

ORDINANCE NO. 323

AN ORDINANCE AMENDING CITY OF MAGNOLIA, TEXAS, ORDINANCE NO. 272, AS AMENDED, ORIGINALLY PASSED AND APPROVED THE 9TH DAY OF OCTOBER, 2001, AND BEING AN ORDINANCE ADOPTING RULES AND REGULATIONS GOVERNING SIGNS AND SIGN STRUCTURES WITHIN THE CITY, BY DELETING PARAGRAPH (7) OF SECTION 1 THEREOF, BY ADDING A NEW PARAGRAPH (16) TO SECTION 1 THEREOF, AND BY ADDING A NEW SUBSECTION TO SECTION 2 THEREOF TO BE ENTITLED "INTEGRATED BUSINESS DEVELOPMENTS"; PROVIDING NEW DEFINITIONS FOR "MULTIPLE TENANT SIGNS" AND "INTEGRATED BUSINESS DEVELOPMENTS"; PROVIDING FOR THE USE OF MULTIPLE TENANT SIGNS IN INTEGRATED BUSINESS DEVELOPMENTS; PROVIDING CERTAIN EXCEPTIONS; PROVIDING A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; AND PROVIDING FOR SEVERABILITY.

* * * * *

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

Section 1. City of Magnolia, Texas, Ordinance No. 272, passed and approved the 9th day of October, 2001, is hereby amended by deleting paragraph (7) from Section 1 thereof and substituting therefor a new paragraph (7) to provide as follows:

"(7) 'Multiple Tenant Sign' shall mean a Ground Sign or Freestanding Sign containing advertising for two or more businesses."

Section 2. Said City of Magnolia, Texas, Ordinance No. 272 is hereby further amended by adding to Section 1 thereof a new paragraph (16) to provide as follows:

"(16) 'Integrated Business Development' shall mean a development consisting of two or more interrelated business establishments using common driveways and onsite parking facilities, including, but not limited to, shopping centers, office complexes, office buildings, and business parks."

Section 3. Said City of Magnolia, Texas, Ordinance No. 272 is hereby further amended by adding to the Section 2 thereof a new Subsection entitled "Integrated Business Developments," to provide as follows:

"Integrated Business Developments

(1) Notwithstanding any other provision contained in this Ordinance to the contrary, signage within an Integrated Business Development shall be prohibited except as follows:

- (A) Multiple Tenant Signs. Not more than one (1) On-Premise Multiple Tenant Sign, for each street frontage, overall size not to exceed 42 1/2 feet tall by 16 feet wide, with no sign face exceeding 160 square feet for each operating business within the Integrated Business Development, and not more than two (2) such signs total.
- (B) Banner Signs. As otherwise authorized.
- (D) Temporary Signs. As otherwise authorized.
- (E) Wall Signs. As otherwise authorized.
- (F) Combined Total. As otherwise authorized; provided however, a Multiple Tenant Sign shall be counted as one of the signs, in the combined total, for each business within an Integrated Business Development that is identified on the Multiple Tenant Sign.

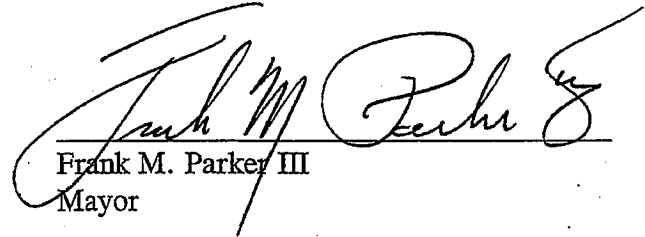
(2) Exception. One On-Premise (1) Ground Sign, not exceeding fifty (50) square feet in sign face area, with a minimum of fifty feet (50') spacing between ground signs, shall be allowed for each business within an Integrated Business Development that is housed in a separate, independent structure, not shared with any other business or enterprise, and which is located not less than one hundred feet (100') from any other structure within the development. Provided further, no such business shall be permitted to have a Ground Sign authorized by this Paragraph and be simultaneously identified in a Multiple Tenant Sign."

Section 4. 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 5. 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

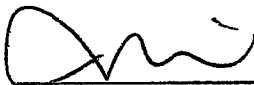
part declared to be invalid or unconstitutional; and the City Council of the City of Magnolia, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED, APPROVED, AND ADOPTED this 24th day of June, 2003.



Frank M. Parker III
Mayor

ATTEST:



Jane H. Miller
City Secretary

AFFIDAVIT OF PUBLICATION

Before me, the undersigned authority, on this day personally appeared Denny O'Brien who on his oath stated:

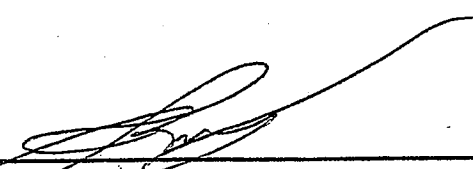
CITY OF MAGNOLIA ORDINANCE 323

An Ordinance amending City of Magnolia, Texas, Ordinance No. 272, as amended, originally passed and approved the 9th day of October, 2001, and being an Ordinance Adopting Rules and Regulations Governing Signs and Sign Structures within the city, by deleting Paragraph (7) of Section 1 thereof, by adding a new Paragraph (16) to Section 1 thereof, by adding a new Subsection to Section 2 thereof to be entitled "Integrated Business Developments"; providing new definitions for "Multiple Tenant Signs" and "Integrated Business Developments"; providing for the use of multiple tenant signs in integrated business developments; providing certain exceptions; providing a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof; and providing for severability.

I am the Editor of the Tomball Magnolia Tribune, a newspaper published in Montgomery County, Texas and now 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:

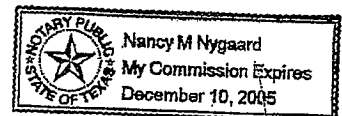
7-7, 2003

_____, 2003



Denny O'Brien, Editor

Subscribed and sworn to this 8th day of July, 2003



ORDINANCE NO. 272

AN ORDINANCE SETTING FORTH REGULATIONS FOR THE CONSTRUCTION, PLACEMENT, MAINTENANCE AND PERMITTING OF SIGNS WITHIN THE CITY OF MAGNOLIA, TEXAS; SETTING FORTH PERIODIC FEES FOR SIGNS AND PENALTIES FOR VIOLATION OF THIS SIGN ORDINANCE; AND DECLARING CERTAIN SIGNS NUISANCES.

WHEREAS, the City Of Magnolia, Texas, has undergone a great increase in residential and commercial activity; and commensurate increases in vehicular traffic;

WHEREAS, the unregulated proliferation and placement of signs within the City would have an affect on the health safety and welfare of the citizens, and hinder future economic development; and

WHEREAS, the City Council for the City Of Magnolia, Texas, finds it necessary to implement regulations and guidelines for the orderly and safe placement and display of signs, and to provide funding for the necessary implementation of regulations; NOW THEREFORE,

BE IT ORDAINED by the City Council Of The City Of Magnolia, Texas, as follows:

Section 1 - Scope

General. The provisions of this ordinance shall apply to all "signs" as that term is defined herein, within the "sign code application area" as defined herein.

Section 2 - Definitions

Advertising. Shall mean to seek the attraction of or to direct the attention of the public to any goods, services or merchandise whatsoever.

Building Code. Shall mean the City Of Magnolia Building Code, the Electrical Code, Plumbing Code, or the Unified Master Building and Construction Ordinance, as the context may require.

Business Purpose. Shall mean the erection or use of any property, building or structure, permanent or temporary, for the primary purpose of conducting in said building or structure or on said property a legitimate commercial enterprise in compliance with all ordinances and regulations of the city governing such activity; a business purpose shall not include any property, building or structure erected or used for the primary purpose of securing a permit to erect a sign..

Cabinet. Shall mean that portion of a sign structure containing the advertising display.

Curb Line. Shall mean an imaginary line drawn along the edge of the pavement on either side of a public street.

Commercial or Industrial Activity. Shall mean property that is devoted to use for commercial or industrial purposes and not for residential purposes. "Commercial or industrial activity" shall not include the following:

- (1) Signs;
- (2) Agricultural, forestry, ranching, grazing, farming and related activities, including but not limited to temporary wayside fresh produce stands;
- (3) Activities not housed in a permanent building or structure;
- (4) Activities not visible from the traffic lanes of the main-traveled way;
- (5) Activities conducted in a building primarily used as a residence; and
- (6) Railroad right-of-way.

Effective Date. The meaning of the term "effective date" depends upon the location of a sign or proposed sign within the sign code application area, and it shall be determined as follows:

- (1) With respect to any area within the corporate limits of the City of Magnolia as the corporate limits existed on January 31, 2000: January 31, 2000.
- (2) With respect to any area annexed into the corporate limits of the City of Magnolia after January 31, 2000: the date of the first publication of notice for a public hearing regarding the proposed annexation as required pursuant to Section 6 of former Article 970(a), Texas Revised Civil Statutes Annotated.

Frontage. Shall mean that portion of any tract of land that abuts a public street right-of-way.

