

## **ORDINANCE NO. O-2010 - 164**

### **AN ORDINANCE REPEALING ORDINANCE NUMBER 287 "AN ORDINANCE REDESIGNATING THE ALLEYWAY BETWEEN COMMERCE STREET AND F.M. 1774 AS AN UTILITIES EASEMENT"; AND MAKING OTHER PROVISIONS AFFIRMING THE DEDICATION OF THE TWENTY FOOT ALLEYWAY TO THE CITY OF MAGNOLIA, TEXAS**

**WHEREAS**, the City Council of the City of Magnolia, Texas has heretofore adopted ordinance 287 which provided for the re-designation of the alleyway between Commerce Street and F.M.1774 as a utilities easement on April 10, 2001 ; and

**WHEREAS**; the City Council has determined that a twenty (20) foot alley was dedicated to the City from 1<sup>st</sup> Street to FM 1488 as recorded in Vol.29, Page 73 thru 75 in the Montgomery County Deed Record and that page 75 is the map drawn showing the 20-foot alleyway. Further the International and Great Northern Railway's map prepared in 1917 confirms lot sizes with the 20-foot alley between the lots; and

**WHEREAS**, the City Council had accepted the dedication and has put a utility line in the alleyway and thereby still has and maintains an utility easement; and

**WHEREAS**, the Council determines that the Alleyway still exists as no petition was presented to the City by owners of real property abutting the described portion of the alleyway as required by Texas Trans. Code Ann. § 311 to vacate, abandon or close the alleyway; and

**WHEREAS**, notice of the agenda for this meeting, was given in accordance with law by posting the same at the place reserved and designated for notices of public meetings and public activities and prior to the adoption of this ordinance; and

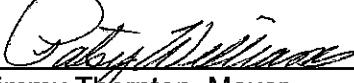
**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MAGNOLIA, TEXAS THAT;**

- Section 1.** The City Council of the City of Magnolia having reviewed the findings of fact and conclusions as herein set out and adopts the same for inclusion in this ordinance if the same had been repeated verbatim herein.
- Section 2.** Ordinance Number 287 of the City of Magnolia, Texas is hereby repealed.
- Section 3.** Ordinances or parts thereof in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. All other Ordinances in effect and not in conflict with this Ordinance shall remain in full force and effect.
- Section 4.** If any section, article, paragraph, sentence, clause, phrase or word in this Ordinance, or application thereof to any person or circumstances, is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of the ordinance, and the City Council hereby declares it would have passed such remaining of the Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

**Section 5.** 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 Acting 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, APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF  
MAGNOLIA, TEXAS ON THIS** 12, January, 2010.

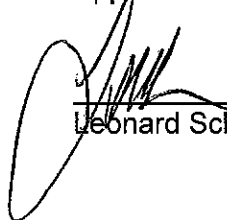
APPROVED: ~

  
Jimmy Thornton, Mayor

ATTEST:

  
Debra Brent, City Secretary

Approved as to Form:

  
Leonard Schneider, City Attorney

**NOTICE**  
**CITY OF MAGNOLIA**  
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**HOUSTON  
COMMUNITY  
NEWSPAPERS**

**VIT OF PUBLICATION**

*Received & Filed  
in the Office of*

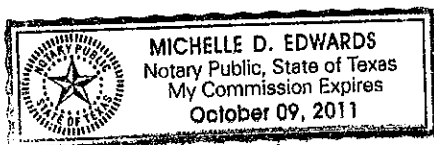
**FEB 02 2010**

*City Secretary  
City of Magnolia, Texas*

**STATE OF TEXAS  
COUNTY OF HARRIS**

Personally appeared before the undersigned, a Notary Public within and for said County and State. Lacy Kastendieck, Representative for Tom Stamper, Publisher of the Tomball/Magnolia Potpourri, a newspaper of general circulation in the County of Harris, State of Texas. Who being duly sworn, states under oath that the report of Legal Notices, a true copy of which is hereto annexed was published in said newspapers in its issue(s) of the

27<sup>th</sup> day of January, 2010



Lacy Kastendieck  
Publisher's Representative

Sworn to and subscribed before me this 1<sup>st</sup> day of February, 2010.

Michelle D. Edwards  
Notary Public

My commission expires on Oct. 9, 2011