

CITY OF JOSHUA, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF JOSHUA, TEXAS, ORDERING A SPECIAL ELECTION TO BE HELD ON SATURDAY, MAY 6, 2023, FOR THE PURPOSE OF VOTING “YES” OR “NO” ON SEVEN (7) PROPOSED CITY CHARTER AMENDMENTS; PROVIDING FOR THE APPOINTMENT OF ELECTION OFFICERS; PROVIDING FOR THE DESIGNATION OF THE PLACES AND MANNER OF HOLDING SAID ELECTION; PROVIDING FOR THE DESIGNATION OF THE EARLY VOTING POLLING PLACES; PROVIDING FOR THE DESIGNATION OF THE ELECTIONS ADMINISTRATOR; PROVIDING FOR THE POSTING AND PUBLICATION OF NOTICE; PROVIDING A SEVERABILITY AND CONFLICTS CLAUSE; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, Section 41.001 of the Texas Election Code, as amended, establishes Saturday, May 6, 2023, as a “uniform election date” for the purposes of conducting an election within the City of Joshua, Texas (“City”); and

WHEREAS, the City Council of the City of Joshua, Texas (“City Council”), has determined to submit to the qualified voters of the City, in a special election, propositions for the adoption or rejection of certain proposed amendments to the existing Charter of the City of Joshua, Texas (“City Charter”), pursuant to Section 9.004(a) of the Texas Local Government Code; and

WHEREAS, the Elections Administrator will conduct the general and special election for the City; will appoint election judges, clerks, and other election personnel; will provide voting supplies and equipment; will conduct early voting; will count and provide election returns; and will designate early voting polling sites and Election Day voting sites for the City.

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

SECTION 1

All of the above premises are hereby found to be true and correct factual and legislative determinations of the City of Joshua and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2

A special election of the City shall be held on May 6, 2023, between the hours of 7:00 a.m. and 7:00 p.m., at those Election Day voting sites as determined by the Elections Administrator, for the purpose of considering seven (7) ballot propositions for City Charter amendments.

SECTION 3

At said election the following amendments to the City Charter shall be submitted to the resident, qualified voters of the City of Joshua:

PROPOSITION A

Shall Section 3.06(B) of the City Charter be amended to read as follows:

“SECTION 3.06: VACANCIES AND FORFEITURE OF OFFICE

B. Forfeiture of Office. A member of the City Council shall forfeit office if:

1. During the term of office lacks at any time any qualifications for the office prescribed by law or by this Charter.
2. Violates any express prohibition of this Charter.
3. Fails to attend three (3) consecutive regular meetings of the City Council without being excused by the City Council. The City Council shall be the final judge in matters involving forfeiture of office by a member of the City Council.
4. Is convicted of a felony or a crime involving moral turpitude while in office.
5. Ceases to reside in the City.”

PROPOSITION B

Shall Section 4.01(B) of the City Charter be amended to read as follows:

“SECTION 4.01: CITY COUNCIL PLACES AND TERMS

B. The Mayor and each member of the City Council shall hold office for a three (3) year term. Upon expiration of the terms of the current Mayor and Councilmembers, their successors shall be elected as follows:

- The offices of Mayor, Place 1 and Place 3 shall serve a three-year term commencing in May, 2010, and three-year terms thereafter;
- The offices of Place 4 and Place 6 shall serve a three-year term commencing in May, 2009, and three-year terms thereafter;
- The office of Place 2 shall serve a two-year term commencing in 2009, ending in 2011, and three-year terms thereafter; and

- The office of Place 5 shall serve two-year terms commencing in 2010 and 2012, and three-year terms thereafter.

No person shall serve as Mayor or Councilmember for more than four (4) consecutive elected terms. For purposes of this section and computing the limitations on terms:

(1) any Mayor or Councilmember who vacates, for any reason, his or her position before the end of the term for which he or she was elected, shall be considered to have completed that term; and

(2) an appointment or election to fill any unexpired term shall be computed as follows:

(a) if fifty percent (50%) or more of the term is remaining, it shall be included in the computation of term limits; or

(b) if less than fifty percent (50%) of the term is remaining, it shall not be included in the computation of term limits.

(3) The date a vacancy occurs is determined in accordance with Chapter 201 of the Texas Election Code, as amended.

(4) Any member of the City Council who has served four (4) consecutive elected terms shall not be eligible to run for or be appointed to a position on the City Council until the next general election subsequent to the expiration of his or her final term on the City Council.”

PROPOSITION C

Shall Section 4.10 of the City Charter be amended to read as follows:

“SECTION 4.10: VACANCIES

A. If a vacancy occurs in the office of the Mayor, the Mayor Pro Tem shall perform the duties of the Mayor until such time as a new Mayor is selected.

B. A vacancy on the City Council for an office with a three-year term must be filled by special election in accordance with the requirements of the Texas Constitution; however, in the event a vacancy occurs on the City Council for an unexpired term of twelve (12) months or less, the City Council may call a special election to fill the vacancy, or by majority vote of the City Council, appoint a replacement to fill the vacancy.”

PROPOSITION D

Shall Section 9.05(H) of the City Charter be amended to read as follows:

“SECTION 9.05: RIGHT OF REGULATION

H. To require the franchisee to restore, at franchisee’s expense, all public or private property to a condition as good as or better than before disturbed by the franchisee for construction, repair or removal.”

