

ORDINANCE NO. 2005-375

AN ORDINANCE OF THE CITY OF MAGNOLIA, TEXAS, PROVIDING RULES, REGULATIONS AND REQUIREMENTS FOR WATER, WASTEWATER AND SOLID WASTE SERVICES WITHIN THE CITY AND WITHIN THE EXTRATERRITORIAL JURISDICTION, PROVIDING FOR LATE PAYMENT CHARGE AND CHARGE FOR RECONNECTION OF SERVICE; PROVIDING SEVERABILITY, REPEALING, SAVINGS, PENALTIES, OPEN MEETINGS CLAUSES; PROVIDING FOR RELATED MATTERS, AND AN EFFECTIVE DATE.

Whereas, the provision of water, wastewater, and solid waste collection services for the residents of the City of Magnolia, Montgomery County, Texas (the "City") is necessary for the public health of the citizens and the protection of the environment and natural resources of the City;

Whereas, the City provides, or causes to be provided, water, wastewater and solid waste collection and disposal services, to all residences and businesses within the City, and within the extraterritorial jurisdiction of the City; and

Whereas, it is essential to the protection of the public health and environmental resources of the City that all occupied property within the City dispose of solid waste and refuse in a manner to conform with state law and that all such property with access to the water and/or wastewater system be served by such system;

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

Article I. Authority and Definitions.

Section 1. Authority. This ordinance is adopted pursuant to the police powers and authority given cities by the constitution, codes and general laws of the State of Texas.

Section 2. Purpose. The purpose of this ordinance is to provide for public health and general welfare, the efficient and effective provision of city services and the protection of the environment and natural resources of the community. From and after the passage of this ordinance all residential, business, commercial and industrial occupancies and uses within the City and its service area shall conform to the following rules and regulations.

Section 3. Findings of Fact. The findings and recitations set out in the preamble of this Ordinance are found to be true and correct and that they are hereby adopted by the City Council and made a part hereof for all purposes.

Section 4. Definitions. For the purposes of this ordinance, the following terms, phrases, words and their derivations shall have the meaning ascribed to them in this section; provided that, unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the same meaning as they have in common usage, and so as to give this ordinance its most

reasonable application.

4.01 **Bulky Waste** - Stoves, refrigerators, water tanks, washing machines, furniture, used and discarded mattresses and other waste materials other than Construction Debris, Dead Animals, Hazardous Waste or Stable Matter with weights or volumes greater than those allowed for Carts.

4.02 **Bundle** - shall mean tree, shrub and brush trimmings or newspaper and magazines securely tied together forming an easily handled package not exceeding four feet (4') in length, two and one-half feet (2-1/2') in diameter and 35 lbs. in weight.

4.03 **Business Unit** - shall mean any premises, locations or entities, public or private, including all industrial and commercial entities, within the corporate limits of the City or service area of the City not a Residential Unit.

4.04 **Cart or Container** - cart shall mean a plastic wheeled cart designed to store Residential Refuse. Container, includes a cart, but also shall mean any City approved metal bin designed to store Residential Refuse, Commercial Refuse, or Industrial Refuse.

4.05 **City** - shall mean the City of Magnolia, Texas.

4.06 **City's Operator** - shall mean the person, firm, corporation, municipal corporation or political subdivision which the City has designated to operate and maintain the City's water system and wastewater systems.

4.07 **Commercial or Industrial** - shall mean and include any establishment, public or private, rendering a service, manufacturing a product, offering a product for sale or any other similar activity, including motels and hotels. Apartment complexes and other such multi-family rental communities shall be considered commercial.

4.08 **Connection** - shall mean the initial or first connection ("tap") or any subsequent additional connection of a Residential or Business Unit to the City's water system.

4.09 **Construction Debris** - shall mean waste building materials resulting from construction, remodeling, repair or demolition operations.

4.10 **Contractor** - shall mean the person, corporation or partnership performing refuse collection and disposal under contract with the City.

4.11 **Customer** - shall mean any person, firm or corporation receiving City water, wastewater or solid waste disposal services for a Residential or Business Unit, whether within the City or outside the City limits.

4.12 **Dead Animals** - shall mean an animal or portion thereof that have expired from any cause.

4.13 **Garbage** - shall mean accumulation of waste (animal, vegetable and/or other matter) that results from the preparation, processing, consumption, dealing in, handling, packing, canning,

storage, transportation, decay or decomposition of meats, fish, fowl, birds, fruits, grains or other animal or vegetable matter (including, but not by way of limitation, used tin cans and other food containers; and all putrescible or easily decomposable waste, animal or vegetable matter which is likely to attract flies or rodents); except (in all cases) any matter included in the definition of Bulky Waste, Construction Debris, Dead Animals, Hazardous Waste, Rubbish or Stable Matter.

