

City of Magnolia, Texas

Ordinance No. 2007-125

AN ORDINANCE REPEALING ORDINANCE NUMBER 303 AND 315 OF THE CITY OF MAGNOLIA, TEXAS AND BEING AN ORDINANCE PROVIDING LIMITATIONS ON THE WEIGHT OF MOTOR VEHICLES OPERATED UPON CITY STREETS; PROHIBITING THE OPERATION OF CERTAIN MOTOR VEHICLES UPON CITY STREETS; PROVIDING FOR PERMITS FOR OVERWEIGHT VEHICLES; DESIGNATING TRUCK ROUTES; CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT; PROVIDING A PENALTY OF AN AMOUNT NOT TO EXCEED \$500 FOR EACH VIOLATION OF ANY PROVISION HEREOF; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES OR PARTS THEREOF.

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

Section 1. Weight limits. Except as otherwise provided in this Ordinance or as provided by law,

a motor vehicle, truck tractor, trailer, semi-trailer, or combination thereof, may not be operated upon a City street if such vehicle or combination has:

A. an overall gross weight in excess of Twenty Thousand (20,000) pounds.

Section 2. Prohibited vehicles. It shall be unlawful for any person to operate or cause to be operated, upon a City street, any vehicle which has lugs, studs, cleats, ridges, beads, or any other protuberance of metal which project more than one-fourth inch (1/4") beyond the tread or traction surface of such vehicle's tires or tracks, unless bands, wooden blocks, skids, or other devices are provided which are sufficient to protect the street surface from damage by reason thereof.

Section 3. Exemptions. The provisions of this ordinance shall not apply to:

A. Any vehicle operated by the city, or a private operator under contract with the city, as part of its municipal transit system.

B. Any vehicle operated by the city, or a private contractor under contract with the city, while engaged in street maintenance, construction, or related activities.

C. Any vehicle owned by a public utility while necessarily in use in the construction, installation, or repair of any public utility facility.

D. Emergency vehicles of the city.

E. School buses under the jurisdiction of the Magnolia Independent School District.

F. Homeowners who prior to the enactment of this ordinance are independent truck owners, provided however, they shall only use the most direct route to their home and if they carry a load and park at their home they shall obtain a permit as provided by Section 5 of this ordinance.

Section 4. Weight limits on specific streets. When signs are erected giving notice thereof, no person shall operate any vehicle with a gross weight in excess of the amounts specified on such signs at any time upon any of the streets or parts of streets so signed. Under this Section, if vehicle weight is indicated by the number of axles supporting such vehicle, signs limiting the number of axles on through vehicles shall be official.

Section 5. Permits - Overweight vehicles.

A. It shall be unlawful for any person to cause or permit the operation of any vehicle upon a City street, including a ready-mixed concrete truck as defined in Section 622.011 of the Texas Transportation Code, as amended, which has a weight in excess of the Limits set forth herein, without having first obtained a permit therefor from the Director of Public Works or his designee. Such application for a permit shall:

- (i) be in writing
- (ii) describe the vehicle;
- (iii) give the weight of the vehicle and the weight of the total load; and
- (iv) be dated and signed by the applicant.

An application for a permit under this Section shall be accompanied by a permit fee in such amount as shall be established from time to time by the City Council.

B. Before the Director of Public Works or his designee shall issue a permit under this Section, the applicant shall file with the City a surety bond in the amount of \$15,000, conditioned that the owner of the vehicle will pay to the City any damage to a City street caused by the operation of the vehicle.

C. Any person operating or causing to be operated a vehicle that exceeds the weight limitations set forth in Section A hereof shall be liable to the City for any damage to the City's streets, bridges, or culverts caused by such overweight vehicle. Acceptance of a permit provided for in this Section shall be

conclusive evidence that the person to whom such permit is issued agrees to make good and pay all such damages upon demand therefor made by the City.

Section 6. Truck routes. It shall be unlawful for any person to operate a motor vehicle, truck tractor, trailer, semi-trailer, or combination thereof upon a street or roadway within the City in excess of the weight limits set forth in Section 1 hereof except upon the following truck routes: All state highways and farm to-market roads.

Section 7. Departure from designated truck routes.

