

ORDINANCE NO. 21-016

AN ORDINANCE OF THE CITY OF GALVESTON, TEXAS, ORDERING AND CALLING A SPECIAL ELECTION TO BE HELD IN THE CITY OF GALVESTON ON THE 28TH DAY OF AUGUST, 2021, FOR THE PURPOSE OF ELECTING A DISTRICT COUNCIL MEMBER FOR DISTRICT ONE FOR A TERM ENDING IN MAY 2022; MAKING PROVISIONS FOR THE CONDUCT AND GIVING NOTICE OF THE ELECTION; DESIGNATING POLLING PLACES; DESIGNATING DATES AND HOURS FOR EARLY VOTING; DESIGNATING THE DATE AND HOURS FOR THE ELECTION DAY; PROVIDING FOR PUBLICATION OF THE NOTICE OF THE ELECTION; PROVIDING BILINGUAL ELECTION REQUIREMENTS; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING AN OPEN MEETINGS CLAUSE; PROVIDING A SAVINGS CLAUSE; DECLARING FINDINGS OF FACT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Galveston consists of the Mayor and six (6) Council Members duly elected by the citizenry of the City of Galveston, Texas, and which the terms of office are to expire in May, 2022; and,

WHEREAS, the elected representative for Galveston Council District No. 1, the Reverend E.R. Johnson, passed away on April 26, 2021 creating a vacancy on the Council seat. District One has traditionally been the only minority majority Council District in the City of Galveston; and,

WHEREAS, pursuant to the City Charter Art. II Section 3 "[I]f a seat on the council becomes vacant, it shall be filled for the remainder of the unexpired term at a special election called for such purpose, unless the next regular City election is to be held within one hundred and twenty (120) days from the time of such vacancy"; and,

WHEREAS, as the next regular election day for the City of Galveston is in excess of one hundred twenty (120) days from the date of the creation of the vacancy, a special election is required under the City Charter to fill the vacancy on Council for the unexpired term of the Reverend E. R. Johnson; and,

WHEREAS, Texas Election Code §201.051 provides that if a vacancy in office is to be filled by a Special Election, the "election shall be ordered as soon as practicable after the vacancy occurs..."; and,

WHEREAS, on May 13, 2021, the City Council sent Resolution No. 21-016 to Governor Gregg Abbott, requesting to hold a special election pursuant to the Texas Election Code 41.0011, based upon a determination that an emergency exists due to the vacancy by creating a lack of representation of citizens of the traditionally minority majority District in the City and therefore without an elected representative voice the potential disenfranchisement of the voters as the City conducts its redistricting of Council Districts; and,

WHEREAS, pursuant to the Texas Election Code §41.001, and §41.0011, the governor has determined based on the emergent circumstances that the City of Galveston may hold a special election on August 28, 2021 to fill the unexpired council member term; and,

WHEREAS, on May 27, 2021, the Galveston City Council unanimously approved entering into a contract with the County of Galveston for the administration of election services pursuant to the applicable provisions of the Texas Election Code; and,

WHEREAS, the filing period for interested candidates to submit an application for placement on the ballot for the August 28, 2021 Special Election is from June 1, 2021 through June 23, 2021. Applications will be received in the office of the City Secretary of the City of Galveston and filed with the City Secretary between the business hours of 8 a.m. and 5 p.m.; and,

WHEREAS, the City Council of the City of Galveston finds that due to the reasons stated herein, deems it in the public interest to call and order a special election to be held on August 28, 2021, to fill the unexpired council member vacancy on District one, for a term ending in May, 2022.

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

SECTION 1. The findings and recitations set out in the preamble to this Ordinance are found to be true and correct, and they are hereby adopted by the City Council and made a part hereof for all purposes.

SECTION 2. Pursuant to the provisions of Article III of the Charter of the City of Galveston and section 3.005 of the Texas Election Code, a Special Election for the year 2021, is hereby called and ordered for the purpose of electing District One Council Member, for a term ending on May 7, 2022, to be held in the City on Saturday, August 28, 2021, between the hours of 7 o'clock a.m. and 7 o'clock p.m., as provided in section 41.031 of the Texas Election Code, as well as, a period of early voting in accordance with the provisions of the Texas Election Code.

SECTION 3. The special election hereby called and ordered shall be conducted in accordance with the provisions of this Ordinance, the requirements of the Charter of the City of Galveston, the Constitution and laws of the State of Texas regulating the holding of special elections. The special election called and ordered shall be conducted in accordance with the provisions of the Election Services Agreement by and between the City and Galveston County approved by City Council on May 27, 2021.

