

ORDINANCE NO. 2023-O-05

AN ORDINANCE OF THE CITY OF MANVEL, TEXAS, ORDERING A SPECIAL ELECTION TO BE HELD ON MAY 6, 2023, FOR THE PURPOSE OF SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY A PROPOSED CITIZEN-INITIATED ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF MANVEL, TEXAS, CHAPTER 62, BY ADDING A SECTION EXEMPTING CERTAIN DEVELOPERS (THOSE INTENDING TO BUILD A SINGLE-FAMILY RESIDENCE FOR THEMSELVES) FROM SEVERAL CODIFIED PROVISIONS THEREIN AND PROVIDING A MAXIMUM FEE OF \$10.00 FOR CERTAIN RELATED FEES; SUBMITTING AN ALTERNATIVE ORDINANCE PROPOSED BY THE CITY COUNCIL ON THE SAME SUBJECT, CONSISTENT WITH THE CITY CHARTER SEC. 7.07(C), AMENDING THE CODE OF ORDINANCES OF THE CITY OF MANVEL, TEXAS, CHAPTER 62, BY ADDING A SECTION EXEMPTING CERTAIN MANVEL RESIDENTS (THOSE INTENDING TO BUILD A SINGLE-FAMILY RESIDENCE FOR THEMSELVES) FROM SEVERAL CODIFIED PROVISIONS THEREIN AND PROVIDING A MAXIMUM FEE OF \$0.00 FOR CERTAIN RELATED FEES; ORDERING THIS SPECIAL ELECTION TO BE HELD CONCURRENTLY WITH THE GENERAL ELECTION FOR THE ELECTION OF THE REGULAR CITY OFFICERS; PROVIDING FOR THE WORDING AND FORM OF THE BALLOT AS TO THE PROPOSED MEASURE; PROVIDING THE MEANS AND METHODS OF CONDUCTING THE ELECTION; DESIGNATING FIVE (5) ELECTION PRECINCTS WITHIN THE CITY; DESIGNATING POLLING PLACES; PROVIDING FOR THE APPOINTMENT OF A PRESIDING ELECTION JUDGE AND ALTERNATE PRESIDING ELECTION JUDGE; APPROVING A JOINT ELECTION WITH BRAZORIA COUNTY; ESTABLISHING OTHER PROCEDURES FOR CONDUCTING THE ELECTION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in 2011, the voters of the City of Manvel approved the adoption of a home rule charter in accordance with Chapter 9 of the Texas Local Government Code; and

WHEREAS, in accordance with Article VII of the City Charter, the qualified voters of the city have the power to propose and initiate ordinances to the City Council and if the Council fails to adopt the ordinance so proposed, the qualified voters of the city have the power to adopt or reject the proposed ordinance at a city election; and

WHEREAS, consistent with this power of initiative, a Petition Committee formed in accordance with the City Charter submitted a petition with a proposed initiated ordinance; and

WHEREAS, said petition was certified by the city secretary to be sufficient and was presented to the city council; and,

WHEREAS, upon receipt of the initiative petition, the City Charter, section 7.07 provides three (3) options for City Council action; and,

WHEREAS, of the various options provided for in section 7.07 of the City Charter, on February 6, 2023, the City Council voted to take the action contained in section 7.07(c), and submit to a vote of the qualified voters of the city the initiated ordinance, without amendment, and an alternative ordinance proposed by the Council on the same subject; and,

WHEREAS, as required by the City Charter, the City Council seeks to call a special election so that this proposed initiated ordinance may be submitted to the qualified voters of the City, along with the alternative ordinance proposed by the City Council on the same subject, at an election to be held at the same time as the City's general election on the 6th day of May, 2023; and

WHEREAS, this special election for the City of Manvel is being ordered not later than 62 days before the election day pursuant to §3.005(a), Texas Election Code; and,

WHEREAS, in accordance with the Texas Election Code and City Charter, the City Council adopts this ordinance calling the election and establishing the procedures to be followed in said election, and designating the voting place for said election; and