General Right-Of-Way. Shall mean a right-of-way that is not classified as a predominantly residential right-of-way or scenic or historical right-of-way district and that is owned, leased, or otherwise legally controlled by the person placing a sign thereon.

Lighter- Or Heavier-Than-Air Craft. Shall mean a structure for navigation of the air or floating in the air that (1) is supported either by its own buoyancy or by the dynamic action of air against its surfaces, (2) is carrying one or more natural persons and (3) is not in contact with or tethered to the ground in any manner.

Light Standard Decoration. Shall mean a decorative, outdoor display that is attached to a privately owned security or parking lot light standard pole, that is situated wholly on private premises

utilized for business purposes, and that is not maintained by an electric utility. Light standard decorations shall not include devices that contain or display any written message, pictorial representation, logo, corporate symbol, silhouette, or other visual representation identifying or advertising a particular business, good service or merchandise sold or offered for sale on the premises where the device is located.

Local Street. Shall mean any public street not designated as a major thoroughfare, freeway, or highway.

Logo. Shall mean any pictorial symbol device or other visual representation commonly utilized by, and associated with, any commercial business or commercial service entity as a means of identifying or advertising such entity.

Major Thoroughfare. Shall mean those streets listed by the either the City Engineer, the City Coordinator, or their designates, as collector streets upon a finding that such streets carry high traffic volumes and traffic-control measures are used on them to expedite the safe movement of through traffic. The term shall also include, but is not limited to, FM 1774 and FM 1488.

Nonfreeway Primary System. Shall mean that portion of the connective main highways located within Texas. that are now or hereafter may be designated the "Primary System" by the Texas Highway and Public Transportation Commission and approved pursuant to Title 23, United States Code, Section 131, as amended.

Predominantly Residential Right-of-way. Shall mean a public right-of-way between two intersecting public streets in which a majority of the total frontage is used for residential purposes.

Public Right-of-way. Shall mean any part of a right-of-way that is not privately owned or controlled and that is the responsibility of the city or other similar public agency to maintain.

Public Street. Shall mean the entire width between the property lines of any road, street, way, alley, bridge, or other similar thoroughfare, not privately owned or controlled, when any part thereof is open to the public for vehicular traffic.

Residential Purposes. Shall mean property devoted to use as a single family or multifamily residence. Residential purposes shall include, but not be limited to, property used for houses, duplexes, condominiums, townhouses, patio homes, and apartments. Motels, hotels, and boarding houses are not residential purposes. Bed and Breakfast locations shall be considered as a residential purpose.

Right-of-way. Shall mean the property fronting on, immediately adjacent to and on either side of a public street or a nonpublic street.

Sign. Shall mean any outdoor display, design, pictorial or other representation that shall be so constructed, placed, attached, painted, erected, fastened or manufactured in any manner

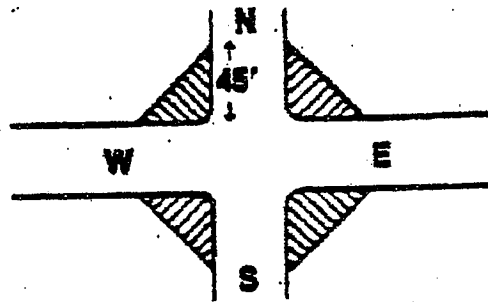
whatsoever so that the same shall be used for advertising. The term "sign" shall include the sign structure. Every sign shall be classified and conform to the requirements of each of such classifications set forth in this ordinance.

Sign Code Application Area. Shall mean the corporate limits of the City of Magnolia and the area of its extraterritorial jurisdiction as defined by the Local Government Code.

Sign Structure. Shall mean any structure that supports or is capable of supporting any sign. A sign structure may be a single pole and may or may not be an integral part of a building.

Total Front Footage. Shall mean the total length of the footage of property fronting on both sides of a public street.

Visibility Triangle. Shall mean the triangular area adjacent to the intersection of any public street or public alley within which sight lines are maintained for vehicular traffic. The triangle is established by measuring a distance of 45 feet from the intersection of the extended curb or edge of the pavement of the street or alley. A straight line connecting the ends of each measured distance that forms the hypotenuse shall establish the visibility triangle.



Section 3 - Classifications

(a) **On-premise Signs and Off-Premise Signs.** For purposes of this ordinance and the provisions hereof, a sign shall be first classified as either an "on-premise sign" or an "off-premise sign."

On-Premise Sign. Shall mean any sign identifying or advertising the business, person, activity, goods, products or services primarily sold or offered for sale on the premises where the sign is installed and maintained when such premises is used for business purposes.

Off-Premise Sign. Shall mean any sign that advertises a business, person, activity, goods, products or services not usually located on the premises where the sign is installed and maintained, or that directs persons to any location not on the premises where the sign is located.

(b) Types Of Signs. All signs shall further be classified into one of the following types of signs:

BANNER SIGN. Shall mean any sign constructed of cloth, canvas, light fabric or other light material, not to exceed 40 square feet in size; provided that portable signs, flag signs, light standard decorations and awning signs shall not be considered banner signs.

GROUND SIGN. Shall mean a sign that is supported by uprights or braces in or upon the ground, including portable signs.

BUILDING SIGN. Shall mean one or more of the following signs:

MARQUEE SIGN shall mean a sign attached to or hung from a canopy or covered structure projecting from and supported by a frame or pipe support extending beyond a building.

PROJECTING SIGN shall mean any sign that is affixed to any building wall or structure and extends beyond the building wall or structure more than 12 inches.

ROOF SIGN shall mean any sign or portion of a sign erected, constructed or maintained above the roofline of any building.

WALL SIGN shall mean any sign affixed to or painted upon the wall of any building.

(c) Special Function Signs. Any on-premise or off-premise sign of any type may also be included within one or more of the following additional classifications according to special functions:

AWNING SIGN shall mean any sign constructed of a fabric type material stretched over a rigid metal frame that is attached to the wall, roof or mansard of a building. Such signs shall be classified as wall signs.

ELECTRICAL SIGN shall mean any sign containing electrical wiring or utilizing electric current, but not including signs illuminated by an exterior light source.

FENCE SIGN shall mean any sign affixed to or painted upon a fence. A fence sign shall be classified as a ground sign, but shall not be required to comply with the structural requirements for signs described in this ordinance.

FLAG SIGN shall mean any flag except the flags of the United States, Texas or any other governmental entity, used for advertising, that contains or displays any written message, business name, pictorial representation, logo, corporate symbol, silhouette or other visual representation identifying or advertising a particular business, good, service or merchandise sold or available for sale on the premises where the flag is erected, displayed or maintained.

MESSAGE BOARD SIGN shall mean any sign or portion of a sign containing a sign face designed to allow the removal or replacement of individual letters, words or symbols on the

sign face for the purpose of changing an advertising message.

MULTI-TENANT SIGN shall mean an on-premise sign displaying commercial advertising for two or more distinct commercial businesses or commercial service entities upon a single sign structure.

PORTABLE SIGN shall mean any sign designed or constructed to be easily moved from one location to another, including signs mounted upon or designed to be mounted upon a trailer, bench, wheeled carrier or other nonmotorized mobile structure; a portable sign that has its wheels removed shall still be considered a portable sign hereunder. For the purposes of this ordinance, trailer signs and signs on benches are portable signs.

PROVISIONAL SIGN shall mean a sign of light weight material to be used until permanent signage can be fabricated and erected.

SPECTACULAR SIGN shall mean a sign that has one or more of the following as elements in its physical structure:

- (1) Automatically changing advertising that changes more often than once every five minutes (not including date, time, temperature, weather and stock market information);
- (2) Blinking, rotating, moving, chasing, flashing, glaring, strobe, scintillating or spot lights, or similar devices;
- (3) Lights or colored elements creating a continuously moving, shimmering or prismatic affect, or
- (4) Rotating or moving parts.

The various classifications established in this section shall also constitute definitions for purposes of the interpretation of this ordinance.

Section 4 -- Sign Administration And Enforcement

(a) Sign Administrator. The City Coordinator shall administer and enforce the terms and conditions of this ordinance and all other provisions of law relating to signs. The City Coordinator is empowered to delegate, all or part of the duties and powers granted herein by this ordinance to the City Engineer as well as to other personnel employed by the City Of Magnolia.

(b) Enforcement Responsibility. The duties of the City Coordinator shall include not only the issuance of permits as required by this ordinance (the administrative duties of which may be delegated by the City Coordinator to the City Secretary), but also the responsibility of ensuring that all signs comply with this ordinance and any other applicable laws, and that all signs for which a permit is required do, in fact, have a permit. The City Coordinator shall cause to be made such inspections as may be necessary and initiate appropriate action to bring about compliance with this ordinance and

other applicable law if such inspection discloses any instance of noncompliance. The City Coordinator shall investigate any complaints of alleged violations of this ordinance.

(c) Powers of City Coordinator. The City Coordinator shall have the power and authority to administer and enforce the conditions of this ordinance and all other laws relating to signs. Included among such powers are the following specific powers:

(1) Every sign for which a permit is required shall be subject to the inspection and approval of the City Coordinator. When deemed advisable by the City Coordinator, a sign may be inspected at the point of manufacture if such point is within or adjacent to the sign code application area.

