

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KYLE, TEXAS, ORDERING A GENERAL AND SPECIAL ELECTION TO BE HELD JOINTLY WITH HAYS COUNTY ON NOVEMBER 7, 2017 FOR THE ELECTION OF CITY COUNCIL PLACE ONE TO SERVE AN UNEXPIRED TERM, PLACE TWO, PLACE FOUR, AND MAYOR TO SERVE A THREE YEAR TERM; DESIGNATING THE MAIN EARLY VOTING PLACE FOR SUCH ELECTION; PROVIDING FOR AN ORDER AND NOTICE OF SUCH GENERAL AND SPECIAL ELECTION; PROVIDING FOR RELATED MATTERS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the terms for Mayor, City Council Places Two and Four are set to expire in November 2017 and there is a need to call for a General Election and City Council Place One was vacated in accordance with Article 16, Section 65, of the Texas Constitution (often called the “resign-to-run” provision) because of Travis Mitchell announced candidacy for Mayor, which will require a Special Election to fill the vacancy in accordance with the City Charter and Election Code; and

WHEREAS, the Texas Constitution, the *Texas Election Code* (the “Code”), and the City Charter are applicable to said General and Special Elections (hereinafter collectively referred to as the “election” or “elections”), and in order to comply with applicable laws, an ordinance is required to call the elections and establish procedures consistent with the Constitution, the Code, and the Charter; and

WHEREAS, the Texas Election Code, Section 201.052, provides that a special election to fill a vacancy shall be held on the first authorized uniform election date occurring on or after the 30th day after the election is ordered; and

WHEREAS, the City Council has determined that the holding of the special election to fill the unexpired term of City Council Member Place 1 on November 7, 2017, is in the best interest of the citizens of Kyle.; and

WHEREAS, the City has made provision to contract with Hays County to conduct the City's election, pursuant to *Chapter 31, Tex. Elec. Code*, and *Chapter 791, Tex. Gov't Code* (the “Contract for Election Services” or “contract”), and such contract provides for political subdivisions subject to the contract that hold election on the same day in all or part of the same territory to hold a joint election as authorized in *Chapter 271, Tex. Elec. Code*;

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

SECTION 1. The General Election of the City shall be held on Tuesday, November 7, 2017, to elect the Mayor and Council Members for District 2 and District 4, to serve a term of three (3) years each. A special election shall be held on Tuesday, November 7, 2017, to fill the unexpired term of Council Member, District 1, expiring November 2019. Candidates at the elections for the above offices shall file their application to become candidates with the City Secretary of the City, at City Hall, 100 West Center Street, Kyle, Texas, between 8:00 a.m. on July 24, 2017 and 5:00 p.m. on August 21, 2017.

All applications for candidacy shall be on a form as prescribed by the *Tex. Elec. Code*. The order in which the names of the candidates for each office are to be printed on the ballot shall be determined by a drawing conducted by the City Secretary on August 24, 2017.

SECTION 2. Notice of the election shall be given and the election shall be held in compliance with the provisions of the *Tex. Elec. Code* in all respects. The ballots for the election shall comply with the *Tex. Elec. Code* and be in the form provided by the City to the Hays County Election Officer for use on the voting devices and ballots used by Hays County.

SECTION 3. The Hays County Election Officer and his/her employees and appointees, and the election judges, alternate judges and clerks properly appointed for the election, shall hold and conduct the election in the manner provided by the Contract for Election Services, the City Charter, and the law governing the holding of general and special elections; and the official ballots, together with such other election materials as are required by the *Tex. Elec. Code*, shall be prepared in both the English and Spanish languages and shall contain such provisions, markings and language as is required by law.

SECTION 4. Early voting, both by personal appearance and by mail, will be conducted by the Hays County Election Officer, who is designated and appointed as the Early Voting Clerk, in accordance with the *Tex. Elec. Code*. Early voting by personal appearance shall be conducted at Hays County Precinct 2 Office, 5458 FM 2770, Kyle, Texas and Kyle City Hall, 100 W. Center Street, Kyle, Texas, and such other locations authorized by state law and designated by the Hays County Election Officer. Early voting shall commence on Monday, October 23, 2017, and continue through Friday, November 3, 2017, and early voting polls shall remain open for the time specified by the *Tex. Elec. Code*.

