

**CITY OF NEVADA, TEXAS**

**ORDINANCE 09-02**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEVADA, TEXAS, CALLING A GENERAL ELECTION TO BE HELD ON MAY 9, 2009 FOR THE PURPOSE OF ELECTING; THREE (3) ALDERMEN FOR TWO (2) YEAR TERMS EACH FOR SAID CITY; DESIGNATING THE ENTIRE CITY AS ONE ELECTION PRECINCT; DESIGNATING A POLLING PLACE WITHIN SAID CITY; APPOINTING A PRESIDING ELECTION JUDGE AND ALTERNATE JUDGE; ESTABLISHING OTHER PROCEDURES FOR THE CONDUCT OF THE ELECTION; ESTABLISHING A DATE FOR CANVASSING RETURNS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Section 41.001 of the Texas Election Code, as amended (the “CODE”) specifies that Saturday, May 9, 2009 shall be a “uniform election date” and that a general election of a city may be held on such day (House Bill 57, 79<sup>th</sup> Legislative Session) provides for the May Uniform Election Dates, starting in January 2006, the uniform election date will change to the second Saturday in May; and

**WHEREAS**, Section 61.012 of the CODE requires that the Governing Body must provide at least one accessible voting system in each polling place used in a Texas election on or after January 1, 2006. This system must comply with state and federal laws setting the requirements for voting systems that permit voters with physical disabilities to cast a secret ballot.

**WHEREAS**, the City Council of the City of Nevada, Texas, (hereinafter referred to as the “CITY”) has determined that the CITY shall conduct its general municipal election on that Saturday, May 9, 2009; and

**WHEREAS**, by this Ordinance, it is the intention of the City Council to (i) call for said general election to be held on said date, (ii) designate the entire CITY of one election precinct, (iii) designate a polling place for the election, (iv) appoint the necessary election officers, (v) establish and set forth procedures for conducting the election; and (vi) establishing a date for canvassing the returns of said election.

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEVADA, TEXAS;**

Section 1. Incorporation of Premises, That all of the above premises are found to be true and correct and are incorporated into the body of this Ordinance as if copied in their entirety.

Section 2. Election Date; Purpose of Election; Officers and terms of office; that the general election shall be held in and throughout the CITY on Saturday, May 9, 2009 for the purpose of electing the following officers and proposition;

Officers: Alderman three (3) for two (2) year terms each.

Section 3. Eligibility for Candidacy. In accordance with section 22.032 of the V.T.C.A., Local Government Code, no person shall be eligible for office of Alderman, unless he/she is a registered voter who resides, on election day in the City. To be eligible for the office of Mayor of the municipality, a person must be a registered voter and must have resided within the municipal limits for at least the 12 months proceeding the election day.

Section 4. Application for a Place on the Ballot. In accordance with section 143.007 of the CODE, any eligible and qualified person may have his/her name printed upon the official ballot as a candidate for the offices hereinbefore set forth by filing his/her sworn application with the City Secretary not earlier than February 7, 2009, and not later than 5:00pm on March 9, 2009. Each such application shall be on a form as prescribed by section 141.031 of the CODE. The order in which the names of the candidates are to be printed on the ballot shall be determined by a drawing by the City Secretary as provided by section 52.094 of the CODE. Notice of the time and place of such drawing shall be given in accordance with the CODE.

Section 5. Runoff Election. In accordance with section 2.025 of the CODE, there shall be a runoff election held on a date not earlier than the 20<sup>th</sup> day or later than the 45<sup>th</sup> day after the date the final canvass of the main election is completed. If a runoff election is necessary the Mayor shall order it not later than five (5) days after the canvassing of the returns of the main election.

Section 6. Election Precinct; Polling Place; Election Hours. The entire City of Nevada, Texas shall constitute one (1) election precinct for the election, and the polling place is hereby designated to be located at Community Middle School, 615 N. FM 1138, Nevada Texas.

In accordance with and pursuant to the requirements of the CODE, said polling place shall be open from 7:00a.m. to 7:00p.m. on the date of the election.

Section 7. Appointment of a Presiding Election Judge and an Alternate Presiding Election Judge; Confirmation of Appointments; Notice of Appointments. The following named individuals, residing at the respective addresses, are hereby appointed to serve as Presiding Election Judge and Alternate Presiding Election Judge, respectively, at the election:  
Presiding Election Judge:

Name: Dixie Jeffers

Address: \_\_\_\_\_

Alternate Presiding Judge

Name: Barbara Deluca

Address: \_\_\_\_\_

Clerk: Patty Hooper

All Election Judges shall be qualified voters of the CITY. By approving and signing this Ordinance, the Mayor of the CITY officially confirms the appointment of the aforesaid election officers and those hereinafter appointed pursuant to Sections 8 and 13 of this Ordinance to serve at said election, and by passing this Ordinance, the City Council approves and concurs in the appointment of the aforesaid election officers. The City Secretary shall, in accordance with Section 32.009 of the CODE, deliver to the Presiding Election Judge notice of their appointments not later than twenty (20) days from the effective date of this Ordinance.