4.14 **Hazardous Waste** - shall mean waste, in any amount, which is defined, characterized or designated as hazardous by the United States Environmental Protection Agency or appropriate State Agency by or pursuant to Federal or State law, or waste, in any amount, which is regulated under Federal or State law, including motor oil, gasoline, paint and paint cans.

4.15 **Master Meter** - shall mean the Separate Connection through which one Metering facility serves other establishments or entities occupying the same building, location, or adjoining property.

4.16 **Person** - shall mean and include an individual human, partnership, co-partnership firm, company, limited liability partnership or other partnership or other such company, joint venture, joint stock company, trust, estate, governmental entity, association or corporation or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

4.17 **Producer** - shall mean an occupant of a Residential or Business Unit who generates Refuse.

4.18 **Refuse** - shall mean Residential Refuse, Bulky Waste, Construction Debris and Stable Matter generated at Residential Unit, unless the context otherwise requires, and Commercial and Industrial Refuse.

4.19 **Residential Refuse** - shall mean all Garbage and Rubbish generated by a Producer at a Residential Unit.

4.20 **Residential Unit** - shall mean a dwelling within the corporate limits or service area of the City intended for occupancy by a person or group of persons comprising not more than one family. A dwelling shall be deemed occupied and shall be deemed by the City to be a separate Residential Unit for billing and collection purposes when either water or electrical power services are being supplied thereto.

4.21 **Rubbish** - shall mean waste wood, wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, dead trees or branches thereof, chips, shavings sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded clothing, used and discarded shoes and boots, combustible waste pulp and other products such as are used for packaging or wrapping crockery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances, and any and all other waste materials not included in the definition of Bulky Waste, Construction Debris, Dead Animals, Garbage, Hazardous Waste or Stable Matter.

4.22 **Separate Connection** - shall mean the individual metering facilities for each Residential or Business unit for which City services have been requested or provided, whether occupied or not.

4.23 **Stable Matter** - shall mean manure and other waste matter normally accumulated in or about a stable, or any animal, livestock or poultry enclosure, and resulting from the keeping of animals, poultry or livestock.

Article II. Water and Wastewater Service.

Section 1. Mandatory Connection to City System.

(a) Except as provided otherwise in this Ordinance, no building, tract of land or structure in an area of the City for which water service is available shall be occupied for residential, commercial, industrial or other such purposes unless such buildings or structures are connected by a Separate Connection to the City water system, unless specifically excepted herein. Property that abuts a street, road or other public way in which a public water supply is located and deemed to have access to the City water system.

(b) Each Residential Unit and Business Unit, and any additional Residential Unit and Business Unit, within the City shall be connected by Separate Connection to the City water system as soon as City water service is available to such unit, unless specifically exempted herein.

(c) Any two or more Business, or Commercial Units that are found to be obtaining water service through a single meter shall be required to pay the base amount according to the meter size times the number of units, plus the per thousand gallon charge as per the rate schedule in affect at that time. Any persons receiving water through a joint sharing of a single meter without the consent of the City must pay the cost of connecting an additional meter and may be disconnected from the system should either refuse to be responsible for connection through a single meter to each individual lot.

(d) Any Residential Unit within the City being served by a privately-owned water well on the effective date of this ordinance shall be connected to the City water system by a Separate Connection at such time as the well fails to meet permit or Department of Health requirements or other regulatory statutes or regulations of the State.

(e) Each Business Unit within the City shall be connected by a Separate Connection to the City water system as soon as City water service is available to such unit, unless permission is granted by the City Administration to do otherwise.

(f) Any Commercial or Industrial establishments or entities located within a single building or upon a single property and served by a Master Meter on the effective date of this ordinance may elect to continue to receive water service through such Master Meter. All new premises seeking to receive service from a Master Meter must receive permission from the City Administration.

Section 2. Application for Water Connections. Each person desiring water service shall be required to complete an application for such service and pay such fees as are established by this ordinance. No service shall be rendered until such fees are paid.

Section 3. Connections and Taps to Water and Wastewater System.

(a) **Certification.** Connections shall not be made to either the City water or the wastewater system until the City's Operator or other party designated by the City Council has certified that the respective system or applicable portion thereof is adequate and operational. Water or wastewater service shall not be provided to any Residential or Business Unit not in compliance with rules and regulations promulgated by the Texas Department of Health, the Texas Commission on Environmental Quality, as set out in the Texas Water Code or as otherwise required by statute or regulation.

(b) **Service Access.** Upon application for Connection to the water or wastewater system 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 judgment, may deem necessary. Taps and connections will not be made when, in the opinion of the City's Operator, the work area is obstructed by building materials and debris or the 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) **City Property.** All meters, fittings, boxes, valves and appurtenances installed by City personnel shall remain the property of the City. City maintenance of the water service ends at the customer side of the connection to the water meter itself. City maintenance of the wastewater service ends at the tap, or point of connection, of the lateral line into the City wastewater line.

