

ORDINANCE 16 - 02

CONSIDERATION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COMMERCE, TEXAS, CALLING FOR SPECIAL ELECTION FOR ADOPTION OR REJECTION ON TEN (10) PROPOSED AMENDMENTS TO THE CITY CHARTER OF THE CITY OF COMMERCE TO BE HELD WITHIN THE CITY LIMITS ON THE UNIFORM ELECTION DAY OF MAY 7, 2016, IN CONJUNCTION WITH THE MUNICIPAL OFFICER ELECTION, AS PROVIDED UNDER TEXAS LAW; TO CONSIDER PROPOSED AMENDMENTS TO THE CITY CHARTER OF THE CITY OF COMMERCE; DESIGNATING LOCATIONS OF POLLING PLACES; ORDERING NOTICE OF ELECTION TO BE GIVEN AS PRESCRIBED BY LAW; PROVIDING FOR THE PUBLICATION AND POSTING OF NOTICE; PROVIDING FOR EARLY VOTING DATES AND TIMES; MAKING PROVISIONS FOR THE CONDUCT OF THE ELECTIONS AND RESOLVING OTHER MATTERS INCIDENT TO HOLDING OF SUCH ELECTIONS; PROVIDING A STATEMENT OF FISCAL IMPACT; PROVIDING COMPLIANCE WITH OPEN MEETINGS ACT PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City, through a paneled Charter Review Committee, has reviewed the City Charter of the City of Commerce and has determined that certain amendments are in the best interest of the citizens and to comply with state law and after due consideration the City Council desires to conduct an election on proposed amendments to the City Charter of the City of Commerce on May 7, 2016; and,

WHEREAS, the City Council ordered to call an election for City Councilmembers to be held on May 7, 2016, pursuant to Texas law; and,

WHEREAS, the City Council desires to conduct the election on the proposed amendments to the City Charter of the City of Commerce concurrently with the election for City Councilmembers.

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

SECTION 1. An election is hereby ordered for May 7, 2016, which date is not less than thirty (30) nor more than ninety (90) days from the date of this Ordinance, pursuant to the Texas Election Code, for the purpose of submitting to the qualified voters of the City for their approval or disapproval the proposed amendments to the Charter of the City of Commerce, Hunt County, Texas, contained in herein below. The

election shall be in conjunction with the municipal election of officers for City Councilmembers.

SECTION 2. In accordance with Section 9.004(c) of the Texas Local Government Code, a copy of the notice of the election on the proposed Charter amendments containing a substantial copy of the proposed amendments and an estimate of the anticipated fiscal impact to the City if the proposed amendments are approved at the election, shall be posted in English and in Spanish, on the City's board used for posting notices of the meeting of the Commerce City Council not later than the 21st day before election day. Notice of the election on the proposed Charter amendments shall also be published in a newspaper of general circulation in the City, and must include a substantial copy of the proposed charter amendments and include an estimate of the anticipated fiscal impact to the City if the proposed amendments are approved at the election. Said notice must be published on the same day in each of two successive weeks, with the first publication occurring no earlier than the thirtieth day and no later than the fourteenth day before the date of the election. A copy of the published notice that contains the name of the newspaper and the date of publication shall be retained as a record of such notice, and such person posting the notice shall make a record of the time of posting, starting date and the place of posting.

Additionally, prior to the 30th day before the date of the election, the governing body of the municipality shall order the municipal clerk or the municipal secretary to mail a copy of the proposed charter to each registered voter of the municipality.

SECTION 3. The entire City shall constitute one election precinct for this election and the Commerce City Hall, 1119 Alamo Street, Commerce, Texas, is hereby designated the polling place. The election officers and maximum number of clerks for said polling place shall be determined and appointed per contract.

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

Commerce City Hall, 1119 Alamo Street, Commerce, Texas 75428, is hereby designated the main early voting place.

Applications for ballot by mail shall be mailed to:

Acting City Secretary, Early Voting Clerk
1119 Alamo Street
Commerce, Texas 75428

Applications for ballots by mail must be received no later than the close of business on Tuesday, April 26, 2016.

