

ORDINANCE NO. 265

AN ORDINANCE OF THE CITY OF MAGNOLIA, TEXAS, REPEALING PRIOR ORDINANCE NO. 265 AND LEVYING A TAX FOR HOTEL OCCUPANCY EQUAL TO SEVEN (7%) PERCENT OF THE CONSIDERATION PAID WHERE THE COST OF OCCUPANCY IS AT LEAST TEN DOLLARS (\$10) PER DAY; AND PROVIDING FOR REPORTS AND RULES AND REGULATIONS AS TO THE COLLECTION OF SUCH TAX; AND PROVIDING FOR THE USE OF FUNDS COLLECTED FROM SUCH TAX.

WHEREAS hotels, motels, and similar business do, or shall hereafter, exist within the city limits of the City Of Magnolia, Texas as well as within its extraterritorial jurisdiction; and

WHEREAS, such businesses are generally tourism-related and commonly attract a higher density of persons on site than common residential and apartment structures; and

WHEREAS such businesses commonly have an increased reliance upon the City for tourism services and promotion to attract customers; and

WHEREAS the City Council for the City Of Magnolia believes it necessary, for revenue, and to pay for such increased services and advertising, that a tax be imposed on hotels and motels located within the city limits and its extraterritorial jurisdiction; and

WHEREAS the imposition of a tax will generate revenues for funding of projects which tend to bring an increase of tourism and visitors to the City;

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF MAGNOLIA, TEXAS, AS FOLLOWS:

Repeal Of Prior Ordinance. Ordinance No. 265, dated April 13, 1999 is hereby repealed and this ordinance is substituted in its place.

Section I. Definitions.

The following words, terms, and phrases, for the purpose of this ordinance, except where the context clearly indicates a different meaning, are defined as follows:

(a) "Hotel" shall mean any building, buildings, trailer, railroad pullman car not being utilized for the transportation of travelers, or any other structure or facility in which the public may, for consideration, obtain sleeping accommodations. The term shall include hotels, motels, tourist homes, houses or courts, lodging houses, inns, rooming houses, hostels, trailer houses, trailer motels, railroad pullman cars parked on a siding or other area and used for sleeping accommodations not

involving the transportation of travelers, dormitory space where bed space is rented to individuals, or groups, apartments not occupied by "permanent residents," as that term is hereinafter defined, and all other facilities where rooms or sleeping facilities or spaces are furnished for consideration, but "hotel" shall not be defined as to include a hospital, sanitarium, hospice, nursing home or convalescent home;

(b) "Consideration" shall mean the cost of the room, sleeping space, bed or dormitory space or other facilities in such hotel and shall not include the cost of any food served or personal services rendered to the occupant not related to cleaning and readying such room or space for occupancy, and shall not include any tax assessed for occupancy there by any other governmental agency.

(c) "Occupancy" shall mean the use or possession, or the right to use or possess any room, space, or sleeping facility in a hotel for any purpose.

(d) "Occupant" shall mean anyone, who, for consideration uses, possesses, or has a right to use or possess any room or rooms, or sleeping space or facility in a hotel under any lease, concession, permit, right of access, license, contract or agreement.

(e) "Person" shall mean any individual, company, corporation, or association owning, operating, managing, or controlling any hotel in the City Of Magnolia, Texas.

(f) "City Coordinator" shall mean the City Coordinator of the City Of Magnolia, Texas and any agents or deputies of the City Coordinator. The term shall also be deemed to include the City Secretary of the City Of Magnolia, Texas, as well as any agents or deputies of the City Secretary.

(g) "Quarterly period" shall mean the regular calendar quarters of the year, the first quarter being composed of the months of January, February, and March. The second quarter being composed of April, May, and June. The third quarter being composed of July, August, and September. The fourth quarter being composed of October, November and December.

(h) "Permanent resident" shall mean any occupant who has or shall have the right to occupancy of any room or rooms or sleeping space or facility in a hotel for at least thirty (30) consecutive days during the current calendar year or preceding year.

Section 2 Levy Of Tax And Rate

(a) Effective as of July 1, 1999, there is hereby levied a tax upon the occupant of any room or space furnished by any hotel in the City Of Magnolia, Texas, and within its extraterritorial jurisdiction, where such cost of occupancy is at the rate of ten dollars (\$10) or more per day, such tax to be equal to seven (7%) percent of the consideration paid by the occupant of such room, space of facility to such hotel, exclusive of other occupancy taxes imposed by any other governmental unit.

(b) No tax shall be imposed hereunder upon a permanent resident.

(c) No tax shall be imposed hereunder upon an occupant of any room or space rented from a corporation or association organized and operated exclusively for religious, charitable, or education purposes of which no part of the net earnings insures to the benefit of any private share holder or individual.

(d) All revenue derived from the occupancy tax imposed in paragraph (a) hereof shall be placed in the General Fund of the City and shall be used for the purposes permitted by law as the City Council may from time to time direct or provide.

Section 3 Collection

Every person owning, operating, managing or controlling any hotel in the City Of Magnolia, Texas, shall collect the tax imposed in this ordinance for the City Of Magnolia, Texas.

Section 4 Reports

On or before the last day of the month immediately following each quarterly period, every person required by Section 3 hereof to collect the tax imposed herein shall file a report with the City Coordinator, or person designated by the City Coordinator, showing the consideration paid for all room occupancies in the preceding quarter, the amount of the tax collected on such occupancies, and any other information as the City Coordinator may reasonably require for such collection. At the time of the filing of the report such person shall immediately pay the amount of tax collected from occupants during the period covered by the report.