PROPOSITION E

Shall Section 11.06 of the City Charter be amended to read as follows:

“SECTION 11.06: NEPOTISM

Pursuant to Texas state law regarding nepotism, no person related within the second degree by affinity or within the third degree by consanguinity to the Mayor or any Councilmember or the City Manager shall be employed by or contracted with for the City. This shall not apply to the following:

- A. Any person employed by the City prior to the person related in the above degree filing to run for elective office or being nominated for an appointment, or
- B. Any person who is a seasonal employee or intern of the City.”

PROPOSITION F

Shall a Section 11.12 of the City Charter be amended to read as follows:

“SECTION 11.12: OFFICIAL MEDIUM

The City Council shall, by resolution, designate one or more local newspaper(s) of general circulation in the City as the official newspaper(s) for publication of official business. All ordinances, notices, and other matters that are required to be published officially by this Charter, the ordinance of the City, or the laws of the State of Texas shall be publicized once in said medium.”

PROPOSITION G

“Shall the City Charter be amended throughout to correct non-substantive errors such as misspellings, punctuation, grammar and sentence structure, revise references to repealed or obsolete provisions of state law and conform notice and publication requirements to state law?”

SECTION 4

Voting on the date of the election, and early voting therefore, shall be by the use of a lawfully approved voting system. The preparation of the voting equipment to be

used in connection with such voting system and the official ballots for the election shall conform to the Texas Election Code, as amended, so as to permit the electors of the City to vote "Yes" or "No" for the seven (7) City Charter propositions. Said ballots shall have printed therein such provisions, markings, and language as may be required by law and as set forth by the Elections Administrator and in substantially the following form and language:

SPECIAL ELECTION
City of Joshua, Texas
May 6, 2022

City Charter Amendment Propositions

PROPOSITION A

Shall Section 3.06 of the City Charter, entitled "Vacancies and Forfeiture of Office," be amended to provide that a member of the City Council may forfeit office if the member fails to attend three (3) consecutive regular City Council meetings without being excused by the City Council, and the City Council shall be the final judge in matters involving forfeiture of office by a member of the City Council?

YES _____
NO _____

PROPOSITION B

Shall Section 4.01 of the City Charter, entitled "City Council Places and Terms," be amended to define how terms of office are computed in determining term limits; defining the date on which a vacancy in office occurs, pursuant to the Texas Election Code; and defining the amount of time that a term-limited member of the City Council may not hold any position on the City Council?

YES _____
NO _____

PROPOSITION C

Shall Section 4.10 of the City Charter, entitled "Vacancies," be amended to provide that if there is a vacancy on the City Council, when twelve (12) months or less remain in the unexpired term, the City Council may appoint an individual by majority vote to serve the remainder of said term?

YES _____
NO _____

PROPOSITION D

Shall Section 9.05 of the City Charter, entitled "Right of Regulation," be amended to delete the provision that public franchisees must receive the City Manager's approval to cut any asphalt or concrete street or thoroughfare?

YES _____
NO _____

PROPOSITION E

Shall Section 11.06 of the City Charter, entitled "Nepotism," be replaced with a new nepotism provision in accordance with Texas state law?

YES _____
NO _____

PROPOSITION F

Shall Section 11.12 of the City Charter, entitled "Official Medium," be amended to provide that City ordinances, notices and other matters shall be published once in the City's official newspaper instead of twice?

YES _____
NO _____

PROPOSITION G

Shall the City Charter be amended throughout to correct non-substantive errors such as misspellings, punctuation, grammar and sentence structure, revise references to repealed or obsolete provisions of state law and conform notice and publication requirements to state law?

YES _____
NO _____

SECTION 5

The City of Joshua, Texas shall constitute one (1) precinct for the election. The polling place for Election Day is hereby designated as the Joshua Community Room, 907 S. Broadway, Joshua, Texas.

SECTION 6

Early voting by personal appearance will be held at Joshua City Hall, 101 S. Main Street, Joshua, Texas, during regular business hours, which shall be from 7:30 a.m. to 5:30 p.m. on each day that is not a Friday, Saturday, Sunday, or official State holiday, and from 8:00 am to 12:00 pm (noon) on each day that is a Friday commencing on Monday, April 24, 2023, and continuing through Tuesday, May 2, 2023. Extended hours for early voting shall be Monday, May 1, 2023, from 7:00 a.m. to 7:00 p.m. and Tuesday, May 2, 2023, from 7:00 a.m. to 7:00 p.m.

SECTION 7

The City Secretary is hereby appointed to serve as the Early Voting Clerk and may appoint the necessary Deputy Clerks as required for Early Voting. Applications for ballots by mail shall be mailed to the City Secretary, City of Joshua, 101 S. Main Street, Joshua, Texas 76058.

SECTION 8

The City Secretary is hereby authorized and directed to file, publish and/or post, in the time and manner prescribed by law, all notices required to be so filed, published and/or posted in connection with the conduct of this election.

SECTION 9

The election shall be conducted pursuant to the election laws of the State of Texas.

SECTION 10

If any word, section, article, phrase, paragraph, sentence, clause, or portion of this Ordinance or application thereto to any person or circumstance is held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portion of this Ordinance; and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity which remaining portions shall remain in full force and effect.

SECTION 11

This Ordinance shall take effect from and after its passage.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF JOSHUA, TEXAS, ON THIS THE 19TH DAY OF JANUARY, 2023.

Scott Kimble, Mayor

ATTEST:

Alice Holloway, City Secretary

APPROVED AS TO FORM:

Terrence S. Welch, City Attorney