Early voting for the election shall begin on Monday, April 25, 2016, and end Tuesday, May 3, 2016, and the dates and hours designated for early voting by personal appearance at the early voting locations shall be as set forth below:

Dates	Hours
Monday, April 25, 2016,	8:15 a.m. to 4:45 p.m.
Tuesday, April 26, 2016	7:00 a.m. to 7:00 p.m.
Wednesday, April 27, 2016	8:15 a.m. to 4:45 p.m.
Thursday, April 28, 2016	7:00 a.m. to 7:00 p.m.
Friday, April 29, 2016	8:15 a.m. to 4:45 p.m.
Monday, May 2, 2016	7:00 a.m. to 7:00 p.m.
Tuesday, May 3, 2016	7:00 a.m. to 7:00 p.m.

Becky Pattillo, the Acting City Secretary of the City of Commerce, shall be the clerk for early voting, and Bonnie Hunter and Rita Krodle and CISD representatives, Ludonna Smithers and Renee Bates, shall be Deputy Early Voting Clerks. The Early Voting Ballot Board Judges will be provided by Hunt County Elections Officer per contract.

Alternate Judges and Clerks will be provided by Hunt County elections Officer per contract.

SECTION 4. The City Secretary shall present the Charter amendment election returns to the City Council at a Council meeting for the canvassing of said election in accordance with the Texas Election Code.

SECTION 5. The amendments to the City Charter of the City of Commerce ("Propositions") attached hereto as Exhibit "A" as if copied herein verbatim shall be submitted to the qualified voters of the City and official ballots for the election shall be prepared in accordance with the Texas Election Code so as to permit the electors to adopt or reject the proposed amendments.

SECTION 6. The official ballots to be used in said election shall be prepared in accordance with Sections 52.072 and 52.073 of the Election Code of the State of Texas, and shall have printed thereon the following PROPOSITIONS to be expressed substantially as follows:

CITY CHARTER AMENDMENTS

Place an 'X' in the square underneath each statement indicating the way you wish to vote.

PROPOSITION NO. 1

Should Section 13 of the City Charter, relating to the municipal court, be amended to hereafter read as follows:

Section 13. The municipal court.

There is hereby established a municipal court, which shall have the jurisdiction and powers as allowed under the laws of the State of Texas, and as may be conferred by the city council, and the municipal court judge shall serve solely at the pleasure of the city council.

VOTE:

YES ☐

NO ☐

PROPOSITION NO. 2

Should Section 18 of the City Charter, relating to the city council, be amended to read as follows:

Sec. 18. - The city council.

Except as otherwise provided in the charter, all powers of the City of Commerce shall be vested in the city council of five (5) members, consisting of the mayor and four other council members. The members of the city council shall:

- (1) be elected from the city at large;
- (2) except for the mayor, be elected by place number;
- (3) serve without compensation; and
- (4) serve for three-year terms.

VOTE:

YES ☐

NO ☐

PROPOSITION NO. 3

Should Section 18 of the City Charter, relating to the city council, be amended by the addition of Section 18.2 thereto, to read as follows:

Section 18.2. Qualifications for members of city council.

Each member of the council shall be at least eighteen years of age or older, a citizen of the United States of America, a resident of the State of Texas for at least twelve (12) months as of the deadline for filing for office and a bona fide resident residing within the territorial limits of the City of Commerce for at least twelve (12) months as of the

deadline for filing for office, and must present to the City Secretary a current voter's identification card and a valid photo ID that matches the card for verification purposes; and shall not have delinquent ad valorem taxes, or have been convicted of a felony, been adjudged to be mentally incompetent by a court, or be disqualified by reason of any provision of any other section of this Charter or of Chapter 141 of the Texas Election Code. For the purposes of this section, a bona fide residence shall be defined as a place in which the person actually resides, prima facie evidence of which may include a utility account in the name of the person, or his/her spouse, parent or child with whom he/she actually resides.

VOTE:

YES ☐

NO ☐

PROPOSITION NO. 4

Should Section 19 of the City Charter, relating to the organization of the city council, be amended to read as follows:

Section 19. Organization of the city council.

