

City of Magnolia

Ordinance 2007- 108

AN ORDINANCE OF THE CITY OF MAGNOLIA, TEXAS, PROVIDING FOR THE HOLDING OF A GENERAL ELECTION ON MAY 12, 2007, FOR THE PURPOSE OF ELECTING THREE (3) COUNCILMEMBERS, AND FOR THE PURPOSE OF SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY ONE PROPOSITION; (1) WHETHER OR NOT TO ABANDON THE CITY MANAGER FORM OF GOVERNMENT IN THE CITY OF MAGNOLIA, TEXAS; AND DESIGNATING THE POLLING PLACES AND APPOINTING ELECTION OFFICIALS FOR SUCH ELECTION; PROVIDING THE FORM OF THE BALLOTS AT SUCH ELECTION; DIRECTING THE GIVING OF NOTICE OF SUCH ELECTION; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT.

WHEREAS, the City of Magnolia, Texas (the "City") pursuant to the laws of the State of Texas, as amended, is required to hold a general election by State Law which requires the general election for 2007 be held on the second Saturday of May to elect Councilpersons whose terms are expiring and additionally the City is permitted or required by state law to submit one (1) additional proposition to the qualified voters of the City;

WHEREAS, by state law the uniform election date for the month of May 2007 falls on May 12, 2007, and there is therefore required to be elected, on May 12, 2007, the following officials for the City:

Council Position 1, for a two-year term ending May 2009; and
Council Position 2, for a two-year term ending May 2009; and
Council Position 3, for a two-year term ending May 2009.

WHEREAS, pursuant to Chapters 31 and 271 of the Texas Election Code the City is authorized to enter into joint election agreement with the Magnolia Independent School District and contracts for election services and election agreement with Montgomery County and the City has entered into said agreements; and

WHEREAS the qualified voters of the City of Magnolia Texas previously and lawfully adopted the city manager form of government pursuant to Chapter 25 of the Local Government Code; and

WHEREAS, a lawful petition was submitted requesting the Mayor of the City of Magnolia to order a special election to abandon the city manager form of government,

which was done and the council now is required by Section 25.071 of the Local Government Code to submit a proposition to the voters to vote for or against the proposition to abandon the city manager form of government in the City of Magnolia; and

WHEREAS, the City Council of the City of Magnolia, Texas and Carol Gaultney, Election Administrator for Montgomery, County, Texas, hereinafter called "Administrator" have determined it would be in the best interest of Montgomery County and the inhabitants thereof, that provisions be made for Administrator to help conduct the City General Election on May 12, 2007 and the City enter into a Election Agreement with the Magnolia Independent School District; and

WHEREAS, the City Council wishes to proceed with the ordering of such general election on Saturday, May 12, 2007, which is a uniform election date;

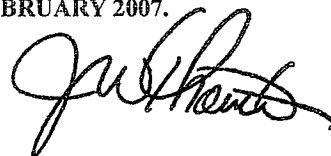
**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL
OF THE CITY OF MAGNOLIA, TEXAS:**

Section 1. The facts and opinions in the preamble to this Ordinance are true and correct.

Section 2. The attached Election Order (Exhibit "A") is herein adopted, which declares and orders that a general election (the "General Election") be held in and throughout the City of Magnolia on Saturday, May 12, 2007, to elect persons to Council Positions 1, 2 and 3, for a two-year term and for the submission to the voters the one (1) proposition as described in the preamble to this ordinance.

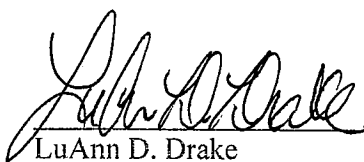
Section 3. All ordinances and parts of ordinances in conflict herewith are herein repealed to the extent of the conflict only.