(2) Upon presentation of proper identification to the owner, agent or tenant in charge of such property, the City Coordinator or his representative may enter, for the purposes of inspecting and investigating signs or sign structures, any building, structure or other premises or property during normal business hours, provided, however, that in cases of emergency where extreme hazards are known to exist that may involve imminent injury to persons, loss of life or severe property damage, and where the owner, agent or tenant in charge of the property is not available after the City Coordinator has made a good faith effort to locate same, the City Coordinator may enter the aforementioned structures and premises at any time upon presentation of proper identification to any person on the premises. Whenever the City Coordinator or his representative shall enter upon private property, under any circumstances, for the purpose of inspecting and/or investigating signs or sign structures, which property has management in residence, such management, or the person then in charge, shall be notified of his presence and shown his proper and official credentials. The City Coordinator or his representative, when on private property, shall observe the establishment's rules and regulations concerning safety, internal security and fire protection. Whenever the City Coordinator is denied admission to inspect any premises, inspection shall be made only under authority of a warrant issued by a magistrate authorizing the inspection for violations of this ordinance. Any warrant so issued shall constitute authority for the City Coordinator to enter upon and inspect the premises described therein.

(3) Upon notice and issuance of a stop order from the City Coordinator, work on any sign that is being conducted in a manner contrary to the provisions of this ordinance or is being conducted in a dangerous or unsafe manner shall be immediately stopped. Such notice and order shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work and shall state the conditions under which work may be resumed. Where an emergency exists, written notice shall not be required to be given by the City Coordinator. Following the issuance of a stop order, the City Coordinator shall initiate proceedings to revoke any permit issued for the work covered by such stop order, consistent with the provisions of this ordinance, unless the cause of the stop order is resolved to the City Coordinator's satisfaction.

(4) The City Coordinator shall have, and is hereby granted, the power and authority to revoke any and all licenses or permits authorized by this ordinance for violation of the terms

and provisions of this ordinance, provided that the City Coordinator shall conduct a hearing prior to the revocation of any license or permit authorized under this ordinance to determine the facts incident to the pending revocation. The person whose license or permit is under consideration shall be given at least ten calendar days' written notice of the hearing and shall be permitted to present relevant facts and legal argument regarding the pending revocation. Following such hearing, the City Coordinator shall consider the merits of the case and shall present a written opinion prior to any action. Provided further, however, that if, in the opinion of the City Coordinator, the health, safety or welfare of the citizens of the sign code application area is endangered by any violation of this ordinance, the City Coordinator may immediately revoke any or all licenses or permits authorized by this ordinance and shall conduct the necessary hearing as soon as possible thereafter, but in no case later than five business days after the effective date of the revocation unless the affected licensee or permittee shall request a later date.

The City Coordinator may adopt regulations and procedures necessary to implement the provisions of this ordinance.

(d) Violations and Penalties. Any person who shall violate any provision of this ordinance shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than \$50.00 and not more than \$500.00 for each violation. Each day in which any violation shall occur shall constitute a separate offense. To the extent that any violation of any provision of this ordinance also constitutes a violation of state law, then it shall be punishable as provided by the applicable state law. In addition, the City Attorney is hereby authorized to take all actions, both legal and equitable, which are necessary to assure compliance with this ordinance.

(e) Appeals.

(1) Any person wishing to appeal a decision of the City Coordinator on the grounds that the decision misconstrues or wrongly interprets this ordinance may, within ten days after the decision, appeal the same to the City Council, provided that the appealing party shall give notice of appeal in writing to the City Secretary within ten days following the decision appealed from and, provided further, that the appealing party shall comply with the City Coordinator's decision pending appeal unless the City Coordinator shall direct otherwise.

(2) An appeal to the City Council shall be *de novo*. Upon appeal to the City Council, the City Coordinator, or his designate, may testify before the City Council concerning matters related to the appealed decision.

Section 5 -- Sign Permits and Fees

(a) Permit Required. No person shall erect, reconstruct, alter, relocate or use a sign within the sign code application area without first having secured a written permit from the City Coordinator to do so, subject only to the exceptions set forth in this ordinance.

(b) Exceptions. No permit shall be required under this ordinance for on-premises signs of the

following descriptions, unless any such sign is a spectacular sign or portable sign. Any sign listed hereunder shall be erected and maintained in a safe condition in conformity with all applicable building, construction, and electrical codes.

- (1) Signs painted on glass surfaces or windows or doors.
- (2) Signs not over 200 square feet in area painted upon the wall of a building; provided, however, that such signs shall be counted as "wall signs" as defined herein.
- (3) Signs erected by the city, State of Texas (including its political subdivisions, such as counties and school districts), or the federal government and the lessees of such governmental entities.
- (4) Railroad signs.
- (5) Legal notices and house numbers.
- (6) A sign not over 40 square feet in area setting forth information concerning a building or other structure under repair or construction or advertising the sale or rental of the premises.
- (7) Signs authorized by and subject to the provisions of City ordinances.
- (8) Banner signs, provided there is only one such sign on any premises, and further provided the sign is securely attached and placed flush against an exterior wall of a building and is displayed for a maximum of seven days in any 30-day period.
- (9) Signs otherwise required by local, state, or federal law.
- (10) On-premise signs no larger than 6 square feet in size, and no more than 5 feet in height, that display only business names or logos, setting forth the location of or directions to parking or buildings located on the premises, or regulating the flow of the on-premise traffic. Such directional signs shall be limited to a maximum of two for each entrance for vehicular access.
- (11) Signs displayed, designed or used for or upon motor vehicles, except that any sign displayed or used on a motor vehicle for the purpose of advertising shall ~~not~~ be exempt from this ordinance. *MMc*
- (12) Signs designed and used for display upon or with lighter or heavier-than-air craft.
- (13) Signs not exceeding 200 square feet that are painted on the face of a building no higher than the roof line and that form an integral part of a canopy or marquee entrance and state only the street number, name of proprietor and the name of the premises therein, provided that the number of such signs shall not exceed the number of vehicular entrances for such premises, and provided further, that such signs shall be counted as marquee signs for purposes of this ordinance.

(14) Provisional signs installed by a licensed sign contractor holding current and valid permits for the erection of permanent signage on the location where the provisional signs are erected, until the permanent signage can be installed.

(15) Light Standard Decorations.

(16) Political Signs. Signs which are purely for the purpose of either espousing or opposing a candidate, political party, or proposition for an upcoming election and which have less than 40 square feet of surface area on the face thereof.

(17) Hand Held Signs. Signs which are designed to be held by hand and are actually use as hand held signs.

(c) Application Procedure.

(1) The application for a permit shall be submitted in such form as the City Coordinator may prescribe and shall be accompanied by drawings and descriptive data to verify compliance with the provisions of this ordinance. Construction permit applications for new ground signs, when erected or constructed to heights exceeding 30 feet above ground level, or for new roof signs shall be accompanied by a drawing of the sign structure and the sign prepared by and certified by a professional engineer registered in the State of Texas; the City Coordinator at his option may also require similar certification by a registered professional engineer where any unusual structural provisions of a proposed sign indicate such certification is necessary in the interest of public safety.

(2) Unless waived by the City, every application shall be executed and verified under oath by both the owner of the premises upon which the sign is to be or has been constructed, or the authorized lessee of such premises, and the sign company if the sign is an off-premise sign, that the sign is authorized to be erected or to be thereafter maintained on the premises, and shall contain the sworn affidavit of the owner or lessee and the sign company that the sign does not violate any applicable deed restriction or other similar restrictions on the premises.

(3) If the location, plans and specifications set forth in any application for a permit conform to all of the requirements of this ordinance and other applicable provisions of the Building Code, the City Coordinator shall issue the permit.

(d) Operating Permit Effectiveness--Renewal Permit. Each operating permit issued shall be effective for a period of two years. Not less than 30 days nor more than 60 days prior to the conclusion of each two-year period, applications may be made for a two-year extension of the permit. Such application shall be submitted in such form as the City Coordinator may prescribe, accompanied by payment of applicable fees, and shall be executed, verified and contain the sworn affidavit described in this ordinance. If the application for extension of permit fully meets the requirements of applicable law in effect at the time of such application, the City Coordinator shall issue a renewal permit for an additional three-year period or such other time as may be required by law.

(e) Existing Signs--Operating Permits.

(1) After the effective date, all signs then existing must receive operating permits according to the following schedule:

- a. All portable signs, by 180 days after the effective date.
- b. All other signs which require a permit, except spectacular signs, 180 days after the effective date.
- c. Spectacular signs 180 days after the effective date.