(d) **Connections.** All connections to the City water system and/or wastewater system shall be made by the City's Operator unless specified otherwise by the City Council. No person, other than the properly authorized agents of the City, shall be permitted to tap or make any connections with the mains, distribution or collection lines of the City's water system, or wastewater system, except for emergency fire fighting purposes, or make any repairs or additions to or alterations in any meter box, tap, pipe, or other fixture connected with the water service except by the written permission of the City Council. No new dual or multiple connections (being more than one user on a single meter) shall be permitted without written permission of the City Administration.

(e) **Plan Approval Required.** Each applicant for a Connection shall within ten (10) days prior to payment of tap fees submit to the City Operator the following information:

(i) One set of drawings showing details of building plumbing, site plumbing and the location, size and number of proposed connections to the City's water system and/or wastewater system; and

(ii) A general description of the type of proposed establishment.

The City's Operator 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 applicant shall be notified in writing as to the basis for rejection. Failure to construct the facilities in accordance with approved drawings shall constitute a basis for denial of City water and/or wastewater services. If the application information is not timely made, the City shall not be held responsible for delays in the installation of any water or

wastewater connection. 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.

Section 4. Interconnections. Interconnections or cross connection of the City's water or waste water system, whether directly or through the Customer's private system to another source of water or otherwise, is strictly prohibited. Initial customers shall construct, and each customer shall maintain, water connections and appurtenances so as to avoid infiltration of any substance into the City water system. City personnel shall have access to all customer water and wastewater line connections and appurtenances within reasonable time periods to inspect for suspected unauthorized connections. The City reserves the right to immediately and without notice disconnect water services to any customer whose internal private system has been found to be interconnected or cross connected, and to assess against the customer such penalties as are provided by law and penalties provided herein in addition to any charges necessary to repair the damaged or contaminated portion of the system.

Article III. Deposits, Rates and Charges for Service.

Section 1. Application for Services. Each prospective customer desiring water, wastewater and/or garbage service shall provide appropriate information billing, accounting and rate classification purposes in order to obtain such service and shall pay the applicable tap fees, deposits, and monthly charges as set forth in this Article.

Section 2. Tap Fees. The following tap fees shall be collected as applicable from the applicant before the corresponding water or wastewater system tap or connection is made:

Water Taps

Standard 3/4" or 5/8"	\$ 650.00
1"	\$ 775.00
1-1/2"	\$ 1250.00
2"	\$ 2500.00

Sewer Taps

Standard 4"	\$ 925.00
6" (into existing manhole)	\$ 1200.00

Section 3. Security Deposits and Utility Accounts.

(a) Deposit Required.

- (i) All new customers of the water and/or sewer utilities shall be required to pay and maintain a security deposit in the amount of \$125.00 at all times that services are

provided in the customer's name. A service charge of \$35.00 must also be paid at the time of the payment of the security deposit. Furthermore, a re-connect fee of \$30.00 must be paid at the time application for re-connection is made.

- (ii) All customers' requesting utility service shall personally sign the application for services and provide verification of name and current address (proof being in the form of a driver's license or Texas Department of Public Safety Identification card and Social Security number) for billing.
- (iii) In the event any utility customer's service is disconnected for late payment, the utility account holder will need to pay the past due amount, current amount and a re-connect fee to have services reinstated.
- (iv) Security deposits shall remain with the City until termination of services.

(b) **Application of Utility Deposits.**

(i) All utility deposits held with the City shall, in addition to securing the payment for utility services received, also secure and may be applied to any other debt or obligation owed the City by the person or entity having made the utility deposit. The remaining balance of any and all utility deposits collected by the City for water, wastewater or solid waste disposal shall be returned to the individual who secured the deposit in his or her name, at such time as such person terminates such utility service with the City. The deposit will first be applied to any outstanding utility or solid waste disposal bills, then to any additional outstanding debts to the City and the remainder will be returned upon proper request and application. Additional outstanding debts of the individual seeking return of a utility deposit include but are not limited to:

- A. other utility services which have been provided under said persons name and that have an outstanding balance due and owing to the City;
- B. liens placed by the City upon any property owned by such person; and

(ii) No interest shall accrue or be due for any security deposits for water, wastewater or solid waste disposal.

(c) **Transfer of Services.**

(i) Any existing customer requesting a transfer of any utilities must maintain the appropriate deposit for the utility services being transferred. Any existing deposit, less deficiencies on the existing account, will be transferred directly to the new account. Any deficiencies in the prior utility account will also be transferred to the new utility account.