Section 5 Rules and Regulations

The City Coordinator shall have the power to make rules and regulations as are necessary to effectively collect the tax levied herein, and shall upon reasonable notice, have access to all books and records necessary to determine the correctness of any report filed as required by this ordinance and the amount of taxes due under the provisions of this ordinance. In addition to other City officers who may be authorized by statute, the City Coordinator is authorized make a request upon the State Comptroller's office to conduct an audit to ensure compliance with this ordinance. Such audit requests shall be made on the letterhead of the City Of Magnolia, Texas.

Section 6 Penalties

If any person shall fail to collect the tax imposed herein or shall fail to file a report as required herein, or shall fail to pay to the City Secretary the taxes imposed herein when said report for payment is due, or shall file a false or misleading report, the person shall be guilty of a misdemeanor and upon conviction be punished by a fine not to exceed Two Hundred Dollars \$200 for each violation. In addition, such person who fails to remit the tax imposed by this article within the time required shall forfeit five percent (5%) of the amount due as a penalty, and after the first thirty days of delinquency shall forfeit an additional five percent (5%) of such tax. Provided, however, that the penalty shall never be less than Twenty-five Dollars (\$25).

In addition to the penalties and remedies stated in this section, the City shall have the right to bring suit in district court to enjoin the operation of, or to close, any establishment which fails to collect, report, or remit the tax imposed herein.

Section 7 Use Of Funds

The revenue collected by the tax imposed herein shall be used only for the purpose of

enhancing and promoting tourism and the convention and hotel industry. Such revenue or funds may be applied only in the following manner:

- (a) the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities or visitor information centers, or both;
- (b) the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrations;
- (c) advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or its vicinity;
- (d) the encouragement, promotion, improvement and application of the arts, including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design, and allied fields, painting, sculpture, photography, graphic and crafts arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation performance, execution, and exhibition of these major art forms; and
- (e) historical restoration and preservation projects or activities or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historical sites or museums in the immediate vicinity of convention or visitor center facilities, or located elsewhere in the City at a location which would be frequented by tourists or convention delegates.

At least one percent of the tax collected shall be used to fund advertising and promotion of the City and its vicinity. Not more than fifteen percent of the tax collected shall be used to fund the arts. If no allocation is made by the City to use the tax collected herein for acquiring, maintaining, or operating a convention center, then no more than fifty percent of the tax collected herein shall be allocated to fund historical restoration or preservation projects.

Section 8 Publication

The City Secretary shall publish this ordinance's caption as provided by law in the Tomball-Magnolia Tribune.

Section 9 Delegation

The City Council may authorize the delegation of the management and supervision of programs and activities funded with revenue from the tax herein imposed. Such delegation shall be made by written contract with any other public or private entity deemed satisfactory. Such contract shall provide for the prior approval by the City of that portion of the entity's budget which relates to its proposed expenditures of the revenue created by the tax herein imposed.

Section 10 Severability

If any section, paragraph, subdivision, clause, phrase, or provision of this ordinance shall be

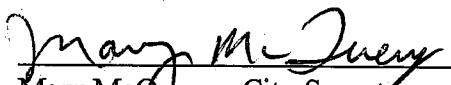
judged invalid or held unconstitutional or unenforceable, the same shall not in any manner be construed as to affect the validity of the remainder of this ordinance.

PASSED AND APPROVED this 8th day of JUNE, 1999.

Councilwoman Ogden	<u>AYE</u>
Councilman Mattern	<u>AYE</u>
Councilwoman Cloyd	<u>AYE</u>
Councilwoman Clapp	<u>AYE</u>
Councilman Smith	<u>AYE</u>


JOHN BRAMLETT, Mayor

Attest:


Mary McQuerry, City Secretary

AFFIDAVIT OF PUBLICATION

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

CITY OF MAGNOLIA ORDINANCE 265

A ordinance of the City of Magnolia, Texas. Repealing prior ordinance 265 and levying a tax for hotel occupancy equal to seven (7%) of the consideration paid where the cost of occupancy is at least ten dollars (\$10) per day; and providing for reports and rules and regulations as to the collection of such tax; and providing for the use of funds collected from such tax.

I am the publisher of the TOMBALL MAGNOLIA TRIBUNE a newspaper published in the Harris 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:

6/23

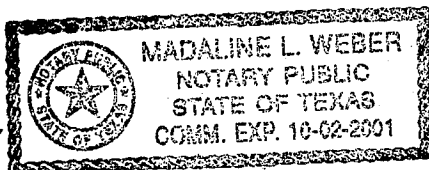
, 1999

, 1999

Nancy Nygaard

Nancy Nygaard, Publisher

Subscribed and sworn to this 23 day of May, 1999



Madaline L. Weber
Notary Public, Harris County, Texas

AFFIDAVIT OF PUBLICATION

STATE OF TEXAS

COUNTY / COUNTIES OF: Montgomery / Harris

BEFORE ME, the undersigned authority, on this day personally appeared Chyrl Richardson, Legal Clerk, who on her oath stated:

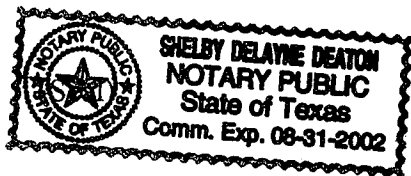
I am the Legal Clerk for The Polypourri, a daily /
weekly newspaper published in Montgomery / Harris County / Counties,
Texas, and know the facts stated in this affidavit. The attached material is a true and correct
copy of the publication of the citation of which it purports to be a copy, as the same appeared in
such newspaper in the respective issues of:

_____, 1999
_____, 19____
_____, 19____

Chyrl Richardson
Chyrl Richardson, Legal Clerk

Subscribe and sworn to before me this the 15th day of
July, 1999, to certify which witness my hand and seal of office.

Shelby Delayne Deaton
Notary Public in and for the State of Texas

My Commission Expires 8/31/2002