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Ordinance No. 234

AN ORDINANCE OF THE CITY OF MAGNOLIA, TEXAS ESTABLISHING RULES AND REGULATIONS FOR THE HANDLING OF RESIDENTIAL SOLID WASTE; ESTABLISHING THAT THE CITY WILL DISPOSE OF RESIDENTIAL SOLID WASTE; PROHIBITING LITTERING FROM ANY SOURCE; PROHIBITING THE BURNING OR BURYING OF TRASH, RUBBISH, OR GARBAGE; PROVIDING FINES AND PENALTIES.

WHEREAS it has come to the attention of City Council that trash, rubbish, and garbage has accumulated in unacceptable levels on certain lots and areas within the city;

WHEREAS there has been the practice of burying trash, rubbish, and garbage which has the potential of contaminating ground water, be a source of infection and disease, and attract rats, mice, and other vermin;

WHEREAS certain people have burned trash, rubbish, and garbage on their property which produces a noxious odor offensive to those other residents of the city;

WHEREAS a comprehensive solid waste Ordinance would correct the aforementioned problems; now therefore,

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

Article I. Definitions

Section I.1. "*City*" means the City of Magnolia, Texas.

Section I.2. "*Garbage*" means solid waste that is rotting or decaying animal and vegetable waste materials produced from the handling, preparation, cooking or consumption of food, including waste materials from markets, storage facilities, and the handling and sale of produce and other food products, and includes kitchen garbage as herein defined.

Section I.3. "*Multiunit-structure*" means any structure or group of structures normally used or intended for use by more than a single family. This includes but it is not limited to apartment houses, hotels, motels, churches, schools and offices.

Section I.4. "*Premises*" means business houses, boarding houses, offices, theaters, hotels, trailer or mobile home parks, restaurants, cafes, eating houses, tourist courts, apartments, sanitariums, rooming houses, schools, private residences, vacant lots and all other places within the city where garbage, trash or rubbish accumulate.

Section I.5. "*Trash*" means rubbish.

Section I.6. "*Dry kitchen refuse*" means the solids remaining from the preparation of food for immediate consumption, with all liquids or slop drained off.

Section I.7. "*Kitchen garbage*" means and includes dry kitchen refuse and all meat, vegetable and fruit refuse, small dead fowl and edible domesticated animal carcasses.

Section I.8. "*Residential*", whether used as a noun, adjective or adverb, means a building or room fitted or used, in whole or in part, for human sleeping accommodations, including but not limited to, except as otherwise expressly provided for in this division, residential subdivision houses, garage apartments and duplexes, triplex and quadruplex residential apartments, encompassing households and household activity.

Section I.9. "*Rubbish*" means tin cans, papers, empty bottles or glass containers of not more than five gallon capacity, fragmented glass, scraps of iron or other metal, wire, used plastic articles, vacuum cleaning lint, drug and notion boxes, feathers, tin cans, bottles, papers, rags, grass, boxes and cartons, old clothes and shoes, ashes, grass trimmings, hedge, tree, plant, and shrub trimmings, leaves and limbs, yard cleaning and other similar items, and like waste products of normal household activity able to be disposed in containers in accordance with this Ordinance.

Section I.10. "*Person or persons*" means any individual, firm, corporation, proprietorship, business, partnership, or any other legally recognized entity.

Section I.11. "*Toxic waste*" shall have the same meaning given to it by existing Environmental Protection Agency rules and regulations and existing federal and state law, but in any event includes used motor oil.

Article II. Littering Prohibited

Section II.1. It shall be unlawful for any person to throw, drop, cast or deposit upon any street, alley, sidewalk or any yard or premises, public or private, any

filth of any kind, including but not limited to garbage, trash, or rubbish or any other form of litter or waste material. Each day or occurrence of a violation shall be a separate offense.

Section II.2. All persons shall maintain dumpster or trash and garbage receptacle sites so as to not allow for trash or garbage to blow or be deposited in the surrounding area. It shall be unlawful for any person to allow garbage and trash to escape from a garbage and trash receptacle site and be deposited upon the ground, regardless of how caused. Each day or occurrence of a violation shall be a separate offense.