(2) In order to receive operating permits, all signs, existing on the effective date must conform to the requirements of this ordinance as follows:

- a. Existing portable signs must conform when the permit is issued.
- b. Existing spectacular signs must conform with the provisions herein relating to spectacular signs when the operating permit is issued.
- c. Existing on-premise signs, unless portable signs or spectacular signs, if they were legally and properly permitted or legally and properly exempt from having a permit prior to the effective date, must conform with the provisions of this ordinance when an operating permit is issued following six years after the effective date. If such existing on-premise signs were not legally and properly permitted or legally and properly exempt from having a permit prior to the effective date, they shall conform when an operating permit is issued.
- d. All other existing signs need not conform if they were legally and properly exempt from having a permit prior to the effective date, provided that when an operating permit is issued following the effective date, such existing signs must conform to the height, location and size limitations of this ordinance. If such other existing signs were not legally and properly exempt from having a permit prior to the effective date, they shall conform when an operating permit is issued.
- e. Any sign required by any proper authority to be licensed or permitted in an unincorporated area and not so licensed or permitted when said area is brought into the sign code application area by an annexation or extension of the area of extraterritorial jurisdiction shall not be considered to have been "legally and properly exempt" for the purposes of this section.

(3) When any sign or a substantial part thereof is blown down or otherwise destroyed, or taken down or removed for any purpose other than maintenance operations or for changing the letters, symbols or other matter on such sign, it shall not be re-erected, reconstructed, repaired or rebuilt, except in full conformance with this ordinance. For purposes of this subsection, a sign or substantial part thereof is considered to have been destroyed if the cost of re-erecting, reconstructing, repairing or rebuilding the sign is more than 60 percent of the cost of erecting a new sign of the same

size, type and equivalent construction at the same location. The cost of erecting a new sign shall be determined by the City Coordinator or the City Engineer.

(4) For purposes of the section of this ordinance, pertaining to on-premise signs only, the phrase "changing the letters, symbols or other matter on such sign" shall not include replacing the sign cabinet. Any on-premise sign cabinet replacement shall remain the same size as previously permitted and shall meet the structural requirements of this ordinance, provided that the voluntary replacement of an on-premise sign cabinet, not incident to the sign structure being blown down or destroyed, shall not be permitted unless the sign structure is re-erected, reconstructed, repaired or rebuilt in full conformance with this ordinance.

(f) Subterfuge. Any permit secured before or after the effective date that, in the opinion of the City Coordinator, has been secured through subterfuge and not in full compliance with the provisions of this ordinance shall be revoked by the City Coordinator, provided that such revocation shall conform with the provisions of this ordinance regarding notice and hearing. It shall be a misdemeanor to secure a permit by means of false statement. Penalty of violation of this subsection shall be a Class C misdemeanor punishable by a fine or not less than \$1.00 nor more than \$500.00 per offense.

(g) Identification of Signs. Every sign for which a permit is required shall be plainly marked with the name of the owner, lessee or the sign company erecting and maintaining the sign and shall have affixed on the front thereof or on some other location so as to be conspicuous and easily identifiable from an adjacent public street an individually numbered sticker, tag or token provided by the City.

(h) Construction Permit Effectiveness--Renewal Permit. Any permit for construction of a sign shall become null and void unless construction of the sign is completed within 180 days or the permit is renewed for an additional 90 days, in which case an additional fee shall be payable equal to one-half the original fee paid and the proposed sign shall meet all of the requirements of this ordinance on the date of renewal.

(i) Fees. Permit fees, plan examination fees, reinspection fees and plan reexamination fees shall be as set forth by the City Coordinator and approved by City Council. There is hereby established a fund of the City known as the Sign Permit Fund. All proceeds derived from the fees collected under this ordinance shall be deposited into said fund. The fund shall be used solely to pay the administrative and related costs of enforcing this ordinance, provided, however, where a question arises as to the propriety of a cost arising under this ordinance, the City Council shall have the authority to judge the propriety of said cost. Fees for operating permits that are not paid within thirty days following the mailing of a bill therefor by the City will be assessed a 15 percent surcharge.

(j) No Refund of Fees. The applicant for a permit or holder of a permit shall not be entitled to a refund of any fee paid in case the permit is revoked.

(k) Deposit or Bond. When any work on a sign or sign structure that is to be done beyond the curbline or on or above public property may cause the City to sustain loss, damage or injury to public property or to be put to expense in correcting conditions resulting therefrom, the City

Coordinator shall require the person proposing to do such work to furnish a bond in the amount of \$25,000.00, in the form determined by the city attorney, or to post a deposit of a like amount, to indemnify the City against any cost that may be incurred or any loss, damage or injury that may be sustained by the City because of such work, and as a guaranty of compliance with this and other applicable laws and ordinances. Such required bond or deposit shall be furnished or posted before any permit is issued to work.

(1) Electrical Signs. Any electrical sign shall conform fully to the requirements of the City Electrical Code and shall also receive a permit, where required, under the provisions therein.

Section 6 -- Sign Companies

(a) License Required. Any person wishing to engage in leasing, erecting or removing of signs for any other person shall first obtain a license from the City Of Magnolia to do so.

(b) License Fee. Any person required to obtain a license under the terms of this section shall pay a license fee of \$200.00. The term of the license may be set by the City Coordinator be, in no event, shall the expiration date for a license issued herein exceed three years.

(c) Address and Agent for Service of Process. Any person who is required to obtain a license under the terms of this section shall at all times provide shall appoint and file of record with the City Coordinator an agent who is a resident of the state of Texas for service of process.

(d) Insurance. Each person licensed under the terms of this section shall submit evidence that the performance of work in connection with each sign will be covered by approved public liability and property damage insurance in the amount of \$100,000.00 for any person injured, \$250,000.00 for injury to more than one person and \$75,000.00 for property damage. Such policies of insurance shall be in a form selected or approved by the City Attorney and shall indemnify the City of Magnolia from all claims for personal injury, death or property damage arising from the construction or maintenance of the sign for which the permit is issued. Such policies of insurance shall be issued by an insurance company duly authorized to do business and issue such policies of insurance in the State of Texas and maintaining an office or represented by an authorized agent in the State of Texas and shall require that the insured give 10 days' written notice to the City Coordinator before cancellation of the policy. Whenever any policy of insurance is canceled, the City Coordinator shall require that all work to which such policy applies be stopped immediately.

(e) Removal Bond. Reserved.

(f) Electrical Sign Contractor. Each person licensed under the terms of this section whose operations include signs that in any manner include the use of electricity shall adhere to the requirements of the Electrical Code for the City of Magnolia, and shall pass such examinations and tests and hold such licenses and permits as may be required thereunder.

Section 7 -- Maintenance, Safety, Removal

(a) Maintenance. All signs shall be kept in good repair and, unless of galvanized or noncorroding metal or treated with appropriate wood preservative, shall be thoroughly painted as often as is necessary, consistent with good maintenance. All braces, bolts, clips, supporting frames and fastenings shall be free from deterioration, termite infestation, rot or loosening. All signs shall be able to withstand safely at all times the wind pressure as set forth in this ordinance. In case any sign is not so maintained, the City Coordinator shall give written notice to the owner or lessee thereof to so maintain the sign or to remove the sign.

(b) Unsafe Signs. Should any sign, in the opinion of the City Coordinator, become insecure or in danger of failing, or otherwise unsafe, the City Coordinator shall give written notice of the condition of the sign to the person owning, leasing, or responsible for the sign. Said person so notified shall correct the unsafe condition of the sign in a manner to be approved by the City Coordinator in conformity with the provisions of this ordinance.

(c) Unlawful Signs. In case any sign shall be installed, erected, constructed or maintained in violation of any of the terms of this ordinance, the City Coordinator, or a person designated by the City Coordinator, shall give written notice to the owner, lessee or person responsible for said sign, ordering said owner, lessee or person to alter the signs so as to comply with this ordinance or to remove the sign within a specified period of time. For portable and banner signs, the specified period shall be at least 72 hours; provided, however, that such violation does not create an immediate threat to the public safety. In the event that the City Coordinator determines that the sign poses an immediate threat to the public safety, the notice period shall be 24 hours. For other signs, the specified period shall be ten working days, exclusive of Saturdays, Sundays and holidays observed by the closure of city offices. The provisions of this subsection shall not apply to signs on the public right-of-way, which shall be governed by the provisions of this ordinance.

(d) Removal of Signs. Any written notice to alter or to remove a sign shall be given by the City Coordinator by certified mail or written notice served personally upon the owner, lessee or person responsible for the sign, or the owner's agent. If such order is not complied with within ten days, the City Coordinator shall initiate proceedings under this ordinance to revoke the permit and remove the sign at the expense of the owner, lessee or person responsible therefor. The sign company that received a permit for any such sign shall be deemed to have forfeited the removal bond required herein and the City Coordinator shall use the proceeds of said bond to remove the sign, with the remainder, if any, being deposited into the fund created by this ordinance.

(e) Non-use of On-premise Sign Structure. No on-premise sign structure shall be erected or maintained on any premises on which there is no business currently in operation that would require the use of such on-premise sign for advertising. The owner, property owner or permitted shall keep such sign in good repair as required under this section, and shall, in addition, paint over, blank out or otherwise obliterate any existing advertising message on the existing sign face or faces that by virtue of any cessation of business operations on the premises no longer applies to those premises. Provided, further, that any such on-premise sign structure composed of a face or faces circumscribed by one or more cabinets of metal or other material shall at all times have a blank sign face contained within each such cabinet.