Section 8. Appointment of Clerks. The Presiding Election Judge herein appointed shall appoint not less than one (1) nor more than six (6) qualified election clerks to serve and assist in the conduct of the

election, provided, however, that if the Presiding Election Judge named herein actually serves as expected, the Alternate Presiding Election Judge shall be one (1) of such clerks. All election clerks shall be qualified voters of the CITY.

Section 9. Compensation of Election Judges and Election Clerks. The Presiding Election Judge, Alternate Presiding Election Judge and each Election Clerk shall be compensated at the rate \$13.25 per hour in accordance with Section 32.091 of the CODE. The Presiding Election Judge shall also be paid the additional sum of \$ 1.00 per mile for delivering the returns of the election. Such payment shall not exceed the maximum amounts set forth in Sections 32.091 and 32.092 of the CODE.

Section 10. Method of Voting; Election Materials. The City Secretary is hereby authorized and instructed to provide and furnish all necessary election supplies to conduct the election. Voting at the election shall be by DREs, *Direct Record Electronic Machines*. Preparation of the official ballots for the elections shall conform to the requirements of the CODE, and in so doing shall permit the voter to vote for three (3) Aldermen for two (2) year terms each. Each elector shall place an "X" in the space provided beside each candidate's name that he/she wishes to vote for, provided, however, that no elector shall vote for more than three (3) candidates for Alderman.

Section 11. Governing Law; Qualified Voters. The election shall be held in accordance with the Constitution of the State of Texas and the CODE, and all residents, qualified electors of the CITY shall be eligible to vote at the election. In addition to the DRE's, the election materials enumerated in the Code shall be printed in both English and Spanish for use at the polling place and for early voting at the Election.

Section 12. Publication of Notice. Notice of the election shall be given by publication of said notice at least once in a newspaper of general circulation within the CITY, the date of said publication to be not less than ten (10) days nor more than thirty (30) days, prior to the date set forth for the election.

In addition thereto, a copy of the notice shall also be filed with the City Secretary at least twenty one (21) days before the election. Upon publication of the election notice, the City Secretary shall secure a publishers affidavit, which complies with the requirements of the CODE.

Section 13. Early Voting. Early voting by personal appearance shall be conducted by Terry Robles who is hereby appointed the Early Voting Clerk, at the office of the Community ISD located at the Terry Pope Administration Bldg., 615 N FM 1138, Nevada, Texas, which is also the early voting clerks official mailing address. For the period early voting for the election is permitted by law, the Early Voting Clerk shall keep said office open for early voting by personal appearance during regular hours on each day (except Saturday, Sunday and official State and/or National Holidays), which hours shall be from 8:00a.m. to 4:00p.m. and two weekdays to be open for 12 hours during the regular early voting period (Sec. 85.00(d) ). Early voting on Saturday or Sunday, if any shall be conducted in accordance with the requirements of the CODE.

Application for early voting by mail shall be delivered to the Early Voting Clerk at the same address not earlier than March 10, 2009, and not later than the close of business on May 1, 2009.

Early voting, both by personal appearance and by mail, shall conform to the requirements of the CODE, and in so doing shall permit the voters to vote for three (3) Aldermen for two (2) year terms each. Each elector shall indicate his/her vote by placing an "X" in the space provided beside each candidates name that he/she wishes to vote for, provided, however, that no elector shall vote for more than three (3) candidates for Alderman. The Early Ballots shall be canvassed by the Early Ballot Board, which is hereby

created. The Presiding Election Judge and the Alternate Presiding Election Judge appointed herein shall serve as the presiding officer, respectively of the Early Ballot Board. The other election officers serving at the election shall serve as the other members of the Early Ballot Board for election.

Section 14. Delivery of Returns; Preservation of Election Records. In accordance with Section 66.051 of the CODE, immediately after closing of the poll on the day of the election, the election officers named in this Ordinance shall make and deliver the returns of the election in quadruplicate as follows; one copy shall be retained by the Presiding Election Judge, one copy shall be delivered to the Mayor of the CITY, one copy shall be delivered to the voter registrar, and one copy of the returns, together with the ballot boxes and all election supplies, shall be delivered to the City Secretary. The City Secretary in accordance with the CODE shall preserve all election records and supplies.

Section 15. Canvassing of Returns. In accordance with the CODE, the City Council of the CITY shall convene not earlier than May 12, 2009 and not later than May 20, 2009, to canvass the returns of the election.

Section 16. Necessary Actions. The Mayor and the City Secretary of the CITY, in consultation with the City Attorney, are hereby authorized and directed to take any and all actions necessary to comply with the provisions of the CODE in carrying out and conducting the election, whether or not expressly authorized herein.

Section 17. Severability. If any section, paragraph, subdivision, clause, phrase, or provision of this Ordinance shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this Ordinance as a whole or any part of provisions thereof, other than the part so decided to be invalid or unconstitutional.

Section 18. Effective Date. This resolution shall be in force and effect from and after its passage, and it is accordingly so resolved.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF NEVADA, TEXAS,  
this   3   day of   MARCH   2009.

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Mayor, City of Nevada, Texas

ATTEST:

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City Secretary, City of Nevada, Texas