SECTION 4. The filing period for interested candidates to submit an application for placement on the ballot for the August 28, 2021 Special Election is from June 1, 2021 through June 23, 2021. Applications will be received in the office of the City Secretary of the City of Galveston and filed with the City Secretary between the business hours of 8 a.m. and 5 p.m.

SECTION 5. In accordance with Chapter 43 and other applicable provisions of the Texas Election Code, this election shall be conducted utilizing countywide polling places as designated by the County of Galveston. The City Council hereby designates the locations listed in **Exhibit 1** as countywide polling places to be utilized for this election.

SECTION 6. The ballots shall conform to all requirements of the laws of the State of Texas governing the same. Such ballots shall contain the names of all eligible candidates for the respective office of City Council Member of District One of the City of Galveston.

SECTION 7. All qualified voters of the City of Galveston shall be entitled to vote at the special election so hereby called and ordered. The special election shall be conducted in accordance with the applicable laws of the State of Texas between the hours of 7 o'clock a.m. and 7 o'clock p.m. on Saturday, August 28, 2021 ("Election Day").

SECTION 8. Voting machines and/or ballot boxes shall be used in the election in accordance with the provisions of the laws of the State of Texas relating to the use of voting machines, ballot boxes, and elections. Pursuant to the Election Services Agreement with the City of Galveston, Hart Intercivic Direct Record Electronic (DRE) Voting Machines will be used during the conduct of the subject special election being called by this Ordinance.

SECTION 9. (a) In compliance with Section 271.006 of the Texas Election Code, Dwight D. Sullivan, Galveston County Clerk, is appointed as the Early Voting Clerk. Other deputy early voting clerks shall be appointed as needed to process early voting mail and to conduct early voting by personal appearance. The main early voting polling place is designed as the Galveston County Justice Center, 600 – 59th Street, 1st Floor Vending Room, Galveston, Texas 77551. Early voting by personal appearance is available at the City of Galveston Historic 30th Street Pump and Electric Light Station, 715 30th Street, Galveston, Texas 77550, and such other early voting polling places as designated by the Early Voting Clerk.

(b) Qualified electors voting early who are unable to vote in person shall vote by mail as prescribed by the laws of the State of Texas. Applications for ballots by mail may be sent to the Early Voting Clerk as follows:

- By Mail: Attn: Ballots by Mail, c/o Dwight D. Sullivan, Galveston County Clerk, P. O. Box 17253, Galveston, Texas 77552-7253;
- By Fax: 409.765.3249 (Please put "Attention Ballots By Mail" on the cover sheet);
or
- By Email: absenteeballotapplications@co.galveston.tx.us (If this method is used, an application from the County Clerk's Elections Division website will need to be printed, filled out completely, signed, and scanned before submitting as an attachment to the email).

In accordance with Section 84.007 of the Texas Election Code, the first day to apply for a ballot by mail is June 1, 2021. The last day to apply for a ballot by mail is August 17, 2021 (received, not postmarked). The deadline for receipt of a Federal Post Card Application (FPCA) from a registered voter is August 17, 2021.

The Galveston County Clerk must physically receive marked ballots by the last mail delivery on Election Day which is Saturday, August 28, 2021 at 3:00 o'clock p.m. If a marked ballot is being mailed from outside of the United States, the ballot must be received by the last mail delivery on the fifth day after Election Day. In addition, marked ballots from individuals voting by mail may be hand delivered in person only while polls are open on Election Day. Only the person casting

the marked ballot may surrender the ballot in person. Such ballots will be accepted between the hours of 7:00 a.m. and 7:00 p.m. at the Galveston County Clerk's Office, Elections Division, 600 – 59th Street, 3rd Floor, Galveston, Texas 77551.

(c) Early voting by personal appearance shall begin on Monday, August 16, 2021, and end on Tuesday, August 24, 2021, and shall be conducted during the following hours:

<i>Day</i>	<i>Date</i>	<i>Hours of Operation</i>
Monday	August 16, 2021	8:00 am to 5:00 pm
Tuesday	August 17, 2021	8:00 am to 5:00 pm
Wednesday	August 18, 2021	8:00 am to 5:00 pm
Thursday	August 19, 2021	8:00 am to 5:00 pm
Friday	August 20, 2021	8:00 am to 5:00 pm
Monday	August 23, 2021	7:00 am to 7:00 pm
Tuesday	August 24, 2021	7:00 am to 7:00 pm

(d) The City Council hereby appoints the County's duly appointed representatives to the Early Voting Ballot Board.