Section 8 -- Miscellaneous Sign Provisions

(a) Displays and Certain Banners. Seasonal-holiday displays and banners which do not, in themselves contain a commercial message, and similar temporary displays erected without advertising shall not be subject to the provisions of this ordinance, but shall be subject to the fire ordinance and rules and regulations for fire safety promulgated by the city council or the city fire marshal.

(b) Signs on Public Rights-of-way.

(1) With the exception of signs lawfully permitted, exempted, or erected prior to the effective date, it shall be unlawful to place a sign upon a public street, public sidewalk, public alley, public right-of-way, public curb or other public improvement in any public street or grounds, on any public bridge or part of same, or on any public building or structure of any kind belonging to the city, or in any public place or on any public improvement unless express consent therefor shall have been first granted by the City Council. This subsection does not apply to public property leased for private business purposes.

(2) Any unlawful sign found within a public right-of-way of a public street, public sidewalk or public alley shall be seized, and removal thereof is hereby authorized. Municipal employees, under the direction of the City Coordinator are hereby authorized to impound any signs found on a public street, public sidewalk or public alley and transport or cause the same to be transported to a location to be designated by the City Coordinator for storage. The City Coordinator shall keep a record of where such signs were located when they were so impounded and the date on which they were so impounded and shall hold the same in the storage area for a period of not more than 30 days. Any signs so held may be redeemed by the owner thereof upon the payment of a fee to the City through the custodian thereof, consisting of a total of \$50.00 for hauling the same to storage, plus \$10.00 per day storage fee for each day the sign is stored. Such fee shall be in addition to, and not in lieu of, any fine imposed upon such owner for violation of this ordinance. Any sign impounded and stored and not redeemed by the owner thereof within 30 days may be sold by the City at auction as surplus property of the City with the proceeds therefrom being deposited into the general fund of the City, or as the City Council may subsequently designate.

EXCEPTION: Stake-type signs constructed of cloth, wood, paper or similar lightweight materials that are picked up in the right-of-way may be disposed of immediately, without regard to the foregoing impoundment provisions.

(c) Signs on Private Property. No person shall place a sign on private property without the express consent of the owner or agent for the owner of said private property. Consent by the property owner shall not be implied by past or present allowance of the placement of similar signs.

(d) Signs Resembling Official Signs. No sign shall be constructed so as to resemble any official marker erected by the city, state or any governmental agency or so that by reason of position, shape or color it would conflict with the proper functioning of any traffic sign or signal, or so that its shape

or color would conflict with or be confused with emergency vehicle lights, especially blinking lights. Use of words such as "stop," "look," "danger" or any other word, phrase, symbol or character in such manner as would reasonably cause interference with, mislead, or confuse traffic is prohibited.

(e) Signs on Traffic Islands. Signs are prohibited on traffic islands, being areas of less than 5,000 square feet entirely bounded by, or located within, the curb lines of a public street or streets, or being any area having a minimum distance of less than 50 feet between the curb lines of any street or streets.

(f) Signs Not to Obstruct.

(1) No sign shall be erected, constructed or maintained so as to obstruct any means of egress, or any opening necessary for required light, ventilation or fire fighting or for escape from the premises, or so as to prevent free passage from one part of a roof to any other part thereof.

(2) No sign shall be attached to any exterior stairway, fire escape, fire tower balcony or balcony serving as a horizontal exit.

(3) No sign shall be erected, constructed or maintained so as to interfere with the free operation of a counterbalanced section of a fire escape, and no projecting sign shall be erected, constructed or maintained without a minimum of 7 feet of clearance over any such counterbalanced section.

(4) No sign shall obstruct the free use of any window above the first story.

(g) Signs Not to Create Easements. No permit for a sign extending beyond private property onto a public street, public sidewalk or public alley shall constitute a permanent easement, and every such permit shall be revocable at any time by action of the City Council, and the City shall not be liable for any damages to the owner by reason of such revocation.

(h) Change of Ornamental Features, Electrical Wiring or Advertising Display. No sign permit is required for the change of any of the ornamental features, electrical wiring or devices, or the advertising display of a sign previously permitted. This provision shall not apply to spectacular signs with respect to advertising display, nor shall it release a person from complying with all other applicable permitting requirements of the City, including those of the Building Code.

(i) Signs Obscuring or Interfering with View. Signs may not be located or illuminated in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device, or so as to obstruct or interfere with the view of a driver of approaching, emerging or intersecting traffic, or so as to prevent any traveler on any street from obtaining a clear view of approaching vehicles for a distance of 250 feet along the street.

(j) Proper Shielding of Lighted Signs--Interference with Drivers of Motor Vehicles. Signs

containing lights that are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way from which the sign is primarily viewed and that are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or that otherwise interfere with any driver's operation of a motor vehicle, are prohibited.

(k) Spectacular Signs. Spectacular signs are prohibited, except as follows:

(1) Moving or intermittent lights may be used to give the date, time and temperature information, brief weather reports, or stock market quotations;

(2) Each business may have a single sign out of the number permitted to the business on which the portion of the sign that comprises the name of the business or its official logo may be animated. For purposes of this subsection, "animated" shall mean using lights or colored elements to create a continuously moving, shimmering or prismatic effect, but shall not include moving, rotating, chasing, flashing, blinking, strobe or spot lights; and

(3) Spectacular signs meeting the requirements of this ordinance are restricted to businesses located on premises having a frontage on a major thoroughfare or a freeway; provided, however, that spectacular signs of the type described in this ordinance may not be located on a premises having a frontage on a major thoroughfare or freeway that is within the boundaries of any scenic or historical right-of-way or district which may be subsequently designated.

(l) Visibility Triangle. Within the area of a visibility triangle, no part of the face of a sign shall be lower than a height of 8 feet above grade level of the nearest street.

(m) Flag Signs. Flag signs shall conform to the applicable requirements of this ordinance (structural requirements section), including the height limitations described in the height requirement table. Flag signs shall be counted as ground signs for the purposes of this ordinance, notwithstanding their method of attachment, display or installation upon the building or premises where they are located. All flag signs must be permitted, however, one flag sign per frontage, with a maximum of two per business, shall be exempted from the total allowable on-premise sign limitations of this ordinance, and such signs shall be exempted from the requirement of operating permits only. Provided, however, all flag signs shall comply with the height requirements set forth in height requirement table and the structural requirements set forth in the Structural Requirements section.

(n) Utilities Poles and easements. No sign shall be attached to or affixed on any utilities pole or within any utilities easement without the written consent of the utility.

(o) State Highways. No sign may be erected within a state right of way or within a state highway easement.

(p) Yard sale and real estate signs. No yard sale signs or signs advertising real property, including real estate developments may be erected on property without the prior written consent of the property owner.

Section 9 -- Structural Requirements

(a) Design.

(1) General. All signs and sign structures shall be designed and constructed to resist wind forces as specified in this section and any provisions of the city building code relating to wind force resistance. All bracing systems shall be designed and constructed to transfer lateral forces to the foundations. For signs on buildings, the dead and lateral loads shall be transmitted through the structural frame of the building to the ground in such manner as not to overstress any of the elements of the building.

(2) The overturning moment produced from lateral forces shall in no case exceed two-thirds of the dead-load-resisting moment for all signs. Uplift due to overturning shall be adequately resisted by proper anchorage to the ground or to the structural frame of the building for all signs. The weight of earth superimposed over footings may be used in determining the dead-load-resisting moment. Such earth shall be carefully placed and thoroughly compacted.

(3) The allowable stresses in wire ropes and steel guy rods and their fastening shall not exceed one-fourth of their rated tensile strength.

(4) Wind loads. All signs and sign structures shall be designed to resist wind loads as prescribed in wind design requirements of the City Building Code, as amended.

(5) Vertical design loads. Vertical design loads, except roof live loads, shall be assumed to be acting simultaneously with the wind loads.

(6) Working stresses. All signs shall be designed to conform with the requirements of the City of Magnolia Building Code regarding allowable working stresses. The working strength of chains, cables, guys or steel rods shall not exceed one-fifth of the ultimate strength of such chains, cables, guys or steel rods.

(b) Construction.

(1) General. The supports for all signs or sign structures shall be placed in or upon private property and shall be securely built, constructed and erected in conformance with the requirements of the City of Magnolia Building Code, as amended.

(2) Materials. Materials for construction of all signs and sign structures shall be of the quality and grade as specified for buildings in the City of Houston Building Code--General Provisions and be consistent with the City of Magnolia Fire Code.

(3) Nonstructural trim. Nonstructural trim and portable display surfaces may be of wood, metal, approved plastics, or any combination thereof, consistent with any applicable fire code

or ordinance.

(4) Anchorage. Members supporting unbraced signs shall be so proportioned that the bearing loads imposed on the soil in either direction, horizontal or vertical, shall not exceed the safe values stated in this ordinance. All ground signs shall be anchored to resist the wind load specified in this ordinance acting in any direction. Anchors and supports shall be designed for safe bearing loads on the soil and for an effective resistance to pullout amounting to a force 25 percent greater than the required resistance to overturning.

(5) Signs attached to masonry. Signs attached to masonry, concrete or steel shall be safely and securely fastened thereto by means of metal anchors, bolts or approved expansion screws of sufficient size and anchorage to support safely the loads applied.