Any person convicted of a violation of this Article shall be subject to punishment as set forth in this Ordinance in Article VI.

Article III. Unlawful Spillage or Deposits

Section III.1 It shall be unlawful for any person to dump, unload, discharge, or in any manner place or cause to be placed upon any lot, tract, or parcel of land located within the city limits of the city any garbage, trash, rubbish, or other waste material of any kind or description whatsoever, except at garbage dumps or dumping grounds which are owned, maintained or operated by the city, or in such places as are designated for garbage disposal by the city. Each day or occurrence of violation shall be a separate offense.

Any person convicted of a violation of this section shall be subject to punishment as set forth in this Ordinance in Article VI.

Section III.2 It shall be unlawful for any person to operate on the streets of the city any vehicle or trailer carrying garbage or trash, without providing an adequate cover for the garbage and trash, which cover shall be kept in place except when loading and unloading. All such vehicles or trailers must comply with the requirements of the provisions of the Transportation Code, Vernon's Annotated Statutes, Section 725.021, which reads in part:

“(a) A vehicle subject to this chapter shall be equipped and maintained as required by this section to prevent loose material from escaping by blowing or spilling.

(b) A vehicle bed carrying a load:

(1) may not have a hole, crack, or other opening through which loose material can escape; and

(2) shall be enclosed:

(A) on both sides by side panels;

(B) on the front by a panel or the vehicle cab; and

(C) on the rear by a tailgate or panel.

(c) The load shall be covered and the covering firmly secured at the front and back, unless the load:

(1) is completely enclosed by the load-carrying compartment; or

(2) does not blow or spill over the top of the load-carrying compartment.

(d) The tailgate of the vehicle shall be securely closed to prevent spillage during transportation.”

Any person convicted of a violation of this section shall be subject to punishment as set forth in this Ordinance in Article VI. Each day or occurrence of a violation shall be a separate offense.

Article IV. Accumulation Prohibited.

Section IV.1. It shall be unlawful for any person to accumulate or allow to accumulate any garbage or trash within the city for any period greater than one (1) week. No person shall allow, upon his or her premises, garbage or trash, to accumulate; for any period of time, by burying the same upon the premises, or allowing garbage or trash to compost upon his or her property, or to accumulate garbage or trash for the purpose of burning the same upon his or her property. No person may burn garbage or trash upon his or her property or anywhere within the corporate city limits. No person may remove his or her garbage or trash to another location or another person's premises to circumvent the prohibitions of this Article. No person may operate a sanitary landfill, garbage dump or any other operation which provides for the accumulation of trash or garbage on his or her premises. Exemptions are granted for large steel receptacles commonly referred to as “dumpsters” provided they are emptied on a routine basis and not allowed to accumulate more that two weeks of garbage or trash.

Section IV.2. No person may accumulate toxic waste on his or her premises or transport toxic waste to a location within the city for dumping, burning, or burying. No person may bury garbage or trash within the city limits of the city. No person may burn trash or garbage within the city limits of the city. No exceptions may be granted by Council for any reason. Each day or occurrence of a violation shall be a separate offense.

Any person convicted of a violation of this Article shall be subject to punishment as set forth in this Ordinance in Article VI.

Article V. Collection by City Only

Section V.1. The collection and disposal of residential garbage and trash shall be by the city or its authorized representative only, and private or individual collection and disposal of garbage is prohibited, except as may be expressly authorized in this Ordinance. It shall be unlawful for any person, business or firm to collect, pick up, or otherwise dispose of any residential garbage, trash or refuse within the city without first obtaining a written permit granted by the city council.