WHEREAS, the City of Manvel (the "City") lies completely within the boundaries of Brazoria County; and

WHEREAS, the City approves and agrees to conducting special election as part of a joint election with other political subdivisions in Brazoria County in accordance with chapter 271 of the Texas Election Code; and

WHEREAS, the City and other political subdivisions in the area have made provision to contract with the Brazoria County Elections Officer to conduct the City's election, pursuant to chapter 31 of the Texas Election Code and chapter 791 of the Texas Government Code; and

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

Section 1. The facts and matters contained in the preamble are hereby found to be true and correct and are incorporated herein and made a part hereof for all purposes.

Section 2. Special Election Ordered. In accordance with the general laws and Constitution of the State of Texas, and the City Charter of the City of Manvel, it is ordered that a special election be held for the purpose of submitting to the qualified voters of the city for their approval or disapproval a proposed initiated ordinance and approval or disapproval an alternative ordinance proposed by the City Council on the same subject. The special election shall be held concurrently with the City's general municipal election on May 6, 2023.

Section 3. Proposed Ordinances. The proposed citizen-initiated ordinance (Ordinance No. 1) and the alternative ordinance proposed by the City Council on the same subject (Ordinance No. 2) are set forth below.

PROPOSITION NO. ONE (ORDINANCE NO. 1)

(Relating to exemption of certain developers (those intending to build a single-family residence for themselves) from several codified provisions of Chapter 62 of the City Code and providing a max fee of \$10.00 for certain related fees)

In the event of the approval of this Proposition No. One (Ordinance No. 1), the following ordinance amending Chapter 62 of the Code of Ordinances of the City of Manvel shall be adopted:

“AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF MANVEL. TEXAS, CHAPTER 62, BY ADDING A SECTION EXEMPTING CERTAIN DEVELOPERS (THOSE INTENDING TO BUILD A SINGLE-FAMILY RESIDENCE FOR THEMSELVES) FROM SEVERAL CODIFIED PROVISIONS THEREIN AND PROVIDING A MAXIMUM FEE OF \$10.00 FOR CERTAIN RELATED FEES.

Sec. 62-120. - Exceptions for certain developers

(a) Notwithstanding section 62-103, the following sections do not apply to a developer seeking construction of a single-family residential structure that the developer intends to occupy as his/her residence: 62-104, 62- 105, 62-111, 62-113, 62-114, and 62-115.

(b) For purposes of this section, a developer seeking construction of a residential accessory building that is an accessory to a residential structure described by subsection (a) is entitled to the same exceptions as a residential structure described by subsection (a).

(c) Notwithstanding Section 62-4, the maximum fee for a developer described by this section shall not exceed \$10 if the fee is to request a variance to this chapter, appeal to the Zoning Board of Adjustments, or submit any plats requiring review or approval. A fee, rate, deposit, or other charge inconsistent with this section that was adopted by resolution prior to the effective date of this section is hereby repealed.

(d) The city shall establish a fee schedule that clearly distinguishes the fees established by subsection (c) from the fees applicable to all other developers not covered under this section."

PROPOSITION NO. TWO (ORDINANCE NO. 2)

(Relating to exemption of Certain Manvel Residents (those intending to build and occupy a single-family residence for themselves) from several codified provisions of Chapter 62 of the City Code and providing a max fee of \$0.00 for certain related fees)

In the event of the approval of this Proposition No. Two (Ordinance No. 2), the following ordinance amending Chapter 62 of the Code of Ordinances of the City of Manvel shall be adopted:

“AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF MANVEL, TEXAS, CHAPTER 62, BY ADDING A SECTION EXEMPTING CERTAIN MANVEL RESIDENTS (THOSE INTENDING TO BUILD AND OCCUPY A SINGLE-FAMILY RESIDENCE FOR THEMSELVES) FROM SEVERAL CODIFIED PROVISIONS THEREIN AND PROVIDING A MAXIMUM FEE OF \$0.00 FOR CERTAIN RELATED FEES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MANVEL, TEXAS:

Section 1. The Code of Ordinances of the City of Manvel, Texas, is hereby amended by adding a new section 62-120, Chapter 62, Subdivisions, to read and provide as follows:

Sec. 62-120. - Exceptions for Certain Manvel Residents

(a) “Certain Manvel Residents” are defined as individuals who are seeking construction of a single-family residential structure that the resident intends to occupy as his/her residence.

