

ORDINANCE ESTABLISHING RATES FOR CITY WATER AND SANITARY SEWER SERVICE: ESTABLISHING FEES FOR INITIAL CONNECTIONS TO THE CITY'S WATER AND SANITARY SEWER SYSTEM: PROVIDING FEES FOR CONNECTION, RECONNECTION AND INSPECTION: REQUIRING APPLICATION FEES FOR SERVICE, PROVIDING A PENALTY FOR DELINQUENT PAYMENTS: AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT ("RATE ORDINANCE")

WHEREAS, The City of Magnolia, County of Montgomery, Texas (the "City") owns both a water system and a sewer system designed to serve present and future inhabitants within and without the City; and,

WHEREAS, it is necessary that fees, charges and conditions be ratified and established for providing services from the City's water and sewer systems; and,

WHEREAS, the City Council has carefully considered the matter and is of the opinion that the following conditions should be established for service from the City's water and sewer systems;

NOW, THEREFORE, BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF MAGNOLIA, COUNTY OF MONTGOMERY, TEXAS THAT THE FOLLOWING ORDINANCE IS HEREBY ADOPTED: Any Ordinance, and amendments thereto, heretofore adopted by the City establishing rates for water and sewer service and pertaining to related matters shall be revoked, on the effective date of this Ordinance.

I.

DEFINITIONS

For the purpose of this Ordinance, the following words or terms have the following meanings:

1.01 COMMERCIAL - whether referring to connections to City water service or sewer service, "commercial" shall mean and include any office building, hotel, motel, rest home, day care center, private or trade school or college, retail store, clubhouse, church, warehouse, service station, restaurant, or any other establishment rendering a service or offering a product for sale to the public, and any establishment not generally considered a single-family detached residence except public schools, apartments and other multi-family residential dwellings.

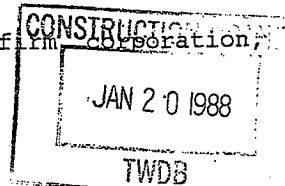
1.02 COMMERCIAL WASTE - shall mean liquid carried sewage discharged from commercial connections which is properly shredded and amenable to biological treatment and which may contain trace amounts of sand, grit, lubricants and other petroleum products commonly associated with commercial establishments such as service stations and car wash facilities.

1.03 CUSTOMER - shall mean the person, firm or corporation who requests City water and/or sewer services for a residential, commercial or other structure within the area of the City water and sewer service area, whether the owner, renter or lessee thereof or the consumer of water and/or sanitary sewer services within such structure.

1.04 DELINQUENT BILL - shall mean a bill for water and/or sewer service which has not been paid within thirty (30) days after the date the bill was submitted to customer.

1.05 CITY'S ENGINEER - shall mean the person, firm or corporation which the City has engaged to provide engineering services for the City.

1.06 CITY'S OPERATOR - shall mean the person, firm or corporation,



municipal corporation or political subdivision which the City has contracted for operation and maintenance of the City's water system and sewer system.

1.07 DOMESTIC WASTE - shall mean liquid carried sewage discharged from residential connections (including apartments) which is properly shredded and amenable to biological treatment; is normally discharged from residential food preparation and bathroom facilities; and has biological oxygen demand (5-day) and total suspended solids concentrations not exceeding 200 milligrams per liter each.

1.08 INDUSTRIAL WASTE - shall mean waste other than "Commercial Waste" and "Domestic Waste".

1.09 RESIDENTIAL - whether referring to initial connections or water and sanitary sewer service, shall mean and include any single-family detached or attached residence. These shall include any separate apartments, flat or other single residence.

1.10 SCHOOL - whether referring to initial connections to water service and sanitary sewer service, shall mean and include any public institution of learning such as an elementary school, middle school, junior high school or high school but excluding private or parochial schools, trade schools and business colleges.

1.11 SEPARATE CONNECTION - shall mean each residence or other unit for which City services for water and/or sewer have been requested or provided, whether occupied or not, including separate apartments within a single building, and separate commercial establishments within a single building.

1.12 SYSTEM - as used herein shall mean the water and/or sanitary sewer facilities of the City and all extensions and additions thereto, whether now in place or hereafter constructed.

1.13 CUSTOMER OUTSIDE CITY LIMITS - shall mean any residence or other unit for which City services for water and/or sewer have been requested or provided, and who's point of service lies outside the City limits as determined by the City.

II.