SECTION 10. (a) Notice of said election shall be given (1) by filing a copy of this election Ordinance with the City Secretary; and (2) by publication as required by state law. The notice shall be in accordance with state law.

(b) The Mayor is hereby authorized to sign an "Order of Election" and "Notice of Special Election." Council directs the City Secretary to post the "Order of Election" and publish and post the "Notice of Special Election," in both English and Spanish in accordance with state law.

SECTION 11. Officers of the election shall immediately at the close of the election return to the City Council the results of the election. The City Council shall canvass the returns and declare the results of the election as provided in the Agreement between the City and the County, and as permitted by law.

SECTION 12. The provisions of 42 U.S.C.A. § 1973aa-1a, 28 C.F.R. Part 55, and section 272.001 et seq. of the Texas Election Code, regarding members of a single-language minority, shall be observed with respect to printing, programming, and disseminating voting notices, forms, balloting materials, instructions, assistance or other materials or information relating to the electoral process, including ballots, and all such election materials shall be printed, programmed, processed, and/or provided in the Spanish language as well as the English language, and at each Election precinct there shall be a Judge, Alternate Judge, or Clerk who is fluent in the Spanish language and who shall be instructed and required to provide assistance to any voter desiring same.

SECTION 13. The County of Galveston shall appoint eligible persons in the following capacities in accordance with the Texas Election Code, and those persons shall have the duties and responsibilities as prescribed by state law:

Central Count Station Manager, Clerk, Tabulation Supervisor, Assistant to the Tabulation Supervisor, Judge of the Central Count Station, Clerks and Early Voting Ballot Board

SECTION 14. The City Secretary is hereby authorized and instructed to provide and furnish all necessary election supplies to conduct said special election and to comply with federal, state, and local laws and in the conduct thereof. This will be provided through the Election Services of the County of Galveston.

SECTION 15. The City Council reserves the right to amend or modify this Ordinance, including, but not limited to, the Early Voting and Election Day polling locations.

SECTION 16. In the event any provision of the Election Services Agreement with the County conflicts with any provision of this Ordinance, the provisions of this Ordinance shall control with respect to the City election.

SECTION 17. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, because the same would have been enacted by the City Council without the incorporation in this Ordinance of any such invalid phrase, clause, sentence, paragraph or section.

SECTION 18. It is hereby officially found and determined that notice of the meeting at which this Ordinance is adopted was given as required by Chapter 551 of the Texas Government Code (the "Texas Open Meetings Act") and that such meeting has been open to the public at all times when this Ordinance was discussed and acted on.

SECTION 19. All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

SECTION 20. In accordance with the provisions of Sections 12 and 13 of Article II of the City Charter, this Ordinance has been publicly available in the Office of the City Secretary for not less than 72 hours prior to its adoption; and that this Ordinance may be read and published by descriptive caption only.

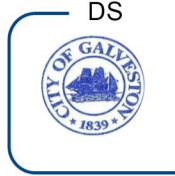
SECTION 21. This Ordinance shall be and become effective from and after its adoption and publication in accordance with the provisions of the Charter of the City of Galveston.

APPROVED AS TO FORM:

DocuSigned by:
Donald Steven Glywasky
DONNA M. FAIRWEATHER
ASSISTANT CITY ATTORNEY

I, Janelle Williams, Secretary of the City Council of the City of Galveston, do hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the City Council of the City of Galveston at its Regular meeting held on the 27th day of May, 2021, as the same appears in records of this office.

IN TESTIMONY WHEREOF, I subscribe my name hereto officially under the corporate seal of the City of Galveston this 28th day of May, 2021.



DocuSigned by:
Janelle Williams
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City Secretary for the City Council
of the City of Galveston, Texas

EXHIBIT 1

EARLY VOTING LOCATIONS

MAIN EARLY VOTING POLLING PLACE

is

Galveston County Justice Center

600 – 59th Street

1st Floor Vending Room

Galveston, Texas

City of Galveston Historic

30th Street Pump and Electric Light Station

715 30th Street

Galveston, Texas 77550

ELECTION DAY VOTING LOCATION

Saturday, August 28, 2021

7:00 a.m. to 7:00 p.m.

City of Galveston Historic

30th Street Pump and Electric Light Station

715 30th Street

Galveston, Texas 77550