(b) The following provisions do not apply to Certain Manvel Residents:

- i. Provisions regarding the construction of public infrastructure in § 62-104;
- ii. Provisions regarding the construction of public infrastructure in § 62-105;
- iii. Provisions regarding the construction of public infrastructure in § 62-111, except that all right-of-way and drainage dedication requirements specified in the City’s Master Thoroughfare Plan and Master Drainage Plan still apply;
- iv. Provisions regarding the construction of public infrastructure in § 62-113;

- v. Provisions regarding the construction of public infrastructure in § 62-114; and
- vi. Provisions regarding the construction of public infrastructure in § 62-115, except that nothing herein shall be construed to exempt compliance with Chapter 32. Flood Damage Prevention.

(c) For purposes of this section, Certain Manvel Residents seeking construction of a residential accessory building that is an accessory to a residential structure described by subsection (a) is entitled to the same exceptions as a residential structure described by subsection (a).

(d) Notwithstanding Section 62-4, the maximum fee for Certain Manvel Residents described by this section shall not exceed \$0.00 if the fee is to request a variance to this chapter, appeal to the Zoning Board of Adjustments, or submit any plats requiring review or approval. A fee, rate, deposit, or other charge inconsistent with this section that was adopted by resolution prior to the effective date of this section is hereby repealed.

(e) The city shall establish a fee schedule that clearly distinguishes the fees established by subsection (c) from the fees applicable to all other developers not covered under this section.

Section 2. Repealer. All ordinances or parts of ordinances inconsistent or in conflict herewith, are, to the extent of such inconsistency or conflict, hereby repealed.

Section 3. Severability. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Manvel, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

Section 4. Ballot language. The ballot shall be prepared to permit voting "FOR" or "AGAINST" the Proposition. Each respective Proposition as detailed in Section 3 above, shall appear on the ballot of this election in the following form:

PROPOSITION NO. ONE (ORDINANCE NO.1)

(Relating to exemption of certain developers (those intending to build a single-family residence for themselves) from several codified provisions of Chapter 62 of the City Code and providing a max fee of \$10.00 for certain related fees)

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF MANVEL, TEXAS, CHAPTER 62, BY ADDING A SECTION EXEMPTING CERTAIN DEVELOPERS (THOSE INTENDING TO BUILD A SINGLE-FAMILY RESIDENCE FOR THEMSELVES) FROM SEVERAL CODIFIED PROVISIONS THEREIN AND PROVIDING A MAXIMUM FEE OF \$10.00 FOR CERTAIN RELATED.

VOTE FOR _____
 VOTE AGAINST _____

PROPOSITION NO. TWO (ORDINANCE NO.2)

(Relating to exemption of Certain Manvel Residents (those intending to build and occupy a single-family residence for themselves) from several codified provisions of Chapter 62 of the City Code and providing a max fee of \$0.00 for certain related fees)

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF MANVEL, TEXAS, CHAPTER 62, BY ADDING A SECTION EXEMPTING CERTAIN MANVEL RESIDENTS (THOSE INTENDING TO BUILD AND OCCUPY A SINGLE-FAMILY RESIDENCE FOR THEMSELVES) FROM SEVERAL CODIFIED PROVISIONS THEREIN AND PROVIDING A MAXIMUM FEE OF \$0.00 FOR CERTAIN RELATED FEES.