The terms of service for city council members shall be for a term of three (3) years, and shall be staggered as follows:

Place One and Place Three

Place Two and Place Four

Mayor

The Mayor and the City Council members shall be elected from the City at large by a majority vote of the qualified voters at an election held for that purpose. In the event no candidate for the office of Mayor or Council member shall receive a majority of the votes cast for said office, a run-off election shall be held not earlier than the 10th or later than the 30th day after the date the final canvass of the regular election is completed, at which time the names of the two candidates having the greatest number of votes in the regular election shall be placed on the ballot. Such runoff election shall be conducted in the same manner as a regular election.

VOTE:

YES ☐

NO ☐

PROPOSITION NO. 5

Should Section 20 of the City Charter, relating to vacancies of city council offices, be amended by the addition of Section 20.1 thereto, to read as follows:

Section 20.1. Forfeiture of office.

- A) A member of the council shall immediately forfeit or be removed from his/her office by the council or by any other means authorized by law for:
1. Ceasing to possess any of the qualifications specified in this section or in any other section of the Charter, including but not limited to, residency requirements;
 2. Delinquencies on ad valorem taxes while in office;
 3. Willful violation of any express prohibition of this Charter;
 4. Failure to attend three (3) consecutive regular meetings or six (6) regular meetings of the council within any single council term year without being excused by the council;
 5. Willful violation of any code of ethics or conflicts of interest provision under state or federal law, or city ordinance;
 6. Misconduct, malfeasance, incompetence, inability or willful neglect in performance of official duties;
 7. Being convicted of a felony or any offense involving moral turpitude, being placed on felony probation or placed on deferred adjudication for a felony or any offense involving moral turpitude, or being otherwise subject to any type of court supervision following disposition or resolution of a felony charge or any offense involving moral turpitude;
- B) A removal action by the council may be instituted on its own initiative, or shall be instituted upon petition by twenty-five or more Commerce residents who are registered voters and eligible to vote in the City of Commerce elections, and any final decision to remove a member shall be by the majority vote of council members holding office with the exception of the challenged member. The challenged member shall have the right to written articles of removal, 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 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 therefore 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 30 days if removal is not warranted.
- C) The council shall be the judge of the qualifications of its members and for these purposes shall have the power to subpoena witnesses and require the production of records.

- D) Pending charges for removal, the council may suspend the challenged member from office for a period not to exceed thirty days by the majority vote of all council members holding office, with the exception of the challenged member.
- E) A member who is removed from office, whether pursuant to this section, by recall or other legal proceedings, 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.

VOTE: YES ☐ NO ☐

PROPOSITION NO. 6

Should Section 27, Subsection (4) of the City Charter, relating to powers of city council members, be amended to read as follows:

Section 27. Powers of city council members, Subsection (4).

(4) To inquire by resolution into the conduct of any office, department, or agency of the City of Commerce and make investigations as to municipal affairs.

VOTE: YES ☐ NO ☐

PROPOSITION NO. 7

Should Section 28 of the City Charter, relating to investigation by city council, be amended to read as follows:

Section 28. Investigation by city council.

The city council shall have power to inquire by resolution into the conduct of any office, department, agency or officer of the city and to make investigations as to municipal affairs, and for such purposes may subpoena witnesses, administer oaths, and compel the production of books, papers and other evidence. Failure to obey such subpoena or to produce books, papers, and other evidence as ordered under the provisions of this section of this Charter shall constitute a misdemeanor and shall be punishable by fine not exceeding two hundred dollars (\$200.00).

VOTE: YES ☐ NO ☐

PROPOSITION NO. 8

Should Section 31 of the City Charter, relating to responsibility of the city manager, be amended to read as follows:

Section 31. Responsibility of the city manager.

The city manager shall be responsible to the city council for the efficient and economical administration of the city government. The city manager shall have the power to remove all department heads. The city manager may appoint for an indefinite term only, and shall have the power to remove all other employees of the administrative services of the City of Commerce, excepting as otherwise provided in this Charter. The city manager may authorize the head of a department to appoint and remove subordinates in said respective department.