(ii) No customer will be allowed to transfer and maintain services without paying all deficiencies on existing or prior utility accounts in full and having the full deposit for utility services on deposit with the City at the time of transfer, but not later than the next complete

billing cycle at the transfer location. Transfer fee \$35.00

Section 4. Rates For Water Service. Residential and commercial customers shall be charged the applicable minimum monthly rate per meter established herein as long as such meter is active, whether the customer actually uses the services or not; provided that, if meter is removed or locked at customer's request, no minimum charge for service shall be assessed. The following rates, fees and charges shall be charged and paid for water services furnished by the City.

RESIDENTIAL AND COMMERCIAL RATES (INSIDE CITY LIMITS)

Inside City Limits 3/4" – 5/8" Water Meter
\$22.00 per month, includes first 1,000 gallons
\$2.00 per each additional 1,000 gallons of metered water

WATER METERS

Inside City Limits

1 1/2" meter	\$60.00
2" meter	\$82.00
3" meter	\$90.00

RESIDENTIAL AND COMMERCIAL RATES (OUTSIDE CITY LIMITS)

Outside City Limits 3/4" – 5/8" Water Meter
\$32.00 per month, includes first 1,000 gallons
\$2.40 per each additional 1,000 gallons of metered water

WATER METERS

Outside City Limits (availability limited)

1 1/2" meter	\$75.00
2" meter	\$100.00
3" meter	\$125.00

Section 5. Rates for Wastewater Service. Residential, and commercial shall be charged the applicable minimum monthly rate per meter established herein as long as such meter is active, whether the customer actually uses the services or not; provided that, if meter is removed or locked at customer's request, no minimum charge for service shall be assessed. The following rates, fees and charges shall be charged and paid for water services furnished by the City. The following rates, fees and charges shall be charged and paid for wastewater services within the City:

(a) **Minimum Rate.** Residential and commercial customers shall be charged the applicable minimum monthly rate per meter established herein as long as such meter is active, whether the customer actually uses the services or not; provided that, if meter is removed or locked at customer's request, no minimum charge for service shall be assessed. In addition to other fees, a minimum monthly fee

shall be assessed for meters of the following size at the rate indicated:

RESIDENTIAL

RESIDENTIAL SEWER

\$9.95 per month
plus \$2.40 per 1,000 gallons of metered water

COMMERCIAL

COMMERCIAL SEWER

3/4" – 1" meter	\$14.00 per month
1 1/2" meter	\$17.00 per month
2" meter	\$20.00 per month
3" meter	\$23.00 per month

Plus \$2.85 per additional 1,000 gallons of metered water

Section 6. Solid Waste Services. The City of Magnolia contracts with a private contractor to provide solid waste services. The following rates are charged by the City of Magnolia for solid waste services:

Residential rate (two pickup per week)	\$19.00
Residential rate Senior Citizens 65 and over (With Proper ID)	\$17.00

Section 7. Line Extension and Street Cutting Fees. Water and wastewater taps will be made for the base tap fee provided the tap is made to a water or wastewater line abutting or adjacent to the lot or parcel to be served ("standard location"). For the purposes of this ordinance, a tap made on a water or wastewater line located between the boundary line of the property to be served and the right-of-way line of the street or alley abutting such lot, or a line located within the right-of-way of such street between the property boundary line and the traveled, paved portions of the street, shall also constitute a tap made at a "standard location". A tap made at a "standard location" shall be a "standard connection". A "non-standard location" is any location for a tap to serve any lot, tract or parcel of land other than at a standard location. A "non-standard connection" is any tap that requires work, construction or extensions to be made for the tap, or that is made at other than a standard location. Additional charges and fees will be assessed and collected as herein detailed for costs associated with line extensions and taps made to a non-standard location.

(a) **Availability of service.** The existence of mains, trunk lines or other lines, near a property will not constitute an obligation for the City to limit the tap fee or charge for making a water or wastewater service tap to such line, where such lines must be tapped at other than a standard location, are inaccessible due to necessary crossings of streets, highways, drainage channels

and similar barriers, or when cost must be incurred over and above the cost for making a tap at a standard location. Taps at non-standard locations must be arranged for with the director of public works in advance of the desired service date, to permit necessary extensions, crossings or similar construction.

(b) **Installation of non-standard connection.** Upon the approval of the City Administration, the owner or developer of a subdivision requiring a non-standard connection may contract with a qualified contractor for the installation, construction and extension of any water or wastewater line necessary to make a non-standard connection or as necessary for the location for the tap to become a standard location and, in such event, such owner or developer shall pay the reasonable costs and charges therefore directly to the contractor and obtain a receipt and release from said contractor. The city engineer or department of public works shall inspect such construction and work to assure it is completed in compliance with the applicable rules and regulations of the City and the Texas Commission on Environmental Quality.

(c) **Costs.** The reasonable costs and expenses for installing, constructing and extending any water or wastewater line of the City to provide a tap at a non-standard location, or to extend such lines to a standard location, shall be charged and collected by the City, if such costs are not paid directly by an owner/developer pursuant to (b) above. Such additional costs and expenses shall be equal to the difference between the cost of making the tap at a standard location and the cost of making the tap at the non-standard location, or, as the case may be, the difference between the cost of making the tap at a standard location and the costs incurred for the work and construction to extend the lines to a point or location that is a standard location for the tap.

