

ORDINANCE NO. 296

AN ORDINANCE OF THE CITY OF MAGNOLIA, TEXAS, PROVIDING RULES AND REGULATIONS GOVERNING OUTDOOR BURNING; PROVIDING CONDITIONS UNDER WHICH OUTDOOR BURNING IS PROHIBITED; PROVIDING IT UNLAWFUL TO BURN CERTAIN MATERIALS; PROVIDING OTHER MATTERS RELATING TO THE SUBJECT; PROVIDING A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; AND PROVIDING FOR SEVERABILITY.

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Whereas, the City Council hereby finds and determines that unregulated outdoor burning constitutes a hazard to public health, safety and general welfare; now therefore

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

Section 1. The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. It shall be unlawful for any person to cause or permit the outdoor burning of any of the following materials:

- A. Garbage, trash or refuse;
- B. Materials for which a recycling facility or program is available within the City;
- C. Metals and other noncombustible materials;
- D. Plastics, rubber, tires, carpet and related backing;
- E. Any material having combustion products which are hazardous, such as asbestos, plastics, flooring materials, waste oils, solvents, paints, and other similar products.

Section 3. It shall be unlawful for any person to cause or permit outdoor burning in a manner which:

- A. Endangers persons or property;
- B. Creates a nuisance;
- C. Occurs during a moderate or extreme drought condition, upon designation of such by the Mayor, as set forth in City of Magnolia Ordinance No. 198, as amended, originally adopted the 17th day of May, 1994; and
- D. Occurs at a time other than during daylight hours.

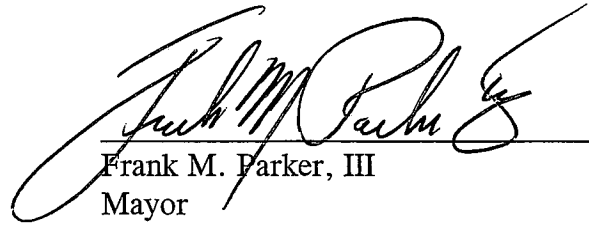
Section 4. **Exceptions.** The provisions of Section 2 above shall not be construed as prohibiting fires in outdoor fireplaces, barbeque or other similar food preparation devices; or campfires contained within a rock, brick, or trenched fire ring, provided such fires are being used for their intended purposes.

Section 5. **Penalty.** Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$2000. Each day of violation shall constitute a separate offense.

Section 6. **Repealer.** All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.


Section 7. **Severability.** In the event any clause phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Magnolia, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED, APPROVED, AND ADOPTED this 12th day of February, 2002.



Frank M. Parker, III
Mayor

ATTEST:



Jane Miller
City Secretary

RECEIVED MAR 1 2002

AFFIDAVIT OF PUBLICATION

BEFORE ME, the undersigned authority, on this day personally appeared the Potpourri Publisher who on his/her oath stated:

CITY OF MAGNOLIA ORD. 296
An Ordinance of the City of Magnolia, Texas, providing rules and regulations governing outdoor burning; providing conditions under which outdoor burning is prohibited; providing it unlawful to burn certain materials; providing other matters relating to the subject; providing a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof; repealing all ordinances or parts of ordinances inconsistent or in conflict herewith; and providing for severability.

I am the publisher of the THE POTPOURRI, 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:

February 27, 2002

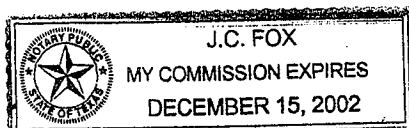
Alan Smith

Publisher

_____, 2002

Subscribed and sworn to this 27 day of Feb, 2002

J.C. Fox
Notary Public, Montgomery County, Texas



12-15-02
Commission Expires