

ORDINANCE NO. 340

AN ORDINANCE OF THE CITY OF MAGNOLIA, TEXAS, PROVIDING IT UNLAWFUL FOR ANY PERSON TO CAUSE OR PERMIT THE DRILLING OF ANY WELL FOR THE EXPLORATION OR PRODUCTION OF OIL, GAS, OR OTHER HYDROCARBON WITHIN 400 FEET OF ANY RESIDENCE OR COMMERCIAL BUILDING, OR ANY LOT CREATED PURSUANT TO A SUBDIVISION PLAT DULY APPROVED BY THE CITY, AND FILED OF RECORD WITH THE COUNTY CLERK OF MONTGOMERY COUNTY, TEXAS, AND WHICH LOT IS RESTRICTED TO SINGLE FAMILY RESIDENTIAL USE; PROVIDING A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION HEREOF; PROVIDING FOR SEVERABILITY; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH.

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

Section 1. Definitions. For the purposes of this Ordinance, the following words and terms shall have the meanings ascribed thereto:

Well includes and shall mean any hole or bore, to any sand, formation, strata or depth, which is drilled, bored, sunk, dug, or put down for the purpose of either exploring for or ascertaining the existence of any oil, gas, liquid hydrocarbon, or any of them, or for the purpose of producing and recovering any oil, gas, liquid hydrocarbon, or well bores for disposal of salt water or other oil and gas waste.

Person shall mean an individual, corporation, partnership, association, or other legal entity, or a person's representative, employee, or agent.

Section 2. Drill Site Set-Backs. It shall be unlawful for any person to cause or permit the drilling or deepening of any well that is nearer than four hundred feet (400') from:

- (a) a residence or commercial building,
- (b) a fresh water water-well,
- (c) a lot created pursuant to a subdivision plat duly approved by the City and filed of record with the County Clerk of Montgomery County, Texas, and which lot is restricted to single family residential use, or
- (d) the location of any proposed building for which a valid construction permit has been issued and is in effect.

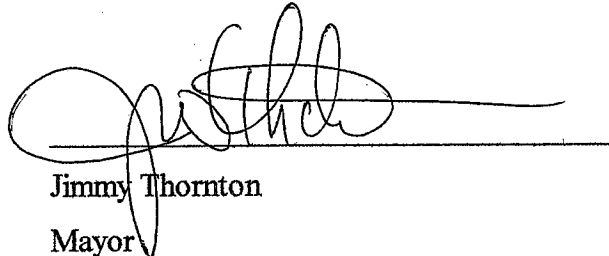
Section 3. **Permit Required.** It shall be unlawful for any person to commence to drill or to deepen a well within the City, or to work upon or assist in any way in the prosecution or operation of any such well, without having first obtained a permit therefor from the City.

Section 4. **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. Each day of violation shall constitute a separate offense.


Section 5. **Severability.** In the event any section, paragraph, subdivision, 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, or whether there be one or more parts.

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

PASSED, APPROVED, AND ADOPTED this 25th day of May, 2004.


Jimmy Thornton
Mayor

ATTEST:


Jane Miller
City Secretary

AFFIDAVIT OF PUBLICATION

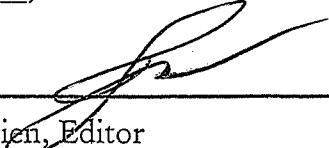
Before me, the undersigned authority, on this day personally appeared Denny O'Brien who on his oath stated:

CITY OF MAGNOLIA ORDINANCE 340

An Ordinance of the City of Magnolia, Texas, Providing it Unlawful for Any Person to Cause or Permit the Drilling of Any Well for the Exploration or Production of Oil, Gas or Other Hydrocarbon within 400 Feet of Any Residence or Commercial Building, or Any Lot Created Pursuant to a Subdivision Plat Duly Approved by the City, and Filed of Record with the County Clerk of Montgomery County, Texas, and which Lot is Restricted to Single Family Residential Use: Providing a Penalty of An Amount Not to Exceed \$2000 for Each Day of Violation Hereof: Providing for Severability; and Repealing All Ordinances or Parts of Ordinances Inconsistent or in Conflict Herewith.

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:

6/7, 2004
 , 2004


Denny O'Brien, Editor

Subscribed and sworn to this 8th day of June, 2004

