

**ORDINANCE NO. 2009-160**

**AN ORDINANCE AMENDING ORDINANCE NUMBER 2007-110 OF THE CITY OF MAGNOLIA, TEXAS HERETOFORE INITIALLY PASSED AND APPROVED ON THE 10<sup>th</sup> DAY OF APRIL 2007, BY DELETING SECTION 8 ENTITLED "Solid Waste Services" of ARTICLE III ENTITLED "Deposits, Rates and Charges for Service"; AND BY REPLACING SECTION 2 ENTITLED "Commercial and Industrial Units" OF ARTICLE V ENTITLED "Solid Waste Collection" WITH A NEW SECTION 2; AND BY ADDING A NEW SECTION 3 ENTITLED "Waste Service Rates for Residential, Commercial and Industrial Units" to ARTICLE V.**

**WHEREAS,** THE CITY COUNCIL OF THE CITY OF MAGNOLIA HAS HERETOFORE ADOPTED AN ORDINANCE PROVIDING RULES, REGULATIONS AND REQUIREMENTS FOR WATER, WASTEWATER AND SOLID WASTE SERVICES WITHIN THE CITY AND WITHIN THE EXTRATERRITORIAL JURISDICTION, AND OUTSIDE THE MUNICIPAL BOUNDARIES, PROVIDING FOR A LATE PAYMENT CHARGE AND A CHARGE FOR RECONNECTION OF SERVICE; PROVIDING SEVERABILITY, REPEALING, SAVINGS, PENALTIES AND OPEN MEETINGS CLAUSES; PROVIDING FOR RELATED MATTERS, AN EFFECTIVE DATE AND REPEALING ORDINANCE NO'S. 2006-088, 2006-102, 2006-104 AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES AND RESOLUTIONS OR PARTS OF RESOLUTIONS INCONSISTENT OR IN CONFLICT WITH THIS ORDINANCE BEING ORDINANCE NUMBER 2007-110 ADOPTED ON THE 10TH DAY OF APRIL, 2007, AND

**WHEREAS,** said Ordinance Number 2007-110 provides for solid waste collection, and

**WHEREAS,** after study and review the City Council of the City of Magnolia has determined that said ordinance should be amended making by making mandatory participation by commercial and industrial units to utilize waste and garbage collection and disposal services provided under contract by the City, and

**WHEREAS,** after study and review the City Council of the City of Magnolia has determined to amend said ordinance by removing the section regarding waste service charges from Article III and move provisions for charges and deposits for waste services to Article V; and

**WHEREAS,** notice of the agenda for this meeting, was given in accordance with law by posting the same at the place reserved and designated for notices of public meetings and public activities and prior to the adoption of this ordinance;

**AND NOW THEREFORE, BE IT ADOPTED BY THE CITY COUNCIL OF THE CITY OF MAGNOLIA, TEXAS:**

1. The City Council of the City of Magnolia having reviewed the findings of fact and conclusions as herein set out and adopts the same for inclusion in this ordinance if the same had been repeated verbatim herein.
2. Ordinance Number 2007-110 of the City of Magnolia, Texas is hereby amended by deleting section 8 entitled "Solid Waste Services" of Article III Entitled "Deposits, Rates and Charges for Service".
3. Ordinance Number 2007-110 of the City of Magnolia, Texas is further hereby amended by replacing section 2 entitled "Commercial and Industrial Units" of Article V entitled "Solid Waste Collection" with a new section 2 which shall provide as follows:

**"V. Section 2. Commercial and Industrial Units.** The following rules, regulations and provision shall, in addition to the other applicable provisions of this Ordinance, govern the provision of solid waste services to Commercial and Industrial Units.

**(V.2.a) Mandatory Participation by Commercial and Industrial Units.** Every Commercial and Industrial Unit within the corporate limits of the City shall be required to utilize the garbage, waste and disposal services provided under contract by the City when such Commercial and/or Industrial Unit is occupied. A Commercial and/or Industrial Unit shall be deemed occupied when either water, wastewater, or electrical power services are being supplied. Each Commercial and/or Industrial Unit is required to pay the City the Currently adopted or hereinafter adopted amended fees for this service.

**(V.2.b) Phase out of Current Waste Services Contracts by Commercial and Industrial Units.** Commercial and/or Industrial Unit owner's who have contracted with another waste service provider before the passage and adoption of this ordinance may elect to continue to receive service from the same service provider to the end of the current contract between the Commercial and/or Industrial Unit and the provider. To make this election the Commercial and/or Industrial Unit must provide the City with a copy of the contract between the Commercial and/or Industrial Unit and the waste service provider. Upon expiration of the contract with the waste service provider, the Commercial and/or Industrial Unit must use the garbage, waste and disposal services provided under contract by the City.