INITIAL CONNECTIONS TO THE CITY'S SYSTEM ("TAPS")

2.01 REQUIREMENT TO CONNECT TO THE CITY'S SYSTEM - Each structure within the City shall be connected by a separate connection to the system of the City as soon as the City has made water and sewer systems available at the same time, the water connection must be made at the time water service becomes available and the sewer connection must be made at the time sewer services become available.

2.02 APPLICATION FOR WATER AND SANITARY SEWER CONNECTIONS - Each person desiring initial water and sewer service connections to the City's systems shall be required to sign and complete an application for such service and to pay such fees as established by this Ordinance. No service shall be rendered until such fees are paid.

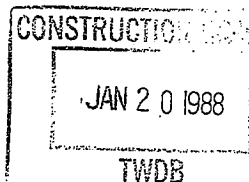
2.03 TAP FEES - The following fees shall be collected from the applicant by the City before each initial connection is made to the City's system.

I. WATER TAP

A. Standard "Residential" connection
3/4 by 5/8 inch water tap

\$ 300.00

B. Nonstandard "Residential" connection
(other than 3/4 by 5/8 inch water tap) and all other connections,



including commercial, multi-family
and school connections

\$ 300.00
Plus cost of
materials

II. SEWER TAP FEES

- A. New homes and mobil homes \$ 250.00
B. Commercial buildings 300.00
C. All apartments--depends on number
of units
2-10 Units-----\$ 250.00 21-30 Units-----\$ 175.00
11-20 Units----- 200.00 31 Units----- 150.00

III. CAPITAL RECOVERY FEE

The following charges shall be collected by the City
of Magnolia for sewage treatment capacity to serve
projected future development of property in the City:

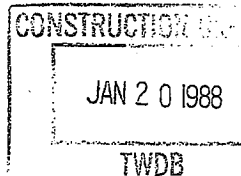
- A. Fee for every home and mobil home \$ 612.50
B. Fee for apartments (per unit) 437.50
C. Fee for condominium (per unit) 525.00
D. Fee for commercial buildings is the
sum of \$ 75.00 per plumbing fixture.
High volume users such as hospitals,
car washes, restaurants, Industrial Plants,
Schools, etc., will be treated on an
estimated per gallon per day basis at the
rate of \$ 1.75 per gallon, plus \$ 75.00
per plumbing fixture.

Capital Recovery Fee is due as follows: 1/3 paid
before first plumbing inspection, 1/3 due before
second inspection, 1/3 due before final inspection.

All payments collected by the City shall be deposited
into a special fund for the purpose of expanding its
treatment plant facilities and shall be expended only
for payments due on construction contracts,
engineering fees and other expenses incurred in the
design and construction of sewage treatment
facilities.

2.04 POLICIES GOVERNING INITIAL CONNECTIONS

- (A) Certification - Connections shall not be made to the
City's systems or portions of the systems until the
City's engineer has certified that the systems or
applicable portions thereof are adequate and
and operational. Water service shall not be provided
to any customer until an acceptable sanitary sewer
connection has been made.
- (B) Availability of Access - Upon application for initial
connection the applicant shall grant an easement of
ingress and egress to and from the meter or point of
service for such installation, maintenance and repair
as the City, in its judgement, may deem necessary.
Taps and connections will not be made when, in the
opinion of the City's engineer or operator, the work
is obstructed by building materials and debris or work
area is not completed to finished grade. When
sidewalks, driveways or other improvements have been
constructed prior to application for service, such
application shall be construed and accepted as a
waiver of a claim for damages to such improvements
resulting from the reasonable actions of the City's
operator in installation of the customer's connection.
- (C) Property of the City - All meters, fittings, boxes,
values and appurtenances installed shall remain the
property of the City.



(D) Connections by the City Operator - All connections to the City's water system shall be made by the City's operator unless specified otherwise by the City Council. All connections to the City's sewer system shall be made in accordance with the Southern Building Code International Standard Plumbing Code. (All new connections to the sewer system are prohibited from having inflow sources into the sanitary sewer portions of the system. No person, other than the properly authorized agents of the City, shall be permitted to tap or make any connections with the mains or distribution piping of the City's water system, except for emergency fire fighting purposes, or make any repairs or additions to or alterations in any meter box, tap, pipe, cock or other fixture connected with the water service or any manhole, main, trunk or appurtenance of the City's sanitary sewer system except by the written permission of the City Council.