VOTE:

YES ☐

NO ☐

PROPOSITION NO. 9

Should Section 32 of the City Charter, relating to city council acting through city manager, be amended to read as follows:

Section 32. City council to act through city manager.

Neither the city council, nor any of its members, shall direct the appointment or removal of any person from office by the city manager or by any of his or her subordinates. Except for the purpose of inquiry by resolution, the city council and its members shall deal with the administrative service solely through the city manager. Neither the council, nor any member thereof, shall give any instruction to any subordinate of the city manager, either publicly or privately.

VOTE:

YES ☐

NO ☐

PROPOSITION NO. 10

Should Section 35 of the City Charter, relating to the city secretary, be amended to read as follows:

Section 35. The city secretary.

The city secretary shall be appointed and removed upon recommendation of the city manager with approval from the city council. It is the duty of the city secretary to keep the records of the city council, and to serve also as ex officio treasurer of the City of Commerce. The city secretary shall countersign all checks and bonds, and shall serve as clerk of the city council and keep the journal of its proceedings.

VOTE:

YES ☐

NO ☐

SECTION 7. The City Secretary of said City shall ensure that ballots are prepared to be used in said election, on which ballots shall be printed the propositions to be voted on in the election. The ballots shall be printed in English and in Spanish for

use in said election. Each charter amendment submitted must contain only one subject, and the ballot shall be prepared in a manner that the voters may vote "YES" or "NO" on any amendment or amendments without voting "YES" or "NO" on all of said amendments. Each such proposed charter amendment, if approved by the majority of the qualified voters voting at said election, shall become a part of the City Charter of the City of Commerce, Texas.

SECTION 8. The proposed amendments in Exhibit "A", if approved by a majority of the qualified voters voting upon said amendments, shall become a part of the City Charter of the City of Commerce as soon as an official order has been entered on the Council Minutes of said City by the City Council thereof, declaring the same adopted.

SECTION 9. STATEMENT OF ANTICIPATED FISCAL IMPACT OF CHARTER AMENDMENTS. Pursuant to Section 9.004(c)(2) of the Texas Local Government Code, (requiring a statement of the anticipated fiscal impact to the City if the proposed amendments are approved), the City asserts it is difficult to accurately account for the fiscal impact of the proposed amendments in light of the particular unknown effect upon the actual operation of the City government; however if the proposed amendments are approved an overall analysis reflects that there should be no immediate fiscal impact upon the probable economic cost to the City.

SECTION 10. The way and manner of holding said election, the notice to be given therefor, the polling places, the personnel and the officers who are to hold same, and all details connected with the holding of the election shall be provided for and arranged by the City Secretary in accordance with the Texas Election Code and Section 9.004(c) of the Texas Local Government Code. Any omission or irregularity in this ordinance, or in the signing of same, shall not in any way affect or invalidate such election

SECTION 11. In all respects, said election shall be conducted in accordance with the Texas Election Code, the Texas Local Government Code, and the Charter of the City of Commerce, Texas.

SECTION 12. All ordinances of the City of Commerce in conflict with the provisions of this Ordinance shall be, and the same are hereby, repealed; provided, however, that all other provisions of said ordinances not in conflict herewith shall remain in full force and effect.

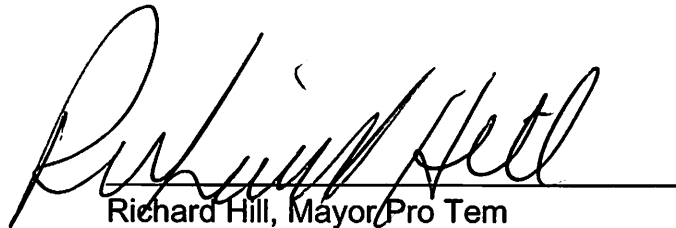
SECTION 13. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held invalid or unenforceable, the invalidity or unenforceability of

such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 14. It is hereby officially found and determined that the meeting at which this Ordinance was adopted and said election was called was open to the public and public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551 of the Texas Government Code.

SECTION 15. This Ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Commerce, and it is accordingly so ordained.