(d) **Payment of Line Extension Fee.** When a water or wastewater line extension charge is required the City may at its option require the owner being furnished the line to:

- (i.) deposit, in advance, the estimated costs for construction of the water or wastewater line that is estimated to be costs additional to a standard connection;
- (ii.) post a bond sufficient to cover the total estimated costs of line extension; or

(e) **Line Extension Fees Outside City limits.** No line extensions will be allowed outside the City limits without an express resolution of the City Council of Magnolia.

Section 8. 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 rated or free service shall be furnished to any customer. It is specifically provided, however, that 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, and that 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.

Article IV. Billing and Termination of Services.

Section 1. Billing and Payment for Services. Bills for water, wastewater and solid waste services shall be mailed on or about the first day of each month for the services provided during the immediate preceding month.

(a) **Due Date.** All bills for water, wastewater and solid waste collection services are due on or before the 25th day of each month (the "due date"). The failure of the Customer to receive any such bill shall in no way relieve the Customer of the duty to pay for the services rendered on or before the due date.

Section 2. Late Charges. If payment of any bill is not made by the due date, the City shall charge a \$5.00 late fee for water, wastewater and solid waste collection services. This will be added to the billing. No payment arrangements will be made at the time of disconnection of services.

Section 3. Termination of Service and Charges for Disconnection and Reconnection.

(a) **Termination for Delinquency.** The City shall have the right to and may terminate water, wastewater and solid waste collection services to any Customer, including disconnecting the supply of water, at any time after the delinquent date.

(b) **Reconnection Charges.** A \$30.00 charge will be assessed as a service fee for each reconnection fee requiring personnel to approach the residence *or* business unit for reconnection. Such fee must be paid at the time past due monies are tendered, and prior to any reconnection or additional services being provided.

(c) **Termination at Owner's Request.** Whenever a Customer who is not delinquent in the payment of any bill requests that water service be temporarily discontinued, he or she shall notify the City in writing at least two days prior to the date he desires service discontinued. There will be a \$30.00 reconnect fee payable at the time customer desires services to continue.

(d) **Termination Due to a Nuisance or Emergency.** The City reserves the right to terminate services at any time with or without notice in the case of an imminent threat to the public health, safety and welfare constituting a nuisance or emergency circumstance that mandates the disconnection of services. If the City disconnects due to a nuisance or emergency circumstance within the control of the property owner, the City will notify the property owner as provide in Article VII Section 2.

(e) **Delinquent Accounts.** Any residence or property where utility services are requested to be provided where a deficient account is still outstanding from a previous customer shall not be reconnected in a different name than the account was previously connected under unless the person requesting utility services demonstrates that the person whose name the account was previously billed to is no longer a resident of the property or in control of the property without paying the deficiencies on the account.

(i.) New owners of property or new residence of a leasehold shall not be responsible for the delinquent utility accounts of a prior owner or leaser who has vacated the premises.

(ii.) No customer may establish a new utility account in his or her name who has an

outstanding deficiency from any previous utility account held by the City without paying all deficiencies in addition to the deposit for the new utility account.

Section 4. Returned Checks. A returned check fee of \$30.00 shall be charged on each check returned to the City without payment. Accounts shall be considered delinquent if a check was tendered for payment of the account and upon the sending of notice from the City of the return of check, the account holder shall have ten (10) days from the date of the letter to tender payment by cash or cashier's check for the balance of the sum paid by check and the returned check fee or services shall be terminated as provided for all delinquent accounts.

Section 5. Minors. No account may be held in the name of a person who is under the age of eighteen (18) years unless the minor requesting services provides adequate evidence that the minor has been emancipated through marriage or other legal means.

Article V. Solid Waste Collection.

Section 1. Residential Service. The following rules, regulations and provisions shall, in addition to the other applicable provisions of this Ordinance, govern the provision of solid waste services to Residential Units.

(a) **Mandatory Participation by Residential Units.** Every Residential Unit within the corporate limits of the City shall be required to utilize garbage collection and disposal services provided under contract by the City when such Residential Unit is occupied. A Residential Unit shall be deemed occupied when either water, wastewater, or electrical power services are being supplied. No person within the City limits shall be permitted to burn residential trash.

(b) **Curbside Service.** The Contractor shall provide curbside collection service for the collection of refuse as provided for in the contract to each Residential Unit two (2) time per week. Customers must place containers as stipulated in contract at curbside by 7 a.m. on the designated collection day. In addition to the scheduled weekly collection of Residential Refuse, the Contractor may from time to time provide special collection of Bundles, Bulky Waste, Construction Debris, Dead Animals and Hazardous Waste at Residential Units at the request of the City.