(E) Submission of Plans for Service Connections - Each applicant for water and sewer services shall, within thirty (30) days prior to the payment of tap fees for initial or change in service, submit to the City engineer or other party designated by the City Council, the following information:

- (1) Engineering drawings (three sets for City purposes) indicating details of building plumbing, site plumbing and storm drainage, materials to be used and the location, size and number of proposed connections to the City's systems; and
- (2) A general description of the type of proposed establishment and, if applicable, a description of grease traps and the special measures taken in order to prevent any possible industrial waste and/or unauthorized waste from entering the City's sanitary sewer system. (See Sections 3.10 (c) and 5.04).

In recognition of the City's obligation to protect and maintain public health, the City's engineer or other party designated by the City Council shall review the information presented and may approve or reject the application, or request that further information be submitted prior to approval of the application. The customer shall be notified in writing as to the basis for rejection of applications. Failure to construct the facilities in accordance with approved drawings shall constitute a basis for denial of City services. If the application information is not timely made, the City shall not be held responsible for delays in the installation of water and sanitary sewer connections or the provision of other City services. Payment of tap fees to the City prior to the approval of plans shall not constitute approval of said plans or approval for service as set forth herein; any unauthorized connection or connections may be removed at the expense of the person or firm causing such connection or connections to be made.

III.

RATES AND FEES FOR WATER AND SANITARY SEWER SERVICES

Each prospective customer desiring water and sanitary sewer service shall be required to provide appropriate information in order to obtain such service and shall pay for an application fee.

3.01 APPLICATION FEE - A non-refundable application fee of \$30.00 shall be charged for each customer. The City's operator

JAN 20 1988

TWDB

is given authority to require persons requesting water and/or sewer service from the City to complete and forward an Application Form for City Services, which may be amended from time to time. Service shall be subject to termination unless such Application Form and fee is paid within ten (10) days of the date that each customer utilizes City services.

3.02 MONTHLY RATE FOR SCHOOL WATER SERVICE - The following rates per month shall be charged for school water service furnished by the City to each separate school connection in every instance in which a different charge is not expressly provided for herein:

- (A) 5/8, 3/4 and 1 inch meter-Minimum monthly charge for first 1,000 gallons of metered water \$ 19.20
- (B) 1-1/2 and 2 inch meter-Minimum monthly charge for first 1,000 gallons of metered water \$ 53.00
- (C) 3 inch meter-Minimum monthly charge for first 1,000 gallons of metered water 79.50

For each 1,000 gallons of water metered over 1,000 gallons per unit 1.40

3.03 MONTHLY RATES FOR SCHOOL SEWER SERVICE - The following rates per month shall be charged for school sewer service furnished by the City to each separate school connection in every instance in which a different charge is not expressly provided for herein:

- (A) Minimum monthly base charge \$ 5.40
- (B) For each 1,000 gallons of water metered ~~1.30~~ 1.45 *Amended 10-11-88*

3.04 MONTHLY RATES FOR "RESIDENTIAL" WATER SERVICE - The following rates per month shall be charged for water service furnished by the City through meters to each separate connection in every instance in which a different charge is not expressly and clearly provided for elsewhere herein:

- (A) Minimum monthly charge for up to 1,000 gallons of water metered per unit \$ 19.20
- (B) For each 1,000 gallons of water metered over 1,000 gallons per unit 1.40

3.05 MONTHLY RATE FOR "RESIDENTIAL" SEWER SERVICE - The following rates per month shall be charged for sewer service furnished by the City in every instance in which a different charge is not expressly and clearly provided for herein:

- (A) Minimum monthly base charge \$ 5.40
- (B) For each 1,000 gallons of water metered ~~1.30~~ 1.45

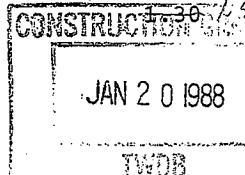
3.06 MONTHLY RATE FOR "COMMERCIAL" WATER SERVICE - The following rates per month shall be charged for commercial water service furnished by the City through meters to each separate commercial connection in every instance in which a different charge is not expressly and clearly provided for herein:

- (A) Minimum charge for up to 1,000 gallons of water metered \$ 19.20
- (B) For each 1,000 gallons of water metered over 1,000 gallons per unit 1.40

3.07 MONTHLY RATES FOR "COMMERCIAL" SEWER SERVICE - The following rates per month shall be charged for commercial sewer service furnished by the City in every instance in which a different charge is not expressly provided for herein:

Basic charge for sewer service to commercial connections discharging only "domestic waste" as defined herein:

- (A) Minimum monthly base charge \$ 5.40
- (B) For each 1,000 gallons of water metered ~~1.30~~ 1.45



In addition to the monthly sewer rate determined above, each commercial connection having a grease trap shall pay a grease trap inspection charge of \$ 15.00 per month. The City reserves the right to have grease traps cleaned as necessary to insure their proper function and to recover the City's cost from the customer.