**DULY PASSED BY THE CITY COUNCIL OF THE CITY OF MAGNOLIA, TEXAS
ON THIS 20TH DAY OF FEBRUARY 2007.**



Jimmy W. Thornton, Jr.
Mayor

Attest:



LuAnn D. Drake
City Secretary

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EXHIBIT "A"

ELECTION ORDER

Section 1. In accordance with the general laws and Constitution of the State of Texas, a General Municipal Election is hereby called and ordered for the second Saturday in May 2007, the same being the 12th day of said month. The City Secretary is hereby authorized and directed to prepare the election ballots and provide and furnish all necessary election supplies, including bilingual forms, to conduct the General Election in accordance with the provisions of the Texas Constitution and Texas Election Code. On such election ballot, the qualified voters of the City may vote for the purpose of electing the following officials of the City:

Councilmember, Position No. 1 (for a two year term to end in May, 2009)
Councilmember, Position No. 2 (for a two year term to end in May, 2009)
Councilmember, Position No. 3 (for a two year term to end in May, 2009)

Section 2. No person's name shall be placed upon the official ballot as a candidate for any of the above-mentioned positions unless such person has filed his or her sworn application, as provided by Section 141.031 of the TEXAS ELECTION CODE, with the City Secretary of the City at the City Offices, located at 16835 FM 1488, Building 1, Magnolia, Texas 77354, not later than five o'clock (5:00) p.m. on the sixty-second (62nd) day before the date of such election, said date being March 12, 2007. The City Secretary shall note on the face of each such application the date and time of its filing. Such application shall include the office the candidate is seeking and, if applicable, the position number of such position.

Section 3. It is further ordered that on the General Election be held in the City of Magnolia, Texas, on the 12th day of May 2007, there shall be submitted to the resident qualified voters of the City one (1) proposition, for their action thereon.

Section 4. The ballot for the General Election shall conform to the requirements of the TEXAS ELECTION CODE, as amended; Section 25.071(e) of the Local Government Code as amended, and on such ballot shall appear the ballot language for the following proposition, with the provision permitting voters to vote "For" or "Against" on each proposition without voting "For" or "Against" all propositions. Such proposition shall provide as follows:

Proposition No. 1 and Ballot Language for Proposition No. 1.

Abandoning the city manager form of government in the municipality of Magnolia,
Montgomery County, Texas.

Section 5. The present boundaries of the City constituting one election precinct, the polls shall be open for voting from seven o'clock (7:00) a.m. until seven o'clock (7:00) p.m. at the following polling place, and the following are hereby appointed officers to conduct the above-described election at said polling place:

POLLING PLACE

Montgomery County
Malcolm Purvis Library
510 Melton Street
Magnolia, Texas 77354

ELECTION OFFICERS

Presiding Judge

Alternate Presiding Judge

The City Secretary is hereby authorized and directed to provide a copy of this Ordinance to each judge as written notice of the appointment as required by Section 32.009 of the TEXAS ELECTION CODE.

The Presiding Judge shall have the authority to appoint no more than five (5) clerks to assist in the holding of said election, but in no event shall the Presiding Judge appoint less than two (2) clerks.

Section 6. The City Secretary and the Montgomery County Elections Officer are hereby appointed as joint early voting clerks for early voting; the appointment of a deputy clerk or clerks for early voting by the joint early voting clerks shall be in accordance with Section 83.031 *et seq.* of the TEXAS ELECTION CODE. The City adopts the designated May 12 2007 Joint Election Early Voting Locations listed in the attached Exhibit "A" and the early voting dates and times are designated and listed in the attached Exhibit "A" for each early voting location all pursuant to the contract for election services with Montgomery County.

The City Secretary is hereby appointed as the Regular Early Voting Clerk to receive ballot by mail applications. The appointment of a deputy clerk or clerks for early voting by the City Secretary shall be in accordance with Section 83.031 *et seq.* of the TEXAS ELECTION CODE. The address of the Regular Early Voting Clerk is:

City Office
City of Magnolia
16835 FM 1488, Building 1
Magnolia, Texas 77354

The above-described place is also the clerk's mailing address to which ballot applications and ballots voted by mail may be sent. The early voting clerk, in accordance with the provisions of the TEXAS ELECTION CODE, shall maintain a roster listing each person who votes early by personal appearance and each person to whom a ballot to be voted by mail is sent. The roster shall be maintained in a form approved by the Secretary of State.

Section 7. That the City Secretary shall receive applications by mail for a ballot to be voted by mail from March 13, 2007 until the close of business on May 04, 2007. Requests for applications should be mailed to: City Secretary, City of Magnolia, 16835 FM 1488, Building 1, Magnolia, Texas 77354. All ballot by mail applications received by the Regular Early Voting Clerk must be hand delivered or faxed to the Montgomery County Elections Officer on the day of receipt and the original application mailed or delivered to the Montgomery County Elections Officer. The Montgomery County Elections Officer will process applications, mail ballots, and tabulate.