VOTE FOR _____
VOTE AGAINST _____

Section 5. Ballots and Printed Materials. The ballots used for the election shall comply with the *Texas Election Code* and be in the form provided by the city to the Brazoria County Election Officer (the "Election Officer") for use on the voting devices and ballots used by Brazoria County. The official ballots, together with such other election materials as are required by the Texas Election shall be printed in both the English and Spanish languages and shall contain such provisions, markings and language as required by law.

The ballot used in voting upon initiated ordinances shall, as provided by the Texas Election Code, state the caption of the ordinance and to the left of the caption shall set forth on separate lines the words, "for" and "against."

As provided by the City Charter, where an initiated ordinance and an alternative ordinance proposed by the council are submitted, the ballot shall state the captions of each ordinance, clearly designating them "Ordinance No. 1" and "Ordinance No 2," respectively, and shall set forth to the left of each caption on separate lines the words "for" and "against." If a majority of the votes cast is in favor of a submitted ordinance, it shall thereupon be effective as an ordinance of the city. If alternative ordinance(s) are approved by the electors at the same election, the one receiving the greatest number of affirmative votes shall prevail.

Section 6. Joint Election. The City agrees to conduct a joint election with the political subdivisions designated by the Elections Officer, provided that such political subdivisions hold an election on May 6, 2023 in all or part of the same territory as the city. The joint election for political subdivisions in Brazoria County will be conducted in accordance with state law, this ordinance, and the contract for election services with Brazoria County ("Election Services Contract"), "**Exhibit A**" which is hereby approved and the Mayor is authorized to execute.

Section 7. Conduct of Election. The Election Officer and his/her employees and appointees, and the election judges, alternate judges and clerks properly appointed for the election, shall hold and conduct the election in the manner provided by the Election Services Contract and the law governing the holding of general elections by general law cities of the State of Texas.

Section 8. Election Precinct and Polling Place. The present boundaries of the City of Manvel, Texas shall constitute five (5) precincts for the election, and the polls shall be open for voting from 7:00 a.m. until 7:00 p.m. at the following polling place:

POLLING PLACES, AND PRECINCTS

Precinct 11, Precinct 40, Precinct 53, Precinct 58 and Precinct 68

2023 Polling Places – Vote Centers, voting shall occur at locations shown in "**Exhibit B**"-(**subject to change**). Any polling place may be changed by the Election Officer upon compliance with state and federal law.

Section 9. Early Voting. Early voting by personal appearance shall be conducted by Early Voting Clerks to be appointed by Brazoria County according to the Joint Election Agreement and Contract for Election Services entered into by and between the City of Manvel and Brazoria County, and, in accordance with Sections 83.032 and 83.034 of the Texas Election Code, the Early Voting Clerk may appoint one or more deputy early voting clerks who shall serve without additional compensation. Said clerks shall not permit anyone to vote early by personal appearance on any day that is not a regular working day for the Early Voting Clerk's office, and, under no circumstances, shall they permit anyone to vote early by personal appearance at any time when such office is not open to the public.

Early voting shall occur at locations shown in “**Exhibit C**”, attached hereto and incorporated herein by reference, for the period early voting is permitted by law.

The Early Voting Clerk shall keep said office open for early voting by personal appearance from 8:00 a.m. until 5:00 p.m. Monday, April 24, 2023 through Friday, April 28, 2023 and from 7:00 a.m. until 7:00 p.m. on April 29, 2023 and Monday May 1, 2023 and Tuesday May 2, 2023. Early voting shall be conducted in accordance with the requirements of the Texas Election Code.

The Early Voting Clerk’s mailing address to which ballot applications and ballots voted by mail may be sent is:

Joyce Hudman, County Clerk
111 E. Locust, Suite 200
Angleton, TX 77515-4664
Or emailed to: ClerkElections@brazoria-county.com

Last day to receive Ballot by Mail - Saturday, May 6, 2023 (Election Day) at 7:00 p.m. if carrier envelope is **not** postmarked, **OR** Monday, May 8, 2023 (next business day after Election Day) at 5:00 p.m. if carrier envelope is postmarked by 7:00 p.m. at the location of the election on Election Day (unless overseas or military voter deadlines apply).