(c) **Container Placement at Curb.** Each Container for collection shall be placed at curbside for collection. Curbside refers to that portion of the right-of-way adjacent to paved or traveled City roadways with placement as close to the roadway as practicable without interfering with or endangering the movement of vehicles or pedestrians. When construction work is being performed in the right-of-way, Containers shall be placed as close as practicable to an access point for the collection vehicle. The Contractor may decline to collect any Container not so placed.

(d) **Hours of Operation.** Collection of Residential Refuse and special collections scheduled by the City shall not start before 7 a.m. or continue after 5 p.m. on the same day. Exceptions to collection shall be effected only upon the mutual agreement of the City and Contractor, or when the Contractor reasonably determines that an exception is necessary to complete collection on an existing collection route due to unusual circumstances.

(e) **Holidays.** In the event of suspension of regular collection service on a holiday,

collection service shall be provided on the next business day after the holiday.

(f) **Complaints.** All complaints shall be made directly to the City. In the case of verified missed scheduled collections, the City shall arrange for the collection within 24 hours after the complaint is received. The City shall notify customers of complaint procedures, and of the location and telephone number at which the Contractor and City can be reached between the hours from 7 a.m. to 5:00 p.m. Monday – Thursday and 7 a.m. to 11 a.m. on Friday for regular collection days.

(g) **Appeal.** Any determination by the City, the Contractor or the City's Operator 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, the Contractor or the City's Operator, as applicable, shall, upon request, provide the Customer with information regarding appeals and hearing procedures.

Section 2. Commercial, Business and Industrial Units. Commercial, Business or Industrial Units shall arrange by individual agreement for collection and disposal of Refuse with the City provider or some other lawful provider of waste pickup services. Such operations shall comply with all applicable laws. Vehicles and equipment used for such collections shall be kept in good repair, appearance and sanitary condition, and all Refuse shall be contained, tied or enclosed so as to prevent leaking, spilling or blowing during hauling.

Article VI. Waterworks System.

Section 1. Damage or Injury to Waterworks System. It shall be unlawful for any person, in any way, to intentionally or carelessly break, deface or in any manner damage, injure or destroy any hydrant, standpipe, lock box or other property belonging to the City or belonging to others, and used in connection with the waterworks system of the City. No person other than a duly authorized agent of the City shall remove, repair, or tamper with or in any way interfere with the City's meter boxes, meters, lock boxes, water service lines, wastewater service lines, or other water or wastewater system appurtenances. 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 actual repair charges to the customer plus a damage fee of \$100.00.

Section 2. Repair of Damages. All meters, fittings, boxes, valves and appurtenances installed by City personnel shall remain the property of the City. The City reserves the right on 24 hour notice and no appeal being filed, to remove the meter or disconnect water service to any customer whose meter or lock box has been tampered with and to assess actual repair charges to the customer plus a damage fee of \$100.00. As necessary or advisable to protect the public health or the operation and function of the City's water or wastewater system, the City further reserves the right and authority to proceed immediately and without notice to disconnect, or to repair when and as necessary and appropriate, any meter, pipe, line or other appurtenance connected to the City water or wastewater system. Failure to repair or failure to pay for repairs performed by the City shall constitute cause for the City to terminate services to the customer charged with the repairs. The City requires each customer to "**CALL BEFORE YOU DIG**" so the water department will be able to locate lines for the customer. Repair charges will be assessed to the customer if **NO** attempt is made to contact the City water department before digging and damage occurs. Repair charges are due within 10 days

from the date of invoice and are as follows: (a) Labor Charges Regular time for repairs needed during normal business hours. After 5:00 p.m. and weekends - Time and one/half. (b) Equipment Rental - Actual cost to City. If not paid within 10 days from date of invoice, the City reserves the right to immediately and without notice remove the meter or disconnect water service until all repair charges are paid in full.

Article VII. General Provisions.

Section 1. No Service Guarantee. Customers are not guaranteed a specific quantity or pressure of water, or any specific level of any solid waste, wastewater or other service, 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 any other service under this Ordinance.

Section 2. Violations and Notices.

(a) If an officer charged with the enforcement of this Ordinance shall determine that a person has violated any provision of this Ordinance, such officer may issue a citation.

(b) If an officer charged with the enforcement of this Ordinance shall determine that a situation exists which immediately affects or threatens the health, safety and well-being of the general public, and that immediate action is necessary, such officer may take such action as shall be necessary, including issuing citations for violations of the terms and provisions hereof to the owner and/or occupant of the property upon which such condition exists, as may be deemed appropriate and necessary.

(c) If an officer charged with enforcement of this Ordinance determines a situation constitutes an immediate threat to the public health, safety and welfare, and the owner or occupant of the property is absent or fails to immediately remedy the violation, the City Council may, at a regular session or at an emergency session called for the purpose of considering the issue, upon evidence heard, determine that an emergency exists and order such action as may be required to protect the public health, safety and welfare.

