

ORDINANCE NO. 4-20A

AN ORDINANCE OF THE CITY OF DEVINE, TEXAS, POSTPONING THE GENERAL ELECTION TO BE HELD ON MAY 2, 2020, UNTIL NOVEMBER 3, 2020; EXTENDING TERMS UNDER THE HOLDOVER PROVISION OF THE TEXAS CONSTITUTION; AND ORDERING OTHER MATTERS INCIDENT AND RELATED TO THE POSTPONEMENT OF SUCH ELECTION

WHEREAS, on January 21, 2020, the City Council (the “Council”), of the City of Devine, Texas (the “City”), ordered a general election to be held on May 2, 2020; and

WHEREAS, on March 13, 2020, the Governor of Texas certified that the novel coronavirus (COVID-19) poses an imminent threat of disaster and, under the authority vested in the Governor by Section 418.014 of the Texas Government Code, declared a state of disaster for all counties in Texas; and

WHEREAS, Section 41.0052 of the Texas Election Code prescribes a procedure for a political subdivision to change a general election date, but the time for making such a change has expired; and

WHEREAS, the Governor of the State of Texas issued a proclamation on March 18, 2020, suspending Section 41.0052(a) and (b) of the Texas Election Code to the extent necessary to allow political subdivisions that would otherwise hold elections on May 2, 2020, to move their general and special elections for 2020 only to the next uniform election date, occurring on November 3, 2020, without otherwise adjusting the term of office, and suspending Sections 31.093 and 42.0621(c) of the Texas Election Code to the extent necessary to require all county election officers, if requested by an affected political subdivision, to enter into a contract to furnish election services with any political subdivision that postponed its election to November 3, 2020; and

WHEREAS, Tex. Const. art. XVI § 17 requires officers within the State of Texas to hold over and continue the performance of their duties until their successors shall be duly qualified; and

WHEREAS, the Council finds that it is in the public interest to move the City’s election from the May 2, 2020, uniform election date to the November 3, 2020, uniform election date.

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

Section 1. Moving Election Date. The Council is exercising authority granted by the Governor’s proclamation and is hereby postponing the general election that would have been held on Saturday, May 2, 2020, to now be held on the next uniform election date, which is Tuesday, November 3, 2020.

Section 2. Effect of Changing Date on Candidate Filings. It is only the date of the general election that is being changed. The candidate filing period for the general election will not be re-opened for the November 3, 2020, uniform election date. All valid, accepted candidate applications that were filed with the City for the election that was to be held on May 2, 2020, will remain valid.

Section 3. Effect of Changing Date on Applications for Ballot by Mail. All applications for ballot by mail submitted by voters that are over the age of 65 or disabled will still be valid for the November 3, 2020, election. However, applications for ballot by mail submitted by voters not over the age of 65 or disabled, but based on expected absence from the county, will **not** be valid for the November 3, 2020, election. Applications for ballot by mail for the November 3, 2020, election based on expected absence from the county, and new applications by persons over the age of 65 or disabled, will need to be received by October 23, 2020. Any mail-in ballots already sent out by the early voting clerk that are returned by the voter to the early voting clerk will be valid for the November 3, 2020, election.

Section 4. Effect of Changing Date on Election Deadlines. Updated relevant deadlines and dates for voters for the November 3, 2020, election:

Voter Registration Deadline:	October 5, 2020
Deadline to submit an Application for Ballot by Mail:	October 23, 2020
Dates for Early Voting:	October 19, 2020 – October 30, 2020

Section 5. Effect of Changing Dates on Order of Election. The Council will meet by August 17, 2020 to make any necessary revisions to the City's original ordinance ordering the election, which was adopted January 21, 2020. Those revisions may include:

1. The change of the date of the election;
2. Any changes in location of the main early voting location;
3. Any changes to early voting dates and hours, including weekend early voting;
4. Any changes to the identity of the early voting clerk and their contact information; or
5. Any changes to early voting branch locations.

Section 6. Preamble Incorporation. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes, and are adopted as a part of the judgment and findings of the Council.

Section 7. Inconsistent Provisions. All orders, resolutions, or ordinances, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters ordered herein.

Section 8. Governing Law. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

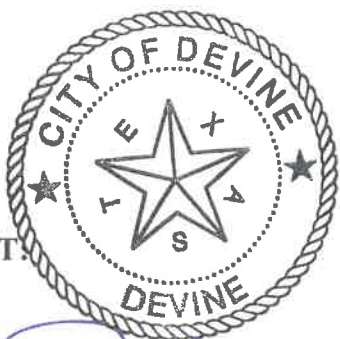
Section 9. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the Council hereby declares that, had the invalidity been known at the time, this Ordinance would have been enacted without such invalid provision.

Section 10. Notice of Meeting. The Council officially finds, determines, recites, and declares that written notice of the date, hour, place, and subject of the meeting at which this Ordinance is adopted was posted on a bulletin board located at a place convenient to the public at City Hall for at least one (1) hour preceding the scheduled time of the meeting; that notice of such meeting was given to all news media who requested such notice, both as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended; and that such meeting was open to the public as required by law at all times during which this Ordinance and the subject matter thereof was discussed, considered, and formally acted upon. The Governor has suspended and modified certain open meeting requirements pursuant to his disaster declaration. These changes include allowing the City to establish procedures for telephonic or videoconferenced meetings that are accessible to the public.

Section 11. Authorization to Execute. The Mayor is authorized to execute and the City Secretary is authorized to attest this Ordinance on behalf of the Council; and the Mayor is authorized to do all other things legal and necessary in connection with the holding and consummation of the election.

Section 12. Effective Date. This Ordinance is effective immediately upon its passage and approval.

PASSED AND APPROVED this 17th day of April, 2020.



ATTEST:

Dora V. Rodriguez
DORA V. RODRIGUEZ
City Secretary, City of Devine

Cory Thompson
CORY THOMPSON
Mayor, City of Devine