All ballots cast shall be counted by an Early Voting Ballot Board, and the Presiding Judge and her clerks are hereby appointed the Early Voting Ballot Board for said election.

All expenditures necessary for the conduct of the election, the purchase of materials, and the employment of all election officials are hereby authorized in accordance with the Texas Election Code.

The city secretary is hereby authorized and directed to furnish all necessary election supplies to conduct such election.

Section 10. Election Judges and Clerks. The presiding judges, alternate presiding judges and clerks for the election shall be selected and appointed by Brazoria County and its appointees in compliance with the requirements of state law, and such judges and clerks so selected by Brazoria County and its appointees are hereby designated and appointed by the city council as the election officers, judges and clerks, respectively, for the holding of said general election. The presiding judges, alternate presiding judges and clerks shall perform the functions and duties of their respective positions that are provided by state law. The city council will further confirm and appoint the election judges and alternate election judges that are appointed by Brazoria County for the election.

The Presiding Judge and the Alternate Judge shall be compensated at a rate of \$14.00/hr – overtime rate \$21.00/hr and the election clerks shall be compensated at a rate of \$12.00/hr, - overtime rate \$18.00/hr in accordance with Section 32.091 of the Texas Election Code. Further compensation shall be paid in accordance with Section 32.092 of the Texas Election Code.

Section 11. Notice of Election. In addition to the notice required by Section 3 above, the City Secretary is also hereby directed to provide notice of this election in accordance with the provisions of the Texas Election Code and returns of such notice shall be made as provided for in said Election 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. General. The Election Officer shall hold said election in accordance with the Texas Election Code and the Election Services Contract, and only resident qualified voters of the city shall be eligible to vote at said election. Returns of said election shall be made known as soon as possible after the closing of the polls; and the election returns shall be canvassed by the city council within the time period specified by law.

The City Secretary of the City of Manvel is hereby authorized and directed to take any and all actions necessary to comply with the provisions of the Texas Election Code in carrying out and conducting the election, whether or not expressly authorized herein.

Section 13. Election Code. This Ordinance shall be in full force and effect from and after its passage on the date shown below; provided that if any term or provision of this Ordinance conflicts with, or is inconsistent with, the Texas Elections Code, the Texas Election Code shall govern and control and the Election Officer shall comply with the Texas Elections Code.

Section 14. Election Code. This Ordinance shall be in full force and effect from and after its passage on the date shown below; provided that if any term or provision of this Ordinance conflicts with, or is inconsistent with, the Texas Elections Code, the Texas Election Code shall govern and control and the Election Officer shall comply with the Texas Elections Code.

Section 15. Presiding Judges' Notice. A copy of this Ordinance shall be delivered to the presiding judges, along with the election judges' notice of appointment.

Section 16. Severability. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, because the same would have been enacted by the City Council without the incorporation in this Ordinance of any such invalid phrase, clause, sentence, paragraph or section. All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

Section 17. Ordinance calling an election. In accordance with the section 4.10(f) of **The City Charter**, the requirement of reading an ordinance at two (2) separate council meetings does not apply because this is an Ordinance calling an election.

Section 18. Effective Date. This Ordinance shall be and become effective from and after its adoption and publication in accordance with the provisions of the Charter of the City of Manvel.

PASSED AND APPROVED on first reading this 13 day of February, 2023.



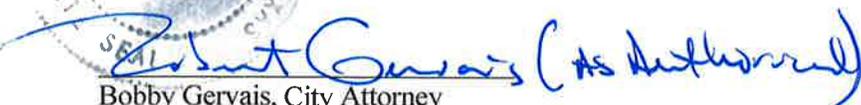
Debra Davison, Mayor

ATTEST:



Tammy Bell, City Secretary

APPROVED AS TO FORM:



Bobby Gervais, City Attorney