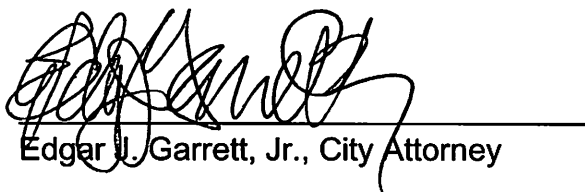
DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF COMMERCE, HUNT COUNTY, TEXAS, ON THIS THE 16th DAY OF February, 2016.


Richard Hill, Mayor Pro Tem

ATTEST:


Becky Pattillo, Acting City Secretary

APPROVED AS TO FORM:


Edgar J. Garrett, Jr., City Attorney

I, Becky Pattillo, Acting City Secretary of the City of Commerce, Texas do hereby certify that the above is a true and correct copy of an ordinance and that the same has not been repealed and is in full force and effect.

(seal)

Becky Pattillo

Becky Pattillo, Acting City Secretary
City of Commerce

Sworn to and subscribed before me on this the 23rd day of February,
2016, to certify which witness my hand and seal of office.

(seal)

Greg Richardson

Notary Public
State of Texas

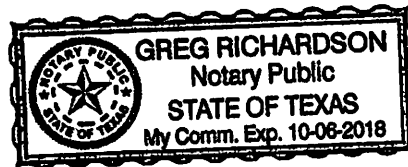


EXHIBIT "A"

A special election will be held on May 7, 2016, from 7:00 a.m. to 7:00 p.m. for the purpose of allowing voters to determine whether to amend the Commerce City Charter. Persons interested in voting on these issues may contact the Commerce City Secretary's Office for information about polling places and other information pertaining to the election or may visit the City's website at www.commercetx.org.

If the proposed Propositions are adopted by the qualified voters of the City of Commerce, the following Charter provisions will be amended by adding the underscored words and deleting those struck through. The proposed amendments will read in their entirety as follows:

AMENDMENT NO. 1

Section 13. The municipal court.

There is hereby established a municipal court, which shall have the jurisdiction and powers as allowed under the laws of the State of Texas, and as may be conferred by the city council, and the municipal court judge shall serve solely at the pleasure of the city council.

AMENDMENT NO. 2

Sec. 18. - The city council.

Except as otherwise provided in the charter, all powers of the City of Commerce shall be vested in the city council of five (5) members, consisting of the mayor and four other council members. The members of the city council shall:

- (1) be elected from the city at large;
- (2) except for the mayor, be elected by place number;
- (3) serve without compensation; and
- (4) serve for ~~two-year~~ three-year terms.

AMENDMENT NO. 3

Section 18.2. Qualifications for members of city council.

Each member of the council shall be at least eighteen years of age or older, a citizen of the United States of America, a resident of the State of Texas for at least twelve (12) months as of the deadline for filing for office and a bona fide resident residing within the territorial limits of the City of Commerce for at least twelve (12) months as of the deadline for filing for office, and must present to the City Secretary a current voter's identification card and a valid photo ID that matches the card for verification purposes; and shall not have delinquent ad valorem taxes, or have been convicted of a felony, been adjudged to be mentally incompetent by a court, or be

disqualified by reason of any provision of any other section of this Charter or of Chapter 141 of the Texas Election Code. For the purposes of this section, a bona fide residence shall be defined as a place in which the person actually resides, prima facie evidence of which may include a utility account in the name of the person, or his/her spouse, parent or child with whom he/she actually resides.

AMENDMENT NO. 4

Section 19. Organization of the city council.

~~In each odd-numbered year city council members in Place One and Place Three shall be chosen for a term of two (2) years, and in each even-numbered year the mayor and the city council members in Place Two and Place Four shall be chosen for a term of two (2) years.~~

The terms of service for city council members shall be for a term of three (3) years, and elections shall be staggered as follows:

Place One and Place Three

Place Two and Place Four

Mayor

The Mayor and the City Council members shall be elected from the City at large by a majority vote of the qualified voters at an election held for that purpose. In the event no candidate for the office of Mayor or Council member shall receive a majority of the votes cast for said office, a run-off election shall be held not earlier than the 10th or later than the 30th day after the date the final canvass of the regular election is completed, at which time the names of the two candidates having the greatest number of votes in the regular election shall be placed on the ballot. Such runoff election shall be conducted in the same manner as a regular election.