(6) Wooden blocks. No wooden blocks or plugs or anchors with wood used in connection with screws or nails shall be considered proper anchorage, except in the case of signs attached to wood framing. Whenever anchors or supports consist of wood embedded in the soil, the wood shall be pressure treated with a preservative approved by the City Coordinator.

(7) Unbraced parapet wall. No anchor or support of any sign will be connected to or supported by an unbraced parapet wall, unless such wall is designed in accordance with the requirements for parapet walls specified in the City Of Magnolia Building Code, as amended.

(8) Display surfaces. Display surfaces in all types of signs may be made of metal, wood, glass or "approved plastics," as that term is defined in this ordinance, unless otherwise prohibited herein or prohibited by any current or subsequently enacted fire code or ordinance.

(9) Glass thickness. Glass thickness and area limitations shall be as follows:

SIZE, THICKNESS AND TYPE OF GLASS PANELS IN SIGNS			
Maximum Size of Exposed Glass Panel Any Dimension Area		Minimum Thickness of Glass (In Inches)	Type of Glass
(In Inches)	(In square inches)		
30	500	1/8	Plain, Plate or Wired
45	700	3/16	Plain, Plate or Wired
144	3,600	1/4	Plain, Plate or Wired
Over 144	Over 3,600	1/4	Wired

(c) Electrical Requirements.

(1) All electrical fixtures, equipment and appurtenances installed in conjunction with a sign

shall be designed and installed in accordance with the City of Magnolia Electrical Code.

(2) Subject to the provisions and restrictions of the section entitled "On-premise Signs", all electrical signs shall be limited to bulbs of 150 watts for bulbs located in the face of the sign. Signs shall have electrical circuits limited to the normal voltage used in most commercial buildings, shall contain a sunshade screen dimmer, and shall not use reflectorized lights as part of the face of the sign. For the purpose of this section, "reflectorized lights" shall mean any lamp constructed with reflector-type materials so as to focus, intensify, flood or spot such lamp in a certain direction, including, but not limited to, lamps designated by the manufacturers as flood, spot, reflector flood, reflector spot, reflector light or clear reflector.

(d) Use of Plastic Materials.

(1) For the purpose of this subsection, the following definitions shall apply:

DISPLAY SURFACE shall mean the entire surface of a sign, on one side, devoted to exhibiting or contrasting exhibits of advertising. The display surface shall generally include the entire sign surface except for the sign frame and incidental supports thereto.

SIGN FACING or FACING shall mean a separate and distinguishable portion of the overall display surface.

(2) Notwithstanding any other provisions of this ordinance, plastic materials that burn at a maximum rate of 2 1/2 inches per minute, in sheets of 0.060 thickness when tested in accordance with "Test for Flammability of Rigid Plastics Over 0.050 Inches in Thickness", ASTM D 635-1974, shall be deemed "approved plastics" for the purposes of this ordinance and may be used as the display surface material and for the letters, decorations and facings on signs, provided that the structure of the sign in which the plastic is mounted or installed is noncombustible.

(3) Individual plastic facings of electrical signs shall not exceed 200 square feet in area. If the area of a display surface exceeds 200 square feet, the area occupied or covered by approved plastics shall be limited to 200 square feet plus 50 percent of the difference between 200 square feet and the-total square footage area of the sign.

(4) The area of plastic on a display surface shall not in any case exceed 550 square feet.

(5) Letters and decorations mounted upon an approved plastic facing or display surface shall be made of approved plastics.

(e) Height and Size Limitations.

(1) Except as stated herein, no ground sign shall be established, constructed or erected that

exceeds an overall height of 42 1/2 feet, including cutouts extending above the rectangular border, measured from the highest point on the sign to the grade level of the ground surface in which the sign supports are placed. On-premise ground signs shall be further limited in height and size in accordance with the height requirement table. On-premise roof signs shall not at any point exceed 8 feet above the roof level; an on-premise wall sign erected upon a facade, false front, mansard or other similar architectural construction that extends above the actual roof shall not at any point exceed 8 feet above the highest point of the actual roof. Projecting signs shall be a minimum of 14 feet in height above the grade. These height limitations shall not apply to on-premise signs lawfully permitted or lawfully erected prior to the effective date.

(2) The aggregate size of all wall signs shall cover no more than 50% of the wall surface upon which they are mounted or painted.

(3) Except as stated herein, and subject to such further restrictions on size as are established under the height requirement table, no on-premise sign other than an on-premise wall sign shall be established, constructed, or erected that has a face area exceeding 300 square feet, including cutouts, but excluding uprights, or that has face dimensions that exceed 30 feet in width. No off-premise sign shall be established, constructed or erected that has a face area exceeding 672 square feet, including cutouts, but excluding uprights. No double faced off-premise sign shall be established, constructed or erected unless each face is 75 square feet or less and the faces are abutting on one edge. Additional restrictions on the height and size of signs, according to the type of sign and the category of right-of-way adjacent to the frontage where the sign is located, are shown in Height Requirement Table as follows:

(4) "Sign type," for purposes of height requirement table, refers to the number of separate and distinct business entities, service entities, persons or organizations utilizing a single sign structure for their respective commercial advertising messages. The term "single business sign" shall mean any sign, regardless of the number of faces, messages or cabinets on the sign structure, that contains advertising for a single business or service entity only. Regardless of the number of the sign faces on any single sign structure advertising separate business or service entities, no business or service entity shall have a sign larger in size than that authorized for a single business or service entity. The size in square feet referred to in the Height Requirement Table is the total area allowable for the combined area of all sign faces on any one side of a single sign structure. For purposes of height requirement table, any sign that is located along and visible from more than one category of right-of-way shall be subject to the least restrictive requirements established for signs of any category of right-of-way from which the sign is visible and along which the sign is located.-

(f) Method of Determining the Area of a Sign. In determining the area of any sign, the dimensions of the rectangle enclosing the signboard, excluding the supporting structure, shall be used. In measuring ground signs with more than one cabinet, each cabinet will be circumscribed. If the sign

includes cutouts or facings extending beyond the dimensions of the rectangular signboard, the measurement of the sign area shall include the actual area of the cutout or extended facings. For signs of a double-faced, back-to-back or V-type nature, each face shall be considered a separate sign in computing the face area.

No on-premise, "single business sign," as that term is defined herein shall be comprised of more than three cabinets when being circumscribed as one ground sign with visible air space between cabinets.

(g) Clearances

(1) Clearances from high voltage power lines shall meet the distances prescribed in the Natural Electrical Safety Code in the version adopted by the City's electrical code.

(2) No portion of a sign or sign structure shall project into any public alley unless said portion is a minimum of 14 feet in height above grade.

(h) Fire Prevention Requirements

(1) For purposes of this section, the following definitions shall apply:

NONCOMBUSTIBLE MATERIAL shall mean material no less flammable than steel, iron, or other similar metal, or as the term shall be otherwise defined by the city building code or by the City Coordinator or Engineer, "noncombustible material" shall include "incombustible" material.

COMBUSTIBLE MATERIAL shall mean material more flammable than metal, but no more flammable than wood or "approved plastics," as that term is defined herein; no material more flammable than wood or approved plastic shall be used in any sign.

(2) When signs are required herein to be constructed of noncombustible material, all parts of such signs, including the sign structure, shall be of noncombustible material, except that the following parts made out of combustible material shall be permitted:

- a. Small ornamental moldings, battens, cappings, and nailing strips;
- b. Individual letters, symbols, figures and insignia supported by or within a noncombustible frame or a permitted combustible facing as otherwise permitted by this ordinance;
- c. Portions of each face of a sign, up to but not exceeding 100 square feet of facing, as long as the total area of facing for such sign does not exceed 200 square feet;

d. Wood posts and braces for signs whose surface is not more than 10 feet 6 inches in height at any point when measured from the ambient ground level if the sign is determined to be nonhazardous by the City Coordinator, based on health and safety considerations.

(i) Ground Signs

(1) Lighting reflectors on ground signs may project beyond the face of the sign.

(2) Every ground sign shall provide a rigid construction to withstand wind action in all directions.

(3) Any person, including owner, lessee, or other person using any vacant lot or premises for the location of a ground sign shall keep such premises clean, sanitary, inoffensive and free and clear of all obnoxious substances and unsightly conditions on the ground in the vicinity of such ground sign.

(j) Wall Signs. Wall signs attached to exterior walls of solid masonry, concrete or stone shall be safely and securely attached to the same by means of metal anchors, bolts or expansion screws of not less than 3/8-inch diameter and shall be embedded at least 5 inches. Foam letters shall not be required to be anchored by metal anchors. Wood blocks shall not be used for anchorage, except in the case of wall signs attached to buildings with walls of wood. A wall sign shall not be supported by anchorages secured to an unbraced parapet wall.

(k) Roof Signs

(1) All on-premise roof signs shall be so constructed as to display no space between the top of the roof and the lowest part of the sign. In addition, no portion of any roof sign structure shall project beyond an exterior wall.

(2) Every roof sign affixed to a rated building shall be constructed entirely of steel, including the upright supports and braces. Roof signs shall not be located on any roof in such a manner that the location would impede access to any portion of the roof by Fire Department or emergency personnel.

