

ORDINANCE NO. 116

NOTICE OF CLAIMS

AN ORDINANCE PROVIDING FOR NOTICE TO THE CITY COUNCIL OF PROPERTY DAMAGE, PERSONAL INJURY, DEATH; PROVIDING THE TIME AND LOCATION WHERE SUCH NOTICE IS TO BE GIVEN; PROVIDING THAT SUCH NOTICE MAY NOT BE WAIVED; PROVIDING THAT THE TIMELY FILING OF NOTICE OF ANY CLAIM AND REFUSAL OF SAME BY THE CITY COUNCIL IS A CONDITION PRECEDENT TO THE INSTITUTION OF ANY SUIT; REQUIRING VERIFICATION OF THE NOTICE OF CLAIM; AND CONTAINING A SEVERABILITY CLAUSE.

WHEREAS, the City Council is the ultimate repository of authority of the City; and

WHEREAS, the City Council has the management and control of the finances, properties, the contractual obligations and the policies of the City; and

WHEREAS, in the course of providing the many services to its citizens, claims in the nature of contract, tort, property damage, personal injury, wrongful death, and equitable relief may from time to time arise; and

WHEREAS, it is in the best interest of the City, the citizens, and the claimants that the City Council be promptly informed of the details of such claims; and

WHEREAS, an expeditious opportunity for the City Council to review and consider the validity of said claims can allow for resolution without resort being made to the already overburdened judiciary; and

WHEREAS, in order to realistically assess the merits of any claim presented to it, the City Council needs current, accurate factual documentation from those asserting such claims; now, therefore,

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

Section 1. The City of Magnolia shall never be liable for any claim for property damage or for personal injury, whether such personal injury results in death or not, unless the person damaged or injured, or someone in his behalf, or in the event the injury results in death, the person or persons who may have a cause of action under the law by reason of such death injury, shall within sixty (60) days from the date the damage or injury

was received give notice in writing to the Mayor and City Council of the following facts:

- A. The date and time when the injury or damage occurred and the place where the injured person or property was at the time when the injury was received.
- B. The nature of the damage or injury sustained.
- C. The apparent extent of the damage or injury sustained.
- D. A specific and detailed statement of how and under what circumstances the damage or injury occurred.
- E. The amount for which each claimant will settle.
- F. The actual place of residence of each claimant by street, number, city and state on the date the claim is presented.
- G. In the case of personal injury or death, the names and addresses of all persons who, according to the knowledge or information of the claimant, witnessed the happening of the injury or any part thereof; and the names of the doctors, if any, to whose care the injured person is committed.
- H. In the case of property damage, the location of the damaged property at the time the claim was submitted along with the names and addresses of all persons who witnessed the happening of the damage or any part thereof.

Section 2. No suit of any nature whatsoever shall be instituted or maintained against the City of Magnolia unless the plaintiff therein shall aver and prove that previous to the filing of the original petition the plaintiff applied to the City Council for redress, satisfaction, compensation, or relief, as the case may be, and that the same was by vote of the City Council refused.

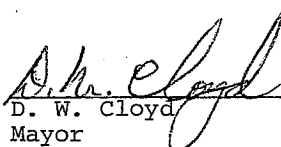
Section 3. All notices required by this ordinance shall be effectuated by serving them upon the City Secretary at the City Hall, Magnolia, Texas 77355, and all such notices shall be effective only when actually received in the office of the City Secretary.

Section 4. Neither the Mayor, a City Councilmember, nor any other officer or employee of the City shall have the authority to waive any of the provisions of this ordinance.

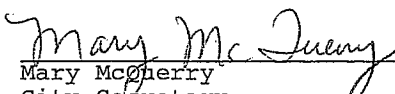
Section 5. The written notice required under this ordinance shall be sworn to by the person claiming the damage or injuries or by someone authorized by him to do so on his behalf. Failure to swear to the notice as required herein shall not render the notice fatally defective, but failure to so verify the notice may be considered by the City Council as a factor relating to the truth of the allegations and to the weight to be given to the allegations contained therein.

Section 6. If any provisions of this ordinance or the application hereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without defeating the purpose or objective of the provisions, and to this end the provisions of this ordinance are declared to be severable.


PASSED and APPROVED this 9 day of April, 1985.


D. W. Cloyd
Mayor

Attest:


Mary McQuerry
City Secretary

Approved as to form:


Burke Martin
City Attorney