(d) If any owner or occupant shall fail or refuse to remedy any of the conditions prohibited by this Ordinance within seven (7) days after notice to do so, the City may terminate services.

(e) Notices required pursuant to this Ordinance shall be in writing. Such notices may be served upon such owner and/or occupant as follows: in person by an officer or employee of the City; by letter addressed to such owner or occupant at his/her post office address; or, if personal service may not be had, or the owner or occupant's address be not known, then notice may be given by publishing a brief summary of such order at least once in the official newspaper of the City or by posting a notice on or near the front door of each building on the property upon which the violation relates, or, if no building exists, by posting notice on a placard attached to a stake driven into the ground on the property to which the violation relates. Notices of termination of services for non-payment will be noted on Monthly Bill.

(f) If an owner is mailed a Bill in accordance with subsection (e) and the United States Postal

Service returns the notice as "refused" or "unclaimed" the validity of the notice is not affected, and the Bill is considered as delivered.

(g) Notices of nuisances provided by mail or by posting as set forth in subsection (e) may provide for year round abatement of the nuisance and inform the owner that should the owner commit any other violation of the same kind that pose a danger to the public health and safety on or before the first anniversary of the date of the notice, the City without further notice may abate the violation at the owner's expense and assess the costs against the property.

(h) Persons in violation of this Ordinance or causing or creating a prohibited nuisance in the presence of a person authorized to enforce this Ordinance may be cited or a complaint filed for such violation without notice of the violation, or warning, and such citation or complaint shall be filed in the Municipal Court of the City of Magnolia.

Section 3. Costs and Appeals. In addition to any other remedy provided in this Ordinance and cumulative thereto, the Code Compliance Officer, after giving to the owner of the property seven (7) days notice in writing, as provided in Section 2 above, may cause any of the work or improvements mentioned in this Ordinance to be done at the expense of the City, and charge the utility bill of the property on which such work or improvements are done, and cause all of the actual cost to the City to be assessed on the real estate or lot on which such expenses occurred; provided, that the owner of any such real estate may appeal to the City Council from the order of the Code Enforcement Officer by filing a written statement with the Code Compliance Officer within seven (7) days after receipt of the notice provided for above, stating that such real estate complied with the provision of this Ordinance before the expiration of a seven (7) day period. The City Council shall set a date, within thirty (30) days from the date of the appeal, for hearing the appeal to determine whether the real estate complied with the provisions of this Ordinance before the expiration of such seven (7) day period. The authority of the Code Compliance Officer to proceed to cause such work to be done shall not be suspended while an appeal from the order is pending. If it shall be determined by the City Council that the premises complied with the provisions of this Ordinance before the expiration of the seven (7) day period, then no personal liability of the owner shall arise nor shall any lien be created against the premises upon which such work was done.

Section 4. Cost of Abatement Constitutes Lien. Cumulative of the City's remedy by fine, as set forth herein, the City may do such work or cause the same to be done to remedy such condition to remove such matter from such owner's premises at the City's expense and charge the same to the utility bill of such property and assess the same against the real estate or lot or lots upon which such expense is incurred.

(a) Expenditures plus twelve (12) percent per annum interest on the expenditures from the date of such payment by the City shall be added to the next billing cycle for utility bills for the real estate or lot or lots, if not already paid. Payment shall be due and payable in full by the owner or occupant at the time of payment of such utility bill. If the property is unoccupied, no utilities shall be furnished to the property where the work occurred until such obligation, as herein set out, payable to the City for abatement of any nuisance described herein is paid in full.

(b) Upon filing with the county clerk of Montgomery County, Texas, of a statement by the City Secretary or designee of such expenses, the City shall have a privileged lien upon said real estate

or lot or lots, second only to tax liens and liens for street improvements, to secure the expenditure so made and ten (10) percent per annum interest on the amount from the date of such payment so made by the City.

(c) The City may, additionally, institute suit and recover such expenses and foreclose such lien in any court of competent jurisdiction, and the statement so filed with the county clerk or a certified copy thereof shall be prima facie proof of the amount expended in any such work or improvements to remedy such condition or remove any such matter.

Section 5. Enforcement. The civil and criminal provisions of this Ordinance shall be enforced by the persons or agencies designated by the City, including, but not limited to, the City of Magnolia Police Department, the Building Official, and the Code Compliance Officer. It shall be a violation of this Ordinance to interfere with a Code Compliance Officer, or other person authorized to enforce this Ordinance, in the performance of his or her duties.

Section 6. Penalty.

(a) Any person who shall violate any of the provisions of this Ordinance, or shall fail to comply therewith, or with any of the requirements thereof, within the City limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of two thousand dollars (\$2,000.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.

