

# City of Magnolia

## Ordinance 2009-141

**AN ORDINANCE OF THE CITY OF MAGNOLIA, TEXAS, PROVIDING FOR THE HOLDING OF A GENERAL ELECTION ON MAY 09, 2009, FOR THE PURPOSE OF ELECTING THREE (3) COUNCILMEMBERS 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 2009 be held on the second Saturday of May to elect Councilpersons whose terms are expiring.

**WHEREAS**, by state law the uniform election date for the month of May 2009 falls on May 09, 2009, and there is therefore required to be elected, on May 09, 2009, the following officials for the City:

Council Position 1, for a two-year term ending May 2011; and  
Council Position 2, for a two-year term ending May 2011; and  
Council Position 3, for a two-year term ending May 2011.

**WHEREAS**, pursuant to Chapters 31 and 271 of the Texas Election Code the City is authorized to enter into joint election agreement with the Montgomery County Hospital District and 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 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 10, 2008 and the City enter into a Joint Election Agreement wit the Montgomery County Hospital District and the Magnolia Independent School District; and

**WHEREAS**, the City Council wishes to proceed with the ordering of such general election on Saturday, May 09, 2009, which is a uniform election date;

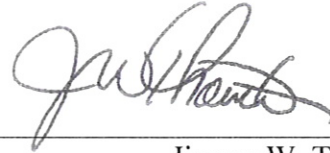
**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL  
OF THE CITY OF MAGNOLIA, TEXAS:**

**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 09, 2009, to elect persons to Council Positions 1, 2, and 3, for a two-year term.

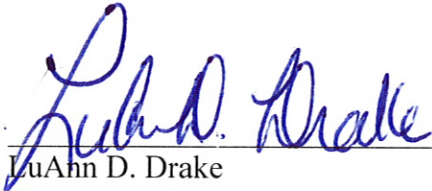
**Section 3.** All ordinances and parts of ordinances in conflict herewith are herein repealed to the extent of the conflict only.

**DULY PASSED BY THE CITY COUNCIL OF THE CITY OF MAGNOLIA, TEXAS  
ON THIS 10<sup>th</sup> DAY OF FEBRUARY 2009.**



Jimmy W. Thornton, Jr.  
Mayor

**Attest:**



LuAnn D. Drake  
City Secretary

# Ordinance 2009-141

## 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 2009, the same being the 09th 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, 2011)

Councilmember, Position No. 2 (for a two year term to end in May, 2011)

Councilmember, Position No. 3 (for a two year term to end in May, 2011)

**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 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 09, 2009. 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. The first day to file an application for a place on the ballot is February 7, 2009. The last day to file an application for a place on the ballot is March 09, 2009.

**Section 3.** 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, Teas 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 4.** The Montgomery County Elections Officer are hereby appointed as 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 09 2009 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 Montgomery County Elections Administrator 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 County Elections Administrator shall be in accordance with Section 83.031 *et seq.* of the TEXAS ELECTION CODE. The address of the Regular Early Voting Clerk is:

**Mailing Address:**

Montgomery County Election Administrator  
P. O. Box 2646  
Conroe, TX 77305-2646

**Physical Address for Carrier Delivery:**

Montgomery County Election Administrator  
9159 FM 1484  
Conroe, TX 77303

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 5.** That the Montgomery County Election Administrator shall receive applications by mail for a ballot to be voted by mail from March 10, 2009 until the close of business on May 01, 2009. Requests for applications should be mailed to: Montgomery County Election Administrator, P. O. Box 2646, Conroe, TX 77305-2646. 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 6.** \_\_\_\_\_ 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 7.** 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 8.** The City Secretary is hereby authorized and directed to furnish all necessary election supplies to conduct such election.

**Section 9.** 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 10.** 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 11.** 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 12.** Said election shall be held in accordance with the TEXAS ELECTION CODE and the Federal Voting Rights Act of 1965, as amended.

**Section 13.** 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 14.** 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



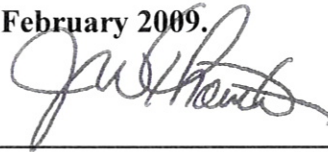
and forms as may, from time to time, be promulgated by the Secretary of State of the State of Texas in conjunction with the election herein ordained.

**Section 15.** 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 16.** 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 17.** 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 Montgomery County Hospital District and the Magnolia Independent School District and the contracts for election services and election agreement with Montgomery County.

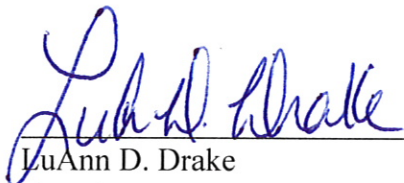
SIGNED on this the 10<sup>th</sup> day of February 2009.



Jimmy W. Thornton, Jr.

Mayor

Attest:



LuAnn D. Drake

City Secretary