3.08 CUSTOMERS OUTSIDE THE CITY LIMITS - Rates for customers who's points of service lie outside the City limits, as determined by the City, shall be charged the same as customers within the City limits.

3.09 TEMPORARY CUSTOMERS - Withdrawal of water from flush valves or other appurtenances of the City's system without prior approval, except for emergency fire fighting purposes or Montgomery County, Pct. 2, is prohibited. Such approval and rates and fees charged will only be given in accordance with the policies established by the City Council.

3.10 POLICIES GOVERNING WATER AND SANITARY SEWER SERVICES

- (A) No Reduced Rates or Free Service - All customers receiving services from the City shall be subject to the provisions of this Ordinance and shall be charged the rates established in this Ordinance, and no reduced rate or free service shall be furnished to any such customer. Provided, however, this provision shall not prohibit the City, upon good cause shown, from establishing reasonable classifications of customers for which rates differing from the rates stated herein may be adopted.
- (B) Entitlement - Customers are not guaranteed a specific quantity of pressure of water or specific capacity in sewer facilities for any purpose whatever; in no instance shall the City be liable for failure or refusal to furnish water or any particular amount or pressure of water or to provide capacity in the sewer facilities.
- (C) Unauthorized and Extraordinary Waste - The rates established in Section 3 herein are applicable for ordinary domestic waste or commercial waste. Customers proposing to discharge certain commercial waste, including waste from food processing or other food handling establishments, barber and beauty shops, laundries, schools and the like will be required to install grease traps or pretreatment units when so ordered by the City in evaluating the effects of high concentrations of organics on the system. The City's current waste discharge permit prohibits the introduction of industrial waste into the system. If any customer of the City's sanitary sewer system proposes to discharge industrial waste into the system, the City Council shall request a comprehensive study and the recommendation of the City's engineer and shall establish rates and charges to provide for an equitable assessment of costs whereby such rates and charges for discharges of industrial waste correspond to the cost of waste treatment, taking into account the volume and strength of the industrial waste treated, and techniques of treatment required. Such rates and charges shall be based on an equitable system of cost recovery which is efficient to produce revenues (in proportion to the percentage of waste relative to the total waste load to be treated by the City for the operation and maintenance of the treatment works) for the amortization of the City's indebtedness for the cost of such treatment works and for such additional costs as may be necessary to assure adequate waste treatment on a continuing basis. The cost of all engineering studies and evaluations shall be borne by

JAN 20 1988

TWDB

the customer.

- (D) Special Projects. The water and sewer service rates set forth herein shall be applicable to each connection defined; however, nothing contained herein shall be construed to prevent the City from furnishing water services to special projects or other establishments at a bulk rate if deemed advisable by the City.

IV.

DELINQUENCY IN PAYMENT PENALTY; DISCONTINUATION AND TERMINATION OF SERVICE

4.01 TERMINATION OF SERVICE FOR FAILURE TO PAY BILL WHEN DUE- The City shall have the right to terminate sewer service and cut off the supply of water to a customer at any time after his bill becomes delinquent and after the City has made a reasonable attempt to notify the customer of such delinquency. A charge of \$ 20.00 plus payment of the unpaid bill shall be made by the customer for restoring water service and sewer service where service has been terminated because of the customer's failure to pay a bill when due.

4.02 DISCONTINUING SERVICE UPON REQUEST OF A CUSTOMER - Whenever a customer of the City requests that water service be discontinued, he shall notify the City's engineer or operator at least two days prior to the time he desires such service discontinued. A charge of \$ 20.00 shall be made for restoring water service when such service is discontinued and restored at the request of the customer and he is not delinquent in the payment of any bill at the time of either request.

V.

DAMAGE TO CITY FACILITIES

5.01 DAMAGES TO METERS AND APPURTENANCES - No person other than a duly authorized agent of the City shall open the meter box, tamper with or in any way interfere with the meter box, meter, service line or other water and/or sewer system appurtenance. The City reserves the right to immediately and without notice remove the meter or disconnect water service to any customer whose meter has been tampered with and to assess repair charges to the customer plus a damage fee of \$ 50.00.