(b) It shall be unlawful to receive water, wastewater or solid waste collection service from the city and fail to pay the fees and charges for such service or services. It shall be prima facie evidence that a delinquent customer is in violation of this section, if the service fee or charges remain unpaid Thirty (30) days after receiving written notice of such delinquency. Conviction of the offense of failure to pay a service fee or charge shall be a misdemeanor subject to a fine of not less than \$200.00 or more than \$2,000.00 dollars. Each day in violation shall be deemed a separate offense and subject to the penalty herein provided.

Section 7. Repealer. All provisions of the ordinances of the City of Magnolia, codified or uncoded, in conflict with this Ordinance are hereby repealed, and all other provisions of the ordinances of the City of Magnolia codified or uncoded, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

Section 8. Savings Clause. All rights and remedies of the City of Magnolia are expressly saved as to any and all violations of the provisions of any ordinances affecting water, wastewater or disposal within the City which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

Section 9. Severability. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the

remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this ordinance of any such invalid phrase, clause, sentence, paragraph or section. If any provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

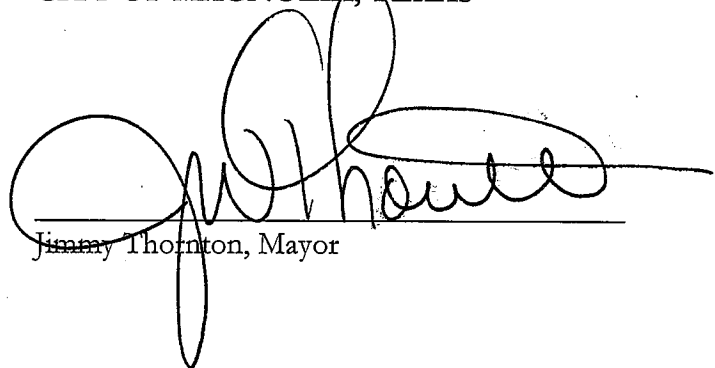
Section 10. Effective Date. This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the *Tex. Loc. Gov't. Code*. The City Council will review this ordinance every two (2) years, and the City Council will review the rates set forth herein once a year.

Section 11. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551, Texas Government Code.

PASSED AND APPROVED on this the 13th day of Sept., 2005.

- Past
SEPT 20, 05

CITY OF MAGNOLIA, TEXAS



Jimmy Thornton, Mayor

ATTEST:



Melonie M. Hopkins, City Secretary



HOUSTON COMMUNITY NEWSPAPERS

Order:	0063WF	Pubs:	1,35	Rate:	LE
Phone:	(281)356-2266	Class:	920	Charges:	\$ 0.00
Account:	6503180	Start Date:	02/09/2006	List Price:	\$ 71.21
Name:	ACCOUNTS PAYABLE,	Stop Date:	02/09/2006	Payments:	\$ 0.00
Sales	2019				
Firm:	CITY OF MAGNOLIA	Insertions:	2	Balance:	\$ 71.21

ORDINANCE NO. 2005-375

AN ORDINANCE OF THE CITY OF MAGNOLIA, TEXAS, PROVIDING RULES, REGULATIONS AND REQUIREMENTS FOR WATER, WASTEWATER AND SOLID WASTE SERVICES WITHIN THE CITY AND WITHIN THE EXTRATERRITORIAL JURISDICTION, PROVIDING FOR LATE PAYMENT CHARGE AND CHARGE FOR RECONNECTION OF SERVICE; PROVIDING SEVERABILITY, REPEALING, SAVINGS, PENALTIES, OPEN MEETINGS CLAUSES; PROVIDING FOR RELATED MATTERS, AND AN EFFECTIVE DATE.

33232 February 9, 2006



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NEWSPAPERS**

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33232 February 9, 2006.

AFFIDAVIT OF PUBLICATION

STATE OF TEXAS COUNTY OF MONTGOMERY

Personally appeared before the undersigned, a Notary Public within and for said County and State. Angela Holman, Representative for Robb Reeves, Publisher of the Conroe Courier, a newspaper of general circulation in the County of Montgomery, State of Texas. Who being duly sworn, states under oath that the report of Legal Notices, a true copy of which is hereto annexed was published in said newspapers in its issue(s) of the

9 day of February, 2006

and the _____ day of _____, 2006

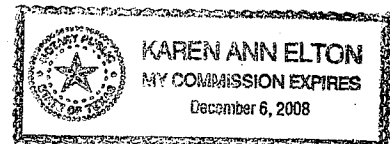
Angela Holman

Publisher's Representative

Sworn to and subscribed before me this 10 day of Feb, 2006

Karen Ann Elton
Notary Public

My commission expires on Dec 6, 2008



*Received & Filed
in the Office of*

FEB 13 2006

*City Secretary
City of Magnolia, Texas*