shall deliver election returns to the City Secretary. The ballot boxes will be retained by the Hunt County Election Administrator and will be available for inspection by the City Council in compliance with the applicable laws of the State of Texas; and the ballots that are properly marked in conformance with the provisions of the Texas Election Code, as amended, for votes cast both during the period of early voting and on the day of the Election shall be counted in the manner required by law.

Section 12. Run-Off Election. If a run-off election becomes necessary, the Hunt County Election Administrator’s office will conduct the run-off election. In the event any candidate for any one of said offices fails to receive a majority of all votes cast for such office, a run-off election is hereby ordered to be held between the dates of February 1 and February 26, 2018, as provided for by the Texas Election Code.

Section 13. Severability Clause. If any word, section, article, phrase, paragraph, sentence, clause, or portion of this ordinance or application thereto to any person or circumstance is held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portion of this ordinance; and the City Council hereby declares it would have passed such remaining portions of this ordinance despite such invalidity which remaining portions shall remain in full force and effect.

Section 14. Effective Date. This Ordinance shall take effect from and after its passage.

DULY PASSED AND APPROVED by the City Council of the City of Commerce, Texas on this the 8th day of October, 2018.

ATTEST:

CITY OF COMMERCE:

Molly Jacobsen, City Secretary

Wyman Williams, Mayor

(seal)

Approved as to Form:

Charles Anderson, City Attorney

I, Molly Jacobsen, City Secretary of the City of Commerce, Texas, do hereby certify that the above is a true and correct copy of a Resolution, and that the same has not been repealed and is in full force and effect.

(Seal)

Molly Jacobsen, City Secretary

Sworn to and subscribed before me, on this the _____ day of October, 2018 to certify which witness my hand and seal of office.

Notary Public, State of Texas

(Seal)

EXHIBIT "A"
NOTICE OF ELECTION – SPECIAL ELECTION