Section V.2. Each person in charge of a residence, including multiunit-structures, within the city, shall prepare garbage and trash and construction debris and rubbish from such premises and timely place the same for collection by the city in accordance with the terms and conditions of this Ordinance. All garbage and trash shall be placed in city provided containers and placed at the curb line of the street which shall be readily acceptable to collection trucks. The city will pick up residential garbage and trash on a twice weekly basis, initially designated Tuesday and Friday. All garbage and trash shall be available for pick-up by 7:00 a.m. of the mornings designated for pick-up.

Section V.3. The city will not collect residential garbage and trash unless the same is prepared for collection and placed, as designated by this Ordinance. The city shall provide, an initial issue, to each resident in charge of a premises, one garbage can which shall be serial numbered and stamped "City of Magnolia". Replacement cans shall be billed to the customers at the prevailing rate for each can replaced. Each person in possession of a city container shall have the duty to maintain the container in a functional and sanitary manner.

No person shall meddle with garbage, trash or rubbish containers, cans, or receptacles, or in any way pilfer, scatter contents, junkings or other material herein contemplated, or engage in the act of vandalism of any garbage can. A person convicted of a violation of this section shall be subject to punishment as set forth in this Ordinance in Article VI. Each day or occurrence of a violation shall be a separate offense.

Section V.4. (a) There shall be charged, assessed and collected a monthly service charge for collection and disposal of garbage and trash. Such charge may be changed and adjusted from time to time as determined in the sole discretion of the city council.

(b) The monthly service charge shall be a part of each customer's utility bill and shall be collected on a monthly basis through the billing system of the city.

(c) Failure to pay any charge for utility service could result in termination or discontinuation of utility service to that customer. No service shall be restored until such time as the account is paid up in full. "Utility Service" as used herein means water, sewer, garbage pick-up and natural gas.

Section V.5. Heavy or dangerous accumulations such as, but not limited to brick, broken concrete, lumber, timber, ashes, cinders, dirt, plaster, sand or gravel, automotive frames, bodies, or chassis, or parts thereof, dead trees, door and window frames, furniture, gasoline or electric motors and engines, refrigerators, washing machines, dryers, tricycles, bicycles, explosives, fireworks, ammunition, bottled acids or corrosive chemicals, batteries, and other heavy or dangerous materials shall not be collected by the city but shall be disposed of at the expense of the owner thereof, or of the person controlling the item. The fact that the city shall not collect these items does not provide a defense and heavy or dangerous items shall not be allowed to accumulate on any person's property or premises.

A person convicted of a violation of this section shall be subject to punishment as set forth in this Ordinance in Article VI. Each day or occurrence of a violation shall be a separate offense.

Section V.6. The city will not collect and dispose of any toxic waste.

Section V.7. No person may deposit his or her garbage or trash with another person's garbage and trash to circumvent the garbage pick-up charges as herein created, nor may any person deposit his or her garbage or trash in any dumpster within the city to circumvent the garbage pick-up charges as herein created.

A person convicted of a violation of this section shall be subject to punishment as set forth in this Ordinance in Article VI. Each day or occurrence of a violation shall be a separate offense.

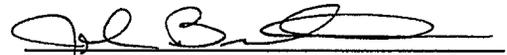
Article VI. Penalties for Violation

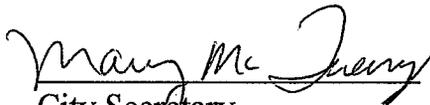
Whosoever shall violate any punitive provision or part of this Ordinance shall be guilty of a Class "C" misdemeanor, and shall, upon conviction, be fined up to but not greater than \$500.00. Any person found guilty of this Ordinance for a second time shall be fined no less than \$100.00. Any person found guilty of this Ordinance for a third or more time shall be fine no less than \$250.00.

PASSED AND ADOPTED ON ITS FIRST READING ON THE 14TH DAY OF
JANUARY, 1997.

Councilwoman Ogden	<u>AYE</u>
Councilman Sutherland	<u>AYE</u>
Councilman Smith	<u>AYE</u>
Councilwoman Cloyd	<u>AYE</u>
Councilman Green	<u>ABSENT</u>

ATTEST:


John Bramlett, Mayor


City Secretary