

MOTION MADE BY *Carma Linnam Bramlett* SECONDED BY *Carma Linnam Bramlett*

THAT THE FOLLOWING ORDINANCE BE PASSED.

ORDINANCE NO. 98

AN ORDINANCE BY THE CITY OF MAGNOLIA, TEXAS, PROVIDING FOR FIELD RELEASE OF CLASS C MISDEMEANANTS AS AN ALTERNATIVE TO CUSTODY ARREST AND DETENTION, DESCRIBING SUCH FIELD RELEASE, PROVIDING FOR PENALTIES FOR VIOLATION THEREOF: FOR SAVINGS CLAUSE AND DECLARATION OF EMERGENCY.

WHEREAS, the City of Magnolia, Texas should provide an alternative to custody arrest and detention where an alternative means of insuring appearance is available by establishing a misdemeanor field release procedure;

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

I.

That no one is entitled to field release as a matter of right.

II.

That misdemeanor field release may be used when:

- a. The offense is a Class C misdemeanor.
- b. The Actor has sufficient identification.
- c. The Actor resides in the local area or Montgomery County.
- d. The Officer has no reason to believe the Actor will fail to appear. In other words, no history of failure to appear.
- e. The Officer believes that a release by citation will result in the termination of the conduct or violation.
- f. The Actor is not a juvenile.
- g. Only when the Officer is a witness to the violation.
- h. If there are no outstanding warrants of arrest for the Actor.

III.

That a Magnolia citation may be used as the misdemeanor field release form and the next court date, not closer than 3 days, will be the assigned court date.

IV.

That failure to appear after signing a misdemeanor field release shall constitute a separate and distinct violation whether or not the Actor is found guilty of the original violation. Failure to appear after promising to do so may be punishable by a fine not to exceed \$200.00.

V.

That a refusal to sign the promise to appear will necessitate custody arrest and detention.

VI.

SAVINGS CLAUSE

That if any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

VII.

DECLARATION OF EMERGENCY

That the City Council of Magnolia, Texas deems such action a necessity and an emergency and therefore, this Ordinance to be effective immediately upon passage.

PASSED AND APPROVED this 12 day of October 1983

CITY OF MAGNOLIA, TEXAS

Carl E. Zeh, Mayor

ATTEST:

Kay Crona R.
Kay Crona R., City Secretary