5.02 RIGHT TO REPAIR - In recognition of the City's obligation to protect and maintain the public health, the City reserves the right to repair damage to the City's systems and appurtenances without prior notice, and to assess against the customer such penalties as are provided by law and penalties provided in the City's "Policy Governing Control of Damage to City Facilities" in addition to those charges necessary to repair the portion of the system so damaged.

5.03 INTERCONNECTIONS - Interconnection or cross connection of the City's water system, whether directly or through the customer's private system to another source of water is strictly prohibited without the expressed written consent of the City. Initial customers shall construct and each customer shall maintain water connections and appurtenances so as to avoid infiltration of any possible contaminated liquid into the City's system. City personnel shall have access to all customer water line connections and appurtenances within reasonable time periods in order to inspect suspected, possible unauthorized connections. The City reserves the right to immediately and without notice disconnect water service to any customer whose internal private system has been found to be interconnected or cross connected, to assess against the customer such penalties as are provided by law and penalties provided in the City's "Policy Governing Control of Damage to City Facilities" in addition to those charges necessary

JAN 20 1988

TWDB

to repair the portion of the system so damaged or contaminated.

5.04 OBSTRUCTIONS - After a water meter has been set, the customer shall at all times keep the area in, around and upon the meter and box and the City easements and property under the customer's control free from rubbish or obstruction of any kind. Failure to keep the meter and box and the City easements and property under the customer's control free from rubbish or obstruction shall result in disconnection of water services and/or the assessment of charges necessary to remove said obstructions. Customers are prohibited from introducing material into the City's sanitary sewer system which would cause obstruction of said system. In the event that an inspection by the City's engineer or operator reveals foreseeable damage to the sanitary sewer system resulting from a customer's failure to prevent obstruction from entering said system, the City reserves the right to immediately and without notice remove the obstruction. Any City costs for removal of obstructions, including the cleaning of grease traps, plus a City administration fee of 50 percent of said cost, shall be assessed to the customer.

VI.

APPEAL

Any determination by the City's operator or the City's engineer or authorized agent of the City of any dispute regarding the terms and provisions of this Ordinance may be appealed to the City Council which shall conduct a hearing on the matter. The City's operator and/or attorney shall provide the customer with information regarding appeals and hearing procedures upon the customer's request.

VII.

AMENDMENTS

The City Council has and specifically reserves the right to change, alter or amend any rate or provision of this Ordinance at any time.

VIII.

SEVERABILITY

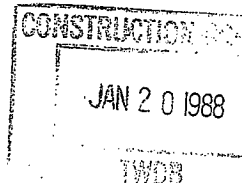
The provisions of this Ordinance are severable, and if any provision or part of this Ordinance or the application thereof to any person or circumstance shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Ordinance shall not be affected thereby.

IX.

ENFORCEMENT AND PENALTIES

9.01. PENALTY

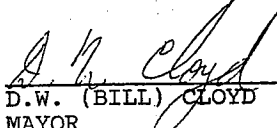
- (A) A person who violates any provision of this ordinance is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than two hundred dollars (\$200.00) for each act of violation and for each day of violation.
- (B) In addition to proceeding under authority of subsection 9.01(A) of this section, the City is entitled to pursue all other criminal and civil remedies to which it is entitled under authority of statutes or other ordinances against a person continuing prohibited discharges.



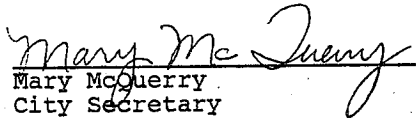
9.02 FAILURE TO PAY - In addition to sanctions provided for by this section, the City is entitled to exercise sanctions provided for by other ordinances of the City for failure to pay the bill for water and sanitary sewer service when due.

9.03 PENALTY FOR CRIMINAL MISCHIEF - The City may pursue all criminal and civil remedies to which it is entitled under authority of statutes and ordinances against a person negligently, willfully or maliciously causing loss by tampering with or destroying public sewers or treatment facilities. The Mayor is authorized to execute and the City Secretary to attest this Ordinance on behalf of the City Council.

Passed and adopted this 10th day of March, 1987.


D.W. (BILL) CLOYD
MAYOR

Attest:


Mary McQuerry
City Secretary

AMENDED MAY 26, 1987
AMENDED SEPTEMBER 15, 1987
AMENDED OCTOBER 13, 1987
AMENDED JANUARY 12, 1988

