

# City of Magnolia

## Ordinance No. 2009-143

**AN ORDINANCE ADOPTING REGULATIONS DEEMED NECESSARY TO PROMOTE THE HEALTH, SAFETY, AND WELFARE OF THE PUBLIC TO PROHIBIT THE OPERATION OF NEIGHBORHOOD ELECTRIC VEHICLES ON CERTAIN STREETS, HIGHWAYS AND SIDEWALKS AND IN CITY PARKS; TO PROHIBIT THE OPERATION OF ANY VEHICLE REGULATED UNDER THIS ORDINANCE BY A PERSON UNDER 21 YEARS OF AGE NOT WEARING A HELMET OR BY A CHILD NOT UNDER DIRECT SUPERVISION OF A PARENT; PROVIDING FOR CRIMINAL FINES FOR VIOLATION OF THIS ORDINANCE.**

**WHEREAS**, the City Council has determined that in the interest of safety, it is necessary to prohibit the operation of neighborhood electric vehicles on certain streets, sidewalks and highways in the corporate limits of Magnolia; and

**WHEREAS**, the City Council has determined that in the interest of safety, it is necessary to prohibit the operation of neighborhood electric vehicles in City parks; and

**WHEREAS**, the City Council has determined that in the interest of safety, it is necessary to prohibit the operation of certain vehicles in the City by persons under 21 years of age who are not wearing a helmet and the operation of certain vehicles by children under 15 years of age who are not under the direct supervision of a parent; and

**WHEREAS**, Texas state law provides that a municipality may prohibit the operation of a neighborhood electric vehicle on a street or highway if the governing body of the municipality determines that the prohibition is necessary in the interest of safety; and

### **NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MAGNOLIA:**

The facts and recitations contained in the preamble of this Ordinance are hereby found and declared to be true and correct.

#### **SECTION 1.**

**A.** In this section, the following definitions apply:

1. **NEIGHBORHOOD ELECTRIC VEHICLE** means a vehicle subject to Federal Motor Vehicle Safety Standard 500 (49 C.F.R. Section 571.500). A "neighborhood electric vehicle" is a motor vehicle that:

- is originally manufactured to meet, and meets, the equipment requirements and safety standards established for "low speed vehicles" in Federal Motor Vehicle Safety Standard 500 (49 C.F.R. §571.500),
- has four wheels,
- does not have to be powered by electricity (other power sources, such as gasoline, are acceptable),

- is a slow-moving vehicle, being able to attain a speed of more than 20 miles per hour but not more than 25 miles per hour, and
- is not a golf cart (designed by the manufacturer primarily for transporting persons on a golf course).

2. **TITLE REQUIREMENTS for Neighborhood Electric Vehicles means**

- NEVs are required to be titled.
- The manufacturer's certificate of origin (MCO) must contain a statement that the vehicle meets Federal Motor Vehicle Safety Standard 500 (49 CFR§571.500) for low-speed vehicles in addition to the information required on all MCOs.
- The body style for a Neighborhood Electric Vehicle is shown as “NV NHOOD ELEC” in the drop-down selection list while processing the title in RTS.

3. **PROTECTIVE HEADGEAR** means headgear which meets the minimum safety standards for protective headgear used by motorcyclists in this state as adopted by the Texas Department of Transportation.

**B.** Neighborhood Electric Vehicles are prohibited from operating on the following streets within the city limits of Magnolia:

1. FM1488;
2. FM1774; and
3. Nichols Sawmill Rd.

**C.** Neighborhood Electric Vehicles are allowed to cross the prohibited streets in Section B above at the following locations:

1. Corbin at FM1488;
2. Rolling Hills at FM 1488;
3. Buddy Riley at FM 1488;
4. Goodson at FM 1488; and
5. Buddy Riley at FM 1774.
6. Commerce Street at Nichols Sawmill Rd.

**D.** A person commits an offense if the person:

1. operates a neighborhood electric vehicles on a sidewalk;
2. operates a neighborhood electric vehicle anywhere in a park;
3. operates, if under 21 years of age, a neighborhood electric vehicle unless wearing protective headgear; and
4. knowingly fails as a parent of a child or a guardian of a ward, to directly supervise the operation by a child or a ward under 15 years of age of a neighborhood electric vehicle.
5. operates a neighborhood electric vehicle that is not titled or registered with the County of Montgomery, Texas.
6. operates a neighborhood electric vehicle without proof of financial responsibility as required of other passenger vehicles in the Texas Transportation Code Section 601.051.

