

ORDINANCE NO. 258**AN ORDINANCE DIRECTING THE LOCATION OF CERTAIN BUSINESSES WHICH SELL, OFFER FOR SALE, OR WHICH ENGAGE IN THE SALE OF, SECOND-HAND OR USED ITEMS OF PERSONAL PROPERTY IN AN OUTDOOR LOCATION**

WHEREAS, Legislature of the State of Texas, by enactment of Subchapter B of Chapter 215 of the Local Government Code, specifically authorizes cities to direct the location of businesses;

WHEREAS, it has come to the attention of the City Council for the City Of Magnolia, Texas, that certain businesses are engaged in the outdoor sale of second-hand or used items of personal property;

WHEREAS the City Council for the City Of Magnolia, Texas has determined that such businesses constitute an eyesore and should be located in areas which are not visible from certain principal or primary roadways; and

WHEREAS the City Council for the City Of Magnolia, Texas has determined that it is necessary to have such businesses located in locations which are not visible from principal or primary roadways and that an ordinance be enacted to direct the location of such businesses;

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

SECTION I. Definitions. For the purposes of this ordinance, the following definitions apply:

- A. **Business.** Any residence, office, structure, building, or real property, at which the sale of property regularly occurs. The term "business" includes all real property upon which such residences, offices, structures, or buildings are located.
- B. **Outdoor Business.** Any business which sells or offers for sale property, goods or other items of personal property, outside of an enclosed building, structure or shelter.
- C. **Second-hand.** A second-hand item is an item of property which has previously been sold, by any person or entity, and at any previous point in time, as a retail item.
- D. **Used.** A used item is a second-hand item. The term "used" also encompasses the customary and normal usage of the term "used."

SECTION II. No outdoor business which sells, or which offers for sale, second-hand or used goods, or other used items of personal property, shall be located on or next to the following roadways

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within the city limits of the City Of Magnolia, Texas:

- a) FM 1774;
- b) FM 1488;
- c) Magnolia-Conroe Road

SECTION III. No outdoor business which sells, or which offers for sale, second-hand or used goods, or other used items of personal property, within the city limits of the City Of Magnolia, shall be located within 300 feet of the center line or one or more of the following roadways:

- a) FM 1774;
- b) FM 1488;
- c) Magnolia-Conroe Road

SECTION IV. *Exceptions.* This ordinance shall not apply to outdoor businesses wherein all goods or items of second-hand or used personalty sold or offered for sale, are sold for more than \$300.00, or which solely offer for sale: motorized, farming, or lawn maintenance machinery. This ordinance shall not apply to any outdoor business which removes, to an enclosed building or other structure, items or goods offered for sale at sunset each business day.

SECTION V. *Penalty.* For each day during which a business operates in violation of this ordinance a fine shall be assessed against the owner and operator of such business of an amount not to exceed \$200.00.

SECTION VI. *Effective date.* This ordinance shall be effective on the 1st day of July, 1998.

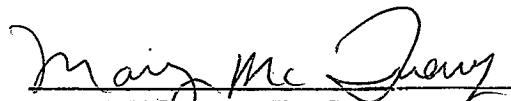
ORDINANCE, READ, PASSED and APPROVED as set forth at a regular meeting of the City Council of the City Of Magnolia, Texas on this 9th day of June, 1998.

Councilwoman Ogden:
Councilman Smith:
Councilman Clapp:
Councilwoman Cloyd:
Councilman Mattern:

NO
NO
YES
YES
YES


Hon. John Bramlett, Mayor

ATTEST:


Mary McQuerry, City Secretary