A. The operator of a motor vehicle, truck tractor, trailer, semi-trailer, or combination thereof, restricted to designated truck routes pursuant to Section 6 above, may depart from such truck routes when it is necessary to reach a truck terminal or to load or unload merchandise at locations situated off designated truck routes. The operator of such vehicle shall not leave a designated truck route until a turnoff point is reached leading to the ultimate destination of the vehicle by the shortest practical route which is consistent with the reasonable operation of the vehicle.

B. The operation of any vehicle or truck-trailer combination exceeding the prescribed maximum gross weight limit may depart from such designated truck routes if coming from an unrestricted or less restricted street, having ingress and egress by direct route to and from such restricted streets or for the purpose of delivering materials to be used in the actual and bona fide repair, alteration, remodeling, or construction of any building or structure upon such restricted street for which a building permit has previously been obtained; but then only by such deviation from the nearest unrestricted or less restricted street as is reasonably necessary.

C. Alternate truck routes. Whenever a truck route designated by Section 6 above is under repair, or otherwise temporarily out of use, the Director of Public Works or his designee shall be authorized to designate alternate truck routes.

Section 8. Signs. The Director of Public Works or his designee shall erect appropriate signs and markings advising motorists of the truck routes established by this Ordinance.

Section 9. No through trucks. When signs are erected stating 'No Through Trucks,' no person shall operate any commercial vehicle exceeding six thousand (6,000) pounds gross weight at any time upon any of the streets or parts of streets so signed, except that such vehicles may be operated thereon for the purpose of delivering or picking up materials or merchandise or for vehicle storage, and then only by entering such street at the intersection nearest the destination of the vehicle and proceeding thereon no farther than the next intersection thereafter.

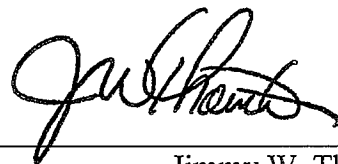
Section 10. Penalty. Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$500. Each violation shall constitute a separate offense.

Section 11. Repealer. All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 12. 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 Magnolia, 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.

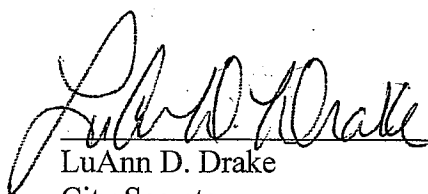
Section 13. Compliance Clause and Effective Date. The City Council finds, determines and declares that a sufficient written notice was posted and this Ordinance was passed in accordance with the Open Meetings Act. The City Secretary is instructed to publish this Ordinance in the Official Newspaper of the City of Magnolia in the manner provided and for the time required by Section 52.011(a) of the Local Government Code at which time this Ordinance takes effect.

PASSED AND ADOPTED by a vote of 5 "ayes" in favor and 0 "no's" against on this,
the 23rd day of July, 2007.



Jimmy W. Thornton, Jr.
Mayor

Attest:



LuAnn D. Drake
City Secretary

AFFIDAVIT OF PUBLICATION

BEFORE ME, the undersigned authority, on this day personally appeared, Tracy Herron who on her oath stated:

City of Magnolia, Texas
Ordinance No. 2007-125

AN ORDINANCE REPEALING ORDINANCE NUMBER 303 AND 315 OF THE CITY OF MAGNOLIA, TEXAS AND BEING AN ORDINANCE PROVIDING LIMITATIONS ON THE WEIGHT OF MOTOR VEHICLES OPERATED UPON CITY STREETS; PROHIBITING THE OPERATION OF CERTAIN MOTOR VEHICLES UPON CITY STREETS; PROVIDING FOR PERMITS FOR OVERWEIGHT VEHICLES; DESIGNATING TRUCK ROUTES; CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT; PROVIDING A PENALTY OF AN AMOUNT NOT TO EXCEED \$500 FOR EACH VIOLATION OF ANY PROVISION HEREOF; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES OR PARTS THEREOF.

I am the Account Manager of the TOMBALL MAGNOLIA TRIBUNE a newspaper published in the Montgomery County, Texas and know the facts stated in this affidavit. The attached matter is a true and correct copy of the publication of the citation of which it purports to be a copy, as the same appeared in such newspaper in the respective issues of:

12/17, 2007

_____, 2007

*Received & Filed
in the Office of*

DEC 20 2007

*City Secretary
City of Magnolia, Texas*

Tracy Herron
Tracy Herron, Account Manager

Subscribed and sworn to this 18th day of December, 2007