Section 8. _____ is hereby appointed as Presiding Judge of the Early Ballot Board. In accordance with Section 87.001, *et seq.*, TEXAS ELECTION CODE, said Presiding Judge shall appoint at least two (2) other members to said Board, and shall process early voting results in accordance with said TEXAS ELECTION CODE. These appointments will be made as recommended by the Montgomery County Elections Officer.

Section 9. All ballots shall be prepared in accordance with the TEXAS ELECTION CODE. Early voting by personal appearance shall be by Direct Recording Electronic voting machines in accordance with Section 61.012 of the Texas Election Code. Voting by personal appearance on election day shall be by Direct Recording Electronic voting machines in accordance with Section 61.012 of the Texas Election Code. Early voting by a method other than by personal appearance shall be by paper ballot. All expenditures necessary for the conduct of the election and the purchase of materials therefore is hereby authorized. Compensation of all election officials is hereby established at the maximum amounts permitted under Section 32.091 *et seq.*, TEXAS ELECTION CODE.

Section 10. The City Secretary is hereby authorized and directed to furnish all necessary election supplies to conduct such election.

Section 11. The candidate receiving the highest number of votes in each of the positions to be filled at such election shall be declared elected to such positions.

Section 12. The order in which the names of the candidates are to be printed on the ballot for the general election, and the order in which the names of the candidates are to be

printed on the ballot for the special election, shall be determined by a drawing by the City Secretary, as provided by Section 42.094 of the TEXAS ELECTION CODE. The City Secretary shall post a notice in her office of the date, hour, and place of drawing. Such notice shall remain posted continuously for seventy-two (72) hours immediately preceding the scheduled time of the drawing, and personal notice shall also be given to any candidate who makes written request for such notice and furnishes to the City Secretary a self-addressed, stamped envelope. Each candidate involved in the drawing, or a representative designated by him, shall have a right to be present and observe the drawing.

Section 13. Notice of this election shall be given in accordance with the provisions of the TEXAS ELECTION CODE and returns of such notice shall be made as provided for in said Code. The Mayor shall issue all necessary orders and writs for such election, and returns of such election shall be made to the City Secretary immediately after the closing of the polls.

Section 14. Said election shall be held in accordance with the TEXAS ELECTION CODE and the Federal Voting Rights Act of 1965, as amended.

Section 15. It is further found and determined that in accordance with the order of this governing body the City Secretary posted written notice of the date, place and subject of this meeting on the bulletin board located in the City Hall, a place convenient and readily accessible to the general public, and such notice having been so posted and remaining posted continuously for at least seventy-two (72) hours preceding the scheduled time of such meeting. A copy of the return of such posting shall be attached to the minutes of this meeting and shall be made a part thereof for all intents and purposes.

Section 16. That the Mayor and/or the City Secretary of the City of Magnolia are hereby authorized to execute and/or issue, for an on behalf of the City, such orders, documents and forms as may, from time to time, be promulgated by the Secretary of State of the State of Texas in conjunction with the election herein ordained.

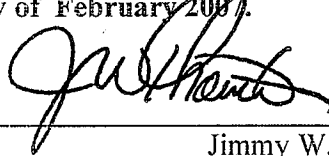
Section 17. If any person or persons appointed herein do not appear, are unable to perform their duties, or fail to perform their duties, the Mayor shall have the discretion and authority to appoint any substitute personnel to fill the position(s).

Section 18. The Mayor and/or the City Secretary and the attorney for the City are hereby authorized and directed to make any filings required by the Federal Voting Rights Act. The Mayor and/or the City Secretary and the attorney for the City are further authorized and directed to take any action necessary to comply with the provisions of the Texas Elections Code, the Federal Voting Rights Act and the terms and provisions of the Election Services Contract and the Joint Election Agreement in carrying out the provisions of this Ordinance, whether or not expressly authorized herein.

Section 19. The City Secretary and Mayor are hereby authorized to perform all duties and take all actions as required by both the joint election agreement with the

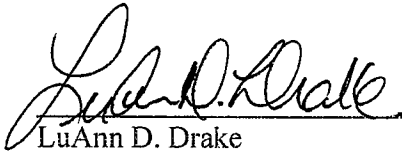
Magnolia Independent School District and the contracts for election services and election agreement with Montgomery County.

SIGNED on this the 20th day of February 2007.



Jimmy W. Thornton, Jr.
Mayor

Attest:



LuAnn D. Drake
City Secretary