

ORDINANCE NO. O-2022-011

AN ORDINANCE OF THE CITY OF MAGNOLIA, TEXAS, AMENDING ARTICLE IV OF CHAPTER 94 "UTILITIES" OF THE CODE OF ORDINANCES OF THE CITY OF MAGNOLIA, TEXAS; PROVIDING A PENALTY; PROVIDING A SEVERABILITY CLAUSE; AND MAKING OTHER PROVISION RELATED THERETO.

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WHEREAS, the City Council of the City of Magnolia, Texas has studied the present provisions of Chapter 94 "Utilities" of the Code of Ordinances of the City of Magnolia; and

WHEREAS, the City Council is continually reviewing the provisions of the Code of Ordinances relating to the elimination of hazards and other circumstances which generally impact the health, safety and well-being of residents, citizens and inhabitants;

WHEREAS, the City Council finds it has the power to regulate it municipal water system pursuant to chapter 552 of the Texas Local Government Code and the Texas Administrative Code, Title 30, Chapter 290; and

WHEREAS, the City Council finds it necessary to adopt the following amendments to Chapter 94 of the Code of Ordinances; and

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

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted as findings of fact and conclusions of law by the City Council and made a part hereof for all purposes.

Section 2. Amendments. Article IV, of Chapter 94 entitled "Water" of the City of Magnolia Code of Ordinances is hereby amended by amending Division 1. "Generally" by adding a new section 94-126 as shown in attached Exhibit "A" and incorporated herein for all purposes.

Section 3. Repealing Clause. All ordinances and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed; provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this ordinance.

Section 4. Severability. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences or sections of this ordinance, and the remainder of this Ordinance shall be enforced as written.

Section 5. Compliance Clause and Effective Date. The City Council finds, determines and declares that a sufficient written notice was posted, and this Ordinance was passed in accordance with the Open Meetings Act. The City Secretary is instructed to publish this Ordinance in the Official Newspaper of the City of Magnolia in the manner provided and for the time required by Section 52.011(a) of the Local Government Code, at which time this Ordinance takes effect.

PASSED, APPROVED and ADOPTED by the City Council of the City of Magnolia, Montgomery County, Texas on this the 12th day of April, 2022.



CITY OF MAGNOLIA, TEXAS

A handwritten signature in blue ink, appearing to read "TK", is written over a horizontal line.

Todd Kana, Mayor

ATTEST:

A handwritten signature in blue ink, appearing to read "Kandice Garrett", is written over a horizontal line.

Kandice Garrett
City Secretary

EXHIBIT "A"

CHAPTER 94

"UTILITIES"

ARTICLE IV. – WATER

DIVISION 1. – GENERALLY

Sec. 94-126. Wellhead protection.

(a) The following requirements have been adopted to prevent pollution of water pumped from the wellheads of city-owned wells, as set out below:

(1) It shall be unlawful for any person to construct a tile or concrete sanitary sewer, sewer appurtenance, septic tank, storm sewer, or cemetery within 50 feet of a city water well. With respect to sanitary or storm sewers, it is an affirmative defense to prosecution under this item (1) that the sanitary or storm sewer is located ten feet or more from the city water well, is constructed of ductile iron or PVC pipe that meets American Water Works Association standards, has a minimum working pressure of 150 psi or greater, and is equipped with pressure type joints.

(2) It shall be unlawful for any person to allow livestock in pastures within 50 feet of a city water well.

(3) It shall be unlawful for any person to construct an on-site sewage facility tank perforated drain field, tank absorption bed, or tank evapotranspiration bed, or to construct a petroleum or chemical storage tank or liquid transmission pipeline within 150 feet of a city water well.

(4) It shall be unlawful for any person to irrigate an area within 150 feet of a city water well with spray from an on-site sewage facility.

(5) It shall be unlawful for any person to construct a water well within 150 feet of a city water well unless the well complies with all applicable state regulations.

(6) It shall be unlawful for any person to construct a sewage wet well or sewage pumping station within 300 feet of a city water well.

(7) It shall be unlawful for any person to construct a drainage ditch for industrial waste or sewage treatment waste within 300 feet of a city water well.

(8) It shall be unlawful for any person to construct a sewage treatment plant, animal feed lot, or solid waste disposal site within 500 feet of a city water well.

(9) It shall be unlawful for any person to apply sludge or effluent from a septic tank or sewage treatment plant on land with 500 feet of a city water well.

(10) It shall be unlawful for any person to drill an oil or gas well, including an injection well for recovery of oil or gas, within 500 feet of a city water well.

(b) The department shall investigate existing facilities whether located within or without the distance requirements of subsection (a) and determine if those facilities are a pollution hazard to city well water. The department shall recommend acquisition of such

facilities in the event the department determines that the facilities are a pollution hazard to city well water and the owner refuses to take action necessary to abate the pollution hazard.

(c) Any person who violates any provision of this section shall be guilty of an offense and upon conviction thereof shall be subject to a fine of not less than \$500.00 nor more than \$2,000.00 for each violation. Each day in which a violation occurs shall constitute a separate offense. In addition to criminal prosecution, the legal department may seek appropriate judicial remedies to protect city ground water from contamination.

Sec. 94-127. Reserved.