(3) The bearing plates of all roof signs shall distribute the load directly to or upon masonry walls, steel roof girders, columns or beams. The building shall be designed to avoid overstress of these members.

(4) All roof signs shall be thoroughly secured to the building upon which they are installed, erected or constructed by iron, metal anchors, bolts, supports, chains, stranded cables, steel rods or braces, and they shall be maintained in good condition and as set forth herein.

(l) Projecting Signs.

(1) All projecting signs shall be securely attached to a building or structure by metal supports such as bolts, anchors, supports, chains, guys or steel rods. Staples or nails shall not be used to secure any projecting sign to any building or structure.

(2) The dead load of projecting signs, not parallel to the building or structure, and the load due to wind pressure shall be supported with chains, guys or steel rods having net cross-sectional dimension of not less than 3/8 inch in diameter. Such supports shall be erected or maintained at an angle of at least 45 degrees with the horizontal to resist the dead load and at an angle of 45 degrees or more with the face of the sign to resist the specified wind pressure. If such projecting sign exceeds 30 square feet in one facial area, there shall be provided at least two such supports on each side of the sign not more than 8 feet apart to resist the wind pressure.

(3) All supports shall be secured by an expansion shield to a bolt or expansion screw of such size that will develop the strength of the supporting chain, guy or steel rod, with a minimum 5/8 inch bolt or lag screw. Turn buckles shall be placed in all chains, guys or steel rods supporting projecting signs.

(4) Chains, cables, guys or steel rods used to support the live, or dead load of projecting signs may be fastened to solid masonry walls with expansion bolts or by machine screws in iron supports, but such supports shall not be attached to an unbraced parapet wall. Where the supports must be fastened to walls made of wood, the supporting anchor bolts must go through the wall and be plated and fastened on the wall in a secure manner.

(5) A projecting sign shall not be erected on the wall of any building so as to project above the roof or cornice wall or above the roof level where there is no cornice wall; except that a sign erected at a right angle to the building, the horizontal width of which sign perpendicular to such wall does not exceed 18 inches, may be erected to a height not exceeding 2 feet above the roof or cornice wall or above the roof level where there is no cornice wall. A sign attached to a corner of a building and parallel to the vertical line of such corner shall be deemed to be erected at a right angle to the building wall.

(m) Marquee Signs. Marquee signs shall be attached to or hung from a marquee. The lowest point of a sign hung from a marquee shall be at least 8 feet above the ambient sidewalk or ground level, and further, such a sign shall not extend or project beyond the corners of the marquee. Marquee signs may be attached to the sides and front of a marquee, and a sign may extend the entire length and width of said marquee, provided that no sign shall extend more than 6 feet above nor 1 foot below such marquee, nor have a vertical dimension greater than 8 feet.

(n) Portable Signs.

SIGN TYPE	CATEGORY A		CATEGORY B		CATEGORY C	
	Height	Size	Height	Size	Height	Size
	(Ft.)	(SFt.)	(Ft.)	(SFt.)	(Ft.)	(SFt.)
SINGLE BUSINESS	14	100	24	200	42½	300
MULTI-TENANT 2 OR 3 BUSINESSES	19	200	30	400	42½	525
MULTI-TENANT 4 OR MORE BUSINESSES	24	300	36	600	42½	750
FLAG	20		40		60	

CATEGORY A shall mean visible from and located on premises with frontage on local streets, predominantly residential rights-of-way and scenic and historical rights-of-way and districts.

CATEGORY B shall mean visible from and located on premises with frontage on major thoroughfares other than predominantly residential rights-of-way or scenic and historical rights-of-way and districts.

CATEGORY C shall mean visible from and located on premises with frontage on freeways other than predominantly residential rights-of-way or scenic and historical rights-of-way and districts.

Section 10 -- On-Premise Signs

(a) On-premise Sign Provisions. The provisions of this section shall apply only to "on-premise signs," as that term is defined in this ordinance, within the sign code application area.

(b) On-Premise Sign Limitations.

(1) No business shall have more than a total of five on-premise signs, provided, however, that each business may select any combination of the signs described below in this subsection to reach that total:

a. Each business shall place no more than one on-premise ground sign or projecting sign per frontage. However, if a business has more than 350 feet of frontage, two on-premise ground signs, projecting signs, or a combination of these signs that totals two, will be allowed along the frontage; provided, however, that the two signs shall be spaced a minimum of 350 feet apart as measured parallel to the frontage. The total number of signs from all of the foregoing sign classifications shall not exceed two in number for each business;

b. Each business shall place no more than four on-premise roof signs, wall signs, or

combination of roof and wall signs;

c. Roof signs, designed to be architecturally compatible with the building. Wall signs shall not occupy more than 50 percent of the total wall surface. Wall signs shall not extend above the roofline of the building to which they are attached;

d. On-premise projecting signs shall not extend above the uppermost portion of the building to which they are attached except as expressly provided otherwise by this ordinance;

e. Each business shall place no more than three on-premise marquee signs.

(2) With the exception of on-premise signs lawfully permitted or erected prior to the effective date, all on-premise signs and sign structures shall be contained wholly within the premises upon which they are located and shall not extend onto the public right-of-way, provide that on-premise projecting signs may extend up to 10 feet outward from the building to which they are attached, as long as such extension is no closer than 2 feet behind the curb line.

(3) Spectacular Signs shall be prohibited, except as provided in Section 8.

(c) Residential Rights-of-way. All on-premise signs on residential rights-of-way shall conform in all respects to the requirements set forth in herein for general rights-of-way and shall be subject to the following additional restrictions:

(1) Ground signs comply with the height and size provisions of the Height Requirement Table.

(2) Spectacular signs shall be prohibited.

(3) Electrical signs shall be limited to not more than 10 bulbs of 100 watts or less, and shall be limited to 120 volts in the lighting circuit and may be illuminated only indirectly.

(d) Business Purpose Required. An on-premise sign must be erected in connection with a "business purpose," as that term is defined herein; any sign not connected with a business purpose shall be considered an off-premise sign.

(e) Relocation of Certain On-Premise Signs. Notwithstanding any provision herein to the contrary, any on-premise sign that has a valid operating permit and that exceeds the height and size limitations contained in the height requirement table, may be relocated on the same premises without having to conform with such height and size limitations, if the sign meets the following requirements and conditions:

(1) The sign is required to be removed from its present location because of the acquisition of the property upon which the sign is located by the city, the state, or any political subdivision of the state through eminent domain or purchase; and

- (2) The sign is relocated at the height and size indicated on the sign's current permit and without any substantial alterations in the construction materials of the sign; and
- (3) the sign otherwise conforms with all other provisions of this ordinance at the time of relocation.

Section 11 -- Off-Premise Signs

(a) **Off-Premise Sign Provisions.** The provisions of this section shall apply only to "off-premise sign," as that term is defined herein, within the sign code application area.

(b) **Prohibition of New Off-premise Signs.** From and after the effective date, no new construction permits shall be issued for off-premise signs within the sign code application area. This prohibition shall apply to all classifications of signs, including portable signs, with the exception that off-premise signs that advertise the sale or rental of real property or direct persons to the location of real property for sale or rental, which signs shall be limited to 40 square feet in area, shall continue to be permitted for a single three-year period.

(c) **General Location.**

(1) All off-premise signs shall be located within 800 feet of a commercial or industrial activity.

(2) No off-premise sign shall be located in a predominantly residential area.

(d) **Location On Property.** All off-premise signs and sign structures shall be within the deeded front building line, or if no such line exists, within the property line, but in no event closer than 20 feet to the curb of any public street or roadway.

(e) **Visibility Triangle.** Within the area of the visibility triangle, no part of the face of an off-premise sign shall be lower than a height of 8 feet above the grade level of the nearest street.

(h) **Abandonment of Off-premise Signs Structures.** Any off-premise sign structure, lawfully existing, which has no copy, transcript, reproduction, model, likeness, image, advertisement or written material on its face for a period of 120 consecutive days is hereby declared to be a violation of this section, and as such shall be restored to use or removed by the owner or permittee within 30 days after notice by the City Coordinator of such violation. If the sign is not restored by the 30th day following such notice, the sign company which erected the sign shall be deemed to have forfeited any removal bond and the City is hereby authorized to remove and dispose of the sign as an abandoned off-premise sign and sign structure.

(i) **Off-premise Sign Lists.** Each person engaging in the off-premise sign business shall file with the City Coordinator a certified list of all off-premise sign structures owned by him as of January

1st of each year. This list shall be filed on or before January 4th of each year and shall describe the location, type, dimensions, and permit number of each off-premise sign structure.

Section 12 -- Implementation In Area Of Extraterritorial Jurisdiction

(a) The provisions of this ordinance shall apply to the extraterritorial jurisdiction of the City. Off-premise signs in place prior to their inclusion within the City's extraterritorial jurisdiction shall not be considered a "new off-premise sign" for purposes of this ordinance.

Section 13 -- Application Of Fire Code and Building Code

The various provisions of the City's building and fire code ordinances shall be applicable to signs located or constructed within the area of City's extraterritorial jurisdiction as established by the Texas Local Government Code, as amended.