AMENDMENT NO. 5

Section 20.1. Forfeiture of office.

A) A member of the council shall immediately forfeit or be removed from his/her office if the council member by the council or by any other means authorized by law for:

- ~~1. Fails to meet the residency requirements,~~
- ~~2. Is convicted of a crime involving moral turpitude, or~~
- ~~3. Fails to attend three consecutive regular meetings or six regular meetings of the council within any single council term year without being excused by the council.~~
1. Ceasing to possess any of the qualifications specified in this section or in any other section of the Charter, including but not limited to, residency requirements;
2. Delinquencies on ad valorem taxes while in office;

3. Willful violation of any express prohibition of this Charter;
 4. Failure to attend three (3) consecutive regular meetings or six (6) regular meetings of the council within any single council term year without being excused by the council;
 5. Willful violation of any code of ethics or conflicts of interest provision under state or federal law, or city ordinance;
 6. Misconduct, malfeasance, incompetence, inability or willful neglect in performance of official duties;
 7. Being convicted of a felony or any offense involving moral turpitude, being placed on felony probation or placed on deferred adjudication for a felony or any offense involving moral turpitude, or being otherwise subject to any type of court supervision following disposition or resolution of a felony charge or any offense involving moral turpitude;
- B) A removal action by the council may be instituted on its own initiative, or shall be instituted upon petition by twenty-five or more Commerce residents who are registered voters and eligible to vote in the City of Commerce elections, and any final decision to remove a member shall be by the majority vote of council members holding office with the exception of the challenged member. The challenged member shall have the right to written articles of removal, 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 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 therefore 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 30 days if removal is not warranted.
- C) The council shall be the judge of the qualifications of its members and for these purposes shall have the power to subpoena witnesses and require the production of records.
- D) Pending charges for removal, the council may suspend the challenged member from office for a period not to exceed thirty days by the majority vote of all council members holding office, with the exception of the challenged member.
- E) A member who is removed from office, whether pursuant to this section, by recall or other legal proceedings, 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.

AMENDMENT NO. 6

Section 27. Powers of city council members, Subsection (4).

- (4) To inquire by resolution into the conduct of any office, department, or agency of the City of Commerce and make investigations as to municipal affairs.

AMENDMENT NO. 7

Section 28. Investigation by city council.

The city council shall have power to inquire by resolution into the conduct of any office, department, agency or officer of the city and to make investigations as to municipal affairs, and for such purposes may subpoena witnesses, administer oaths, and compel the production of books, papers and other evidence. Failure to obey such subpoena or to produce books, papers, and other evidence as ordered under the provisions of this section of this Charter shall constitute a misdemeanor and shall be punishable by fine not exceeding two hundred dollars (\$200.00).

AMENDMENT NO. 8**Section 31. Responsibility of the city manager.**

The city manager shall be responsible to the city council for the efficient and economical administration of the city government. The city manager shall have the power to remove all department heads, ~~subject to the approval of the city council.~~ The city manager may appoint for an indefinite term only, and shall have the power to remove all other employees of the administrative services of the City of Commerce, excepting as otherwise provided in this Charter. The city manager may authorize the head of a department to appoint and remove subordinates in said respective department.

AMENDMENT NO. 9**Section 32. City council to act through city manager.**

Neither the city council, nor any of its members, shall direct the appointment or removal of any person from office by the city manager or by any of his or her subordinates. Except for the purpose of inquiry by resolution, the city council and its members shall deal with the administrative service solely through the city manager. Neither the council, nor any member thereof, shall give any instruction to any subordinate of the city manager, either publicly or privately.

AMENDMENT NO. 10**Section 35. The city secretary.**

~~The city manager shall choose a city secretary upon the approval of the city council.~~ The city secretary shall be appointed and removed upon recommendation of the city manager with approval from the city council. It is the duty of the city secretary to keep the records of the city council, and to serve also as ex officio treasurer of the City of Commerce. The city secretary shall countersign all checks and bonds, and shall serve as clerk of the city council and keep the journal of its proceedings.