**SECTION 2.** Any person who operates a neighborhood electric vehicle on the streets specified in Section 1, Subsection B (1), (2), or (3) commits a Class C misdemeanor and is subject to a fine not to

exceed \$500.00.

**SECTION 3.** Any person who operates a neighborhood electric vehicle and crosses the prohibited streets of Nichols-Sawmill, FM 1774 and FM 1488 at locations other than specified in Section 1, Subsection C(1), (2), (3) (4) (5) or (6) commits a Class C misdemeanor and is subject to a fine not to exceed \$500.00.

**SECTION 4.** Any person who engages in any activity specified in Section 1, Subsection D(1), (2), (4) and (5) commits a Class C misdemeanor and is subject to a fine not to exceed \$500.00.

**SECTION 5.** Any person who fails to wear protective headgear in violation of Section 1, Subsection (D) (3) commits a Class C misdemeanor and is subject to a fine of not less than \$10.00 nor more than \$50.00.

**SECTION 6.** Any person who operates a neighborhood electric vehicle in violate of Section 1, Subsection D(6) commits a Class C misdemeanor and is subject to a fine not to exceed \$500.00.

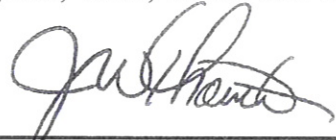
**SECTION 7.** A culpable mental state is not required, and need not be proved, for an offense under Section 1, Subsection B(1), (2) or (3); an offense under Section 1, Subsection C(1), (2), (3), (4), or (5); an offense under Section 1, Subsection D(1), (2), or (3).

**SECTION 8.** The City shall provide appropriate signs for each of the street locations in Section 1(B) and (C) and signs also prohibiting the operation of neighborhood electric vehicle's in public parks and on sidewalks. A list of equipment requirements and a list of any required stickers/signs for neighborhood electric vehicles will be available at the Magnolia Police Department.

**SECTION 9.** Repealer Clause. All ordinances or parts of ordinances in conflict with provisions of this ordinance, the Texas Transportation Code or any other state or federal laws regarding neighborhood electric vehicles are hereby repealed to the extent of such conflict.

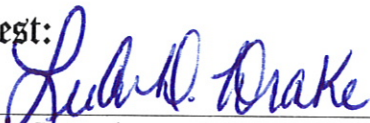
**SECTION 10.** Effective Date. The City Council finds, determines and declares that a sufficient written notice was posted and this Ordinance was passed in accordance with the Open Meetings Act. The City Secretary is instructed to publish this Ordinance in the Official Newspaper of the City of Magnolia in the manner provided and for the time required by Section 52.011(a)-(c) of the Local Government Code which publication shall be sufficient if it contains the caption of this Ordinance and at which time this Ordinance takes effect.

**PASSED AND ADOPTED** by the City Council for the City of Magnolia, Texas, on this 10th day of February, 2009 by a vote of 4 for and 0 against.



Jimmy W. Thornton, Jr. Mayor  
City of Magnolia, Texas

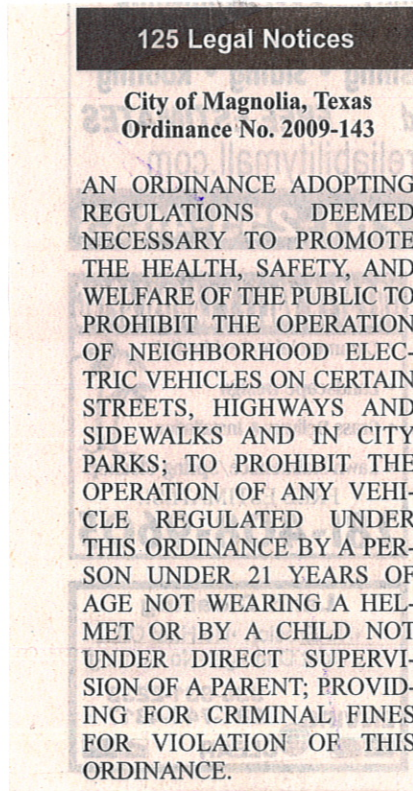
Attest:



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:



*Received & Filed  
in the Office of*

**MAR 20 2009**

*City Secretary  
City of Magnolia, Texas*

I am the Account Manager of the TOMBALL MAGNOLIA TRIBUNE a newspaper published in 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:

\_\_\_\_\_, 2009

\_\_\_\_\_, 2009

Tracy Herron  
Tracy Herron, Account Manager

Subscribed and sworn to this 18th day of March, 2009