**(V.2.c) Hours of Operation.** Collection of Commercial and/or Industrial Garbage and waste shall be governed by the Contract entered into by the City. 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.

**(V.2.d) Complaints.** All complaints shall be made directly to the waste collection provider for the City first. Thereafter if the matter is not resolved complaint should be made to the City.

**(V.2.e) Application Requirements.** Any vendor or contractor who wishes to provide residential trash collection or commercial and industrial unit waste and disposal services shall meet the requirements and provide the information listed in the attached exhibit "A" to this Amending Ordinance."

4. Ordinance Number 2007-110 of the City of Magnolia, Texas is further hereby amended by adding a new Section 3 entitled "Waste Service Rates for Residential, Commercial and Industrial Units" to ARTICLE V which shall provide as follows:

**"V. Section 3. Waste Service Rates for Residential, Commercial and Industrial Units.**

**(V.3.a) Residential Solid Waste Services.** The City of Magnolia contracts with a private contractor to provide residential solid waste services. All senior citizens 65 and over may receive a reduced residential solid waste services rate with the completion of an application and presentation of a valid Texas Driver's License or a valid State of Texas ID card. The following rates are charged by the City of Magnolia for residential solid waste services:

Residential rate (two pickup per week)	\$ 19.00
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Residential rate Senior Citizens 65 and over	\$ 17.00
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These rates may be amended time to time by ordinance.

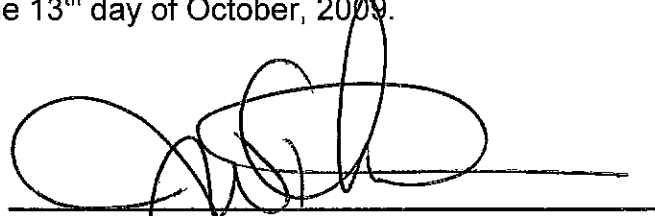
**(V.3.b) Waste Service Rates for Commercial and Industrial Units.** The City of Magnolia contracts with a private contractor to provide garbage, waste and disposal services. The rates to be charged will be determined by the contract with the private contractor and said current contract shall be attached to this Ordinance.

5. The City Secretary or that office designee is instructed to attach this Amending Ordinance to Ordinance 2007-110.

6. This Amending Ordinance 2009-160 repeals Ordinance 2007-110.

7. 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 AND ADOPTED** by a vote of 5 "ayes" in favor and 0 "no's" against on this, the 13<sup>th</sup> day of October, 2009.

  
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Jimmy W. Thornton, Mayor

**Attest:**

  
\_\_\_\_\_  
Debra Brent, City Secretary

## **Exhibit "A" to Ordinance No. 2009-160**

**SECTION 2. APPLICATION.** The Vendor will submit application to the Secretary on the form provided; Information will include the following:

- 1) Company Identification;
- 2) Tax ID Number;
- 3) Description of Equipment (Size and Number of trucks, etc. available servicing The City of Magnolia and Box/Dumpster locations and numbers); and
- 4) Insurance Company and Liability limits (attach a copy of the insurance policy naming The City of magnolia as additional insured)

**SECTION 3. INSURANCE.** Franchisee shall maintain and show proof of the following minimum insurance coverage:

- |                           |                                                      |
|---------------------------|------------------------------------------------------|
| 1) Automobile & Vehicles: | \$1,000,000 each occurrence<br>\$5,000,000 aggregate |
| 2) General Liability:     | \$1,000,000 each occurrence<br>\$5,000,000 aggregate |
| 3) Workers' Compensation: | Statutory Requirements                               |

The City of Magnolia will be included as additional named insured.

If there is any lapse in insurance coverage or Franchisee fails to provide proof of insurance upon request, the franchise may be automatically revoked.

**SECTION 4. TERM.** This Franchise shall be for a term of three (3) years on the date of the approved application. Should the Franchisee fail to comply with any section of this ordinance, the franchise may be automatically revoked.

**SECTION 5. FRANCHISE FEES.** The Franchisee shall pay to The City of Magnolia 10% of collections made under this franchise. Payments shall be made monthly for each calendar month of the franchise and the franchise fee shall be paid to The City not later than the 20<sup>th</sup> day of each month, for the preceding calendar month. Payment after that date shall include a late penalty of \$50.00.

**SECTION 6. RECORDS AND ACCOUNTING.** The Franchisee shall maintain records of customers, of services rendered, of payments received, and calculation of franchise fees. Upon written request, the Franchisee shall provide such records and access to records as may be requested and during regular business hours. The Franchisee shall provide to the City Secretary no later than the 20<sup>th</sup> day of each month, a list of new accounts not previously listed on the franchise application and/or previously provided to the City. Each box/dumpster shall be readily identifiable with a company logo and serial number.