Section 14 -- Penal Provisions In Area Of Extraterritorial Jurisdiction

Any penal provision of:

- (1) This ordinance;
- (2) Any other provision of the building code to the extent that it relates to the location, maintenance, or construction of signs; and
- (3) Any other provision of any fire or safety ordinance to the extent that it relates to the location, maintenance, or construction of signs;

shall apply to offenses arising within the City of Magnolia's extraterritorial jurisdiction in the same manner as offenses arising within the City's extraterritorial jurisdiction.

Section 15 -- Special Permit

(a) A special permit shall be issued for the alteration or relocation of an existing off-premise sign situated within the Sign Code Application Area under the following circumstances only:

- (1) The sign to be altered or relocated must be a sign that has been lawfully constructed and maintained in accordance with all applicable state and local regulatory and permit requirements, and it must have been constructed and maintained with the permission of the person or persons owning the tract upon which it is situated;
- (2) The sign must be situated after its alteration or relocation according to the following priority:

- a. First, upon the remainder of the same tract or parcel of land upon which it was situated before its alteration or relocation, if any; or
- b. Second, if there is no remainder or if the remainder is not of sufficient size or suitable configuration for the alteration or relocation of the sign, then upon the property abutting the highway at the original sign location or upon the property abutting the insufficient remainder, if available; or
- c. Third, upon another tract or parcel of land owned by the same person or persons as the tract from which it was relocated; or
- d. Fourth, any other located expressly authorized by this ordinance.

(3) If the alteration or relocation is pursuant to subsection (2)a. or (2)c, above, then the person must sign a written waiver and release, releasing the City from any claims for temporary or permanent taking of property which is based in any manner upon the relocation, removal, or alteration of the sign to accommodate a public transportation system or project.

(4) Any sign altered or relocated must also, after alteration or relocation, comply with all state regulations.

(5) A special permit under this section shall be valid for ten years and shall not be renewable. The owner of the sign and the owner of the tract must agree in consideration of the issuance of the special permit under this section for the continued use of the sign in lieu its immediate removal, that they will remove the sign within ten years from the date of issuance of the special permit. Such agreement shall also contain a right of entry for the sign's removal, if not removed by the sign owner as agreed at the expiration of ten years.

Section 16 -- Abatement Of Off-Premise Sign

(a) The provisions of this ordinance shall not be construed to require the removal of any off-premise sign if its removal, without amortization, would violate state or federal law. Any determination under this section shall be made on the basis of the law as it is in effect on the date of the proposed removal.

(b) In addition to the impoundment and sale of signs as provided by Section 8 of this ordinance, the City may, at its sole option, elect to have non-conforming signs, or signs which are in violation of this ordinance abated and removal by bringing suit in a court of competent jurisdiction.

Section 17 -- Nuisance Signs To Be Removed

(a) Except as described in this subsection, no sign shall depict, without opaque covering, the human areola, buttock, genitalia; nor shall any sign depict any sexual act. The following signs are exempt from this prohibition:

(1) signs which are devoted wholly to advertising a medical service or to provide a purely medical public service warning or announcement.

(b) No sign shall contain obscene language or language which tends to alarm, provoke or incite a public disturbance.

(c) Signs in violation of this section may be removed by the City Coordinator as provided for herein by Section 7(d). Further, signs in violation of this section are hereby declared a nuisance and the City Attorney is authorized to remove such signs through appropriate judicial process.

(d) No permit shall be issued for the construction, erection, or placement of a sign which would result in a violation this section. Issuance of a permit for the construction, erection or placement of a sign shall not be deemed as an acknowledgment that the proposed sign complies with this section.

PASSED AND ADOPTED on the first reading at a properly noticed and conducted meeting of the City Council for the City Of Magnolia, Texas, on this 14 day of March, 2000.

Councilwoman Ogden
Councilman Mattern
Councilwoman Cloyd
Councilwoman Clapp
Councilman Smith

<u>NO</u>
<u>YES</u>
<u>ABSENT</u>
<u>YES</u>
<u>YES</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:

ORDINANCE #272

City of Magnolia Ord. #272. An ord. setting forth regulations for the placement, maintenance and permitting of signs within the City of Magnolia, Texas; setting forth periodic fees for signs and penalties for violation of this sign ordinance; and declaring certain signs nuisances. Violations & Penalties: Persons who violate any provision of this ordinance shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than \$50.00 and not more than \$500.00 for each violation. Each day in which any violation shall occur shall constitute a separate offense. Effective date March 14, 2000.

I am the publisher of the TOMBALL MAGNOLIA TRIBUNE a newspaper published in Harris County, Texas and now 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 copy, as the same appeared in such newspaper in the respective issues of:

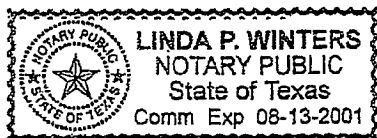
3-29, 2000

2000

_____, 2000
Nancy Nygaard, Publisher

Subscribed and sworn to this 6th day of April, 2000.

Lynda Heine
Notary Public, Harris County, Texas



AFFIDAVIT OF PUBLICATION

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

125 Legals

ORDINANCE #272

City of Magnolia Ord. #272. An ord. setting forth regulations for the placement, maintenance and permitting of signs within the City of Magnolia, Texas; setting forth periodic fees for signs and penalties for violation of this sign ordinance; and declaring certain signs nuisances. Violations & Penalties: Persons who violate any provision of this ordinance shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than \$50.00 and not more than \$500.00 for each violation. Each day in which any violation shall occur shall constitute a separate offense. Effective date March 14, 2000.

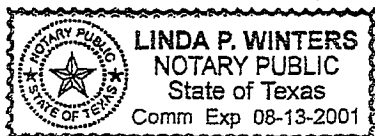
I am the publisher of the TOMBALL MAGNOLIA TRIBUNE a newspaper published in Harris County, Texas and now the facts stated in this affidavit. The attached matter is a true and correct copy of the publication of the citation of which it purports to be copy, as the same appeared in such newspaper in the respective issues of:

4-5, 2000

_____, 2000

Nancy Nygaard
Nancy Nygaard, Publisher

Subscribed and sworn to this 6th day of April, 2000.



Linda P. Winters
Notary Public, Harris County, Texas

ORDINANCE NO. 316

AN ORDINANCE AMENDING CITY OF MAGNOLIA, TEXAS ORDINANCE NO. 272, ADOPTED THE 9TH DAY OF OCTOBER, 2001, AND BEING AN ORDINANCE PROVIDING RULES AND REGULATIONS GOVERNING SIGNS AND SIGN STRUCTURES WITHIN THE CITY, BY DELETING THE FOURTH PARAGRAPH OF SECTION 4 THEREOF, SAID FOURTH PARAGRAPH BEING ENTITLED "REMOVAL OF SIGNS," AND BY ADDING A SECTION 5; PROVIDING A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION OF SAID ORDINANCE NO. 272; AND PROVIDING FOR SEVERABILITY.

* * * * *

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

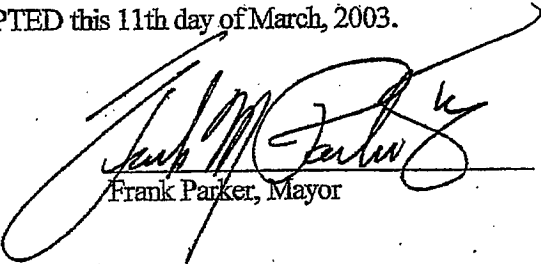
Section 1. City of Magnolia, Texas Ordinance No. 272, passed and approved the 9th day of October, 2001, and being an ordinance adopting rules and regulations governing signs and sign structures within the City, is hereby amended by deleting the fourth paragraph of Section 4 thereof, said fourth paragraph being entitled "Removal of Signs."

Section 2. Said City of Magnolia, Texas Ordinance No. 272 is hereby further amended by adding thereto a new Section 5 to provide as follows:

Section 5. Penalty. Any person who shall violate any provision of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed \$2,000."


Section 3. **Severability.** In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance 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 11th day of March, 2003.



Frank Parker, Mayor

ATTEST:



Jane Miller, City Secretary

AFFIDAVIT OF PUBLICATION

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

CITY OF MAGNOLIA ORDINANCE 316

An Ordinance amending City of Magnolia, Texas Ordinance No. 272, adopted the 9th day of October, 2001, and being an ordinance providing rules and regulations governing signs and sign structures within the city, by deleting the fourth paragraph of Section 4 thereof, said fourth paragraph being entitled "Removal of Signs," and by adding a Section 5; providing a penalty of an amount not to exceed \$2,000 for each day of violation of any provision of said Ordinance No. 272; and providing for severability.

I am the Bookkeeper for the TOMBALL MAGNOLIA TRIBUNE a newspaper published in Harris County, Texas and now 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 copy, as the same appeared in such newspaper in the respective issues of:

Mar. 24, 2003

_____, 2003

Elizabeth Davis
Elizabeth Davis, Billing Department

Subscribed and sworn to this 25th day of March, 2003