SECTION 5. The election precincts for the election shall be the election precincts established by the Hays County Election Officer in accordance with applicable law and the City Charter. The polling places for Election Day shall be: Tobias Elementary School, 1005 East FM 150, Kyle, Texas; Kyle City Hall, 100 W. Center St., Kyle, Texas; McCormick Middle School, 5700 Dacy Lane, Buda, Texas; Goforth Water Supply, 8900 Niederwald Strasse, Niederwald, Texas; Wallace Middle School, 1500 W Center Street, Kyle, Texas; and Promiseland Church, 1650 Lime Kiln Rd, San Marcos, Texas. Residents of the election precincts shall vote at the aforementioned polling places as assigned by the Hays County Election Officer in accordance with applicable law and the City Charter. The polls shall remain open on the day of the election from 7:00 a.m. to 7:00 p.m. The returns will be provided by precinct and the Hays County Election Officer shall tabulate and provide the election returns for the election.

SECTION 6. The City agrees to conduct a joint election with other political subdivisions within Hays County, provided that such political subdivision holds an election on November 7, 2017 in all or part of the same territory as the City (the "Political Subdivisions"). Any joint election shall be conducted in accordance with state law, this Ordinance, the City Charter and the Contract for Election Services with Hays County.

SECTION 7. The City Secretary, or designee, is instructed to aide the Hays County Election Officer in the acquisition and furnishing of all election supplies and materials necessary to conduct the election as provided by the Contract for Election Services. The City Secretary is further authorized to give or cause to be given notices required for the election, and to take such other and further action as is required to conduct the election in compliance with the *Tex. Elec. Code*; provided that, pursuant

to the Contract for Election Services between Hays County and the City, the Hays County Election Officer shall have the duty and be responsible for organizing and conducting the election in compliance with the *Tex. Elec. Code*; and for providing all services specified to be provided in the Contract for Election Services. The Hays County Election Officer shall give the notices required by the *Tex. Elec. Code* to be given for the election not required to be given by the City under the Contract for Election Services.

SECTION 8. The presiding judges, alternate presiding judges and clerks for the election shall be selected and appointed by Hays County and its appointees in compliance with the requirements of state law, and such judges and clerks so selected by Hays County and its appointees are hereby designated and appointed by the city council as the election officers, judges and clerks, respectively, for the holding of said election. The presiding judges, alternate presiding judges and clerks shall perform the functions and duties of their respective positions that are provided by state law. The city council confirms and appoints the election judges and alternate election judges that are appointed by Hays County for the election.

SECTION 9. That notice of the November 7, 2017 General Election of the City of Kyle shall be posted and published in accordance with the Election Code of the State of Texas, not later than the twenty-first (21st) day before the election, and by publishing said Notice of Election at least one time, not earlier than thirty (30) days nor later than ten (10) days prior to said election, in a newspaper of general circulation in the City. The notice that is posted, and the notice that is published in a newspaper of general circulation within the city, will be written in both English and Spanish.

SECTION 10. The election shall be held and conducted by the Hays County Election Officer in compliance with state law, the City Charter, and the Contract for Election Services.

SECTION 11. It is hereby officially found and determined that this meeting was open to the public, and public notice of the time, place and purpose of said meeting was given, all as required by the Open Meetings Act, *Chapter 551, Texas Government Code*.

SECTION 12. Severability. Should any part, section, subsection, paragraph, sentence, clause or phrase contained in this ordinance be held to be unconstitutional or of no force and effect, such holding shall not affect the validity of the remaining portion of this resolution, but in all respects said remaining portion shall be and remain in full force and effect.

SECTION 13. Effective Date. This ordinance is effective immediately upon adoption in accordance with state law and the City Charter.

PASSED AND APPROVED on this the ____ day of _____, 2017.

FINALLY PASSED AND APPROVED on this the ____ day of _____, 2017.

ATTEST:

The City of Kyle, Texas

Jennifer A. Vetrano, City Secretary

R. Todd Webster, Mayor