

**ORDINANCE NO. 2011-013**

**AN ORDINANCE AMENDING ORDINANCE NO. 2007-110 OF THE CITY OF MAGNOLIA, TEXAS HERETOFORE INITIALLY PASSED AND APPROVED ON THE 10<sup>th</sup> DAY OF APRIL 2007, BY ADDING A NEW SECTION IN ARTICLE III TO BE ENTITLED "III. Section 5A Water Use Fees" WHICH PROVIDES THAT THE LONE STAR GROUNDWATER CONSERVATION DISTRICT "WATER USE FEES" AND THE SAN JACINTO RIVER AUTHORITY FEES, CHARGES, AND RATES AS SET OUT IN ITS RATE ORDER BE PASSED ON TO THE RESIDENTIAL AND COMMERCIAL CUSTOMERS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING SAVINGS CLAUSE AND TEXAS OPEN MEETINGS ACT CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE OF JUNE 1, 2011 AFTER PUBLICATION.**

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**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 No. 2007-110 adopted on the 10th day of April, 2007, and

**WHEREAS,** it has been determined by the City Council of the City of Magnolia, Texas that current water and sewer service charges need to be redefined with respect to residential and commercial service, should be adjusted to satisfy minimum operation and maintenance costs of said systems, and

**WHEREAS,** to protect the health, safety, and general welfare of the citizens of Magnolia, Texas and to satisfy the requirements of State and Federal regulatory agencies, the City has entered into a Contract for Groundwater Reduction Planning, Alternative Water Supply,

and Related Goods and Services by and between the San Jacinto River Authority (hereinafter "the Contract"); and

**WHEREAS**, the Contract provides that the City will begin paying certain monthly pumpage fees, rates and charges to the San Jacinto River Authority (hereinafter "SJRA") in accordance with the SJRA Rate Order, commencing on August 1, 2010; and

**WHEREAS**, the SJRA has adopted a Rate Order that imposes a pumpage fee to the City and all other participants of \$0.50 per thousand gallons of water consumed, effective August 1, 2010; and

**WHEREAS**, the City Council believes it is in the best interest of the City and its customers that the monthly "Water Use Fee" assessed by the Lone Star Groundwater Conservation District and the monthly pumpage fees, rates, and charges payable to the SJRA under the Contract be passed through to the individual In-City and Out-of-City residential and commercial customers on the basis of the amount of water consumed monthly by each customer, as set out the SJRA Rate Order, together with an additional \$.85 surcharge per thousand gallons of water consumed to recover the City's additional costs associated with the Contract; and

**WHEREAS**, the City Council has also reviewed the permit, charges and/or uses of water for residential and commercial irrigation and the appropriate procedures, costs and methods to allow water useage for residential and commercial irrigation and fees and costs and wishes to amend Ordinance 2007-110 accordingly.

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

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 adding a new section in Article III to be "III. Section 5A Water Use Fees" which shall provide as follows:

**"III. Section 5A. Water Use Fees**

In addition to the currently adopted water rates or future adopted water rates, the Groundwater Reduction Plan pumpage fees, rates, and charges assessed to the City under its Contract with the San Jacinto River Authority ("SJRA pumpage fees"), which on August 1, 2010, shall be \$0.50 per thousand gallons of water consumed by residential and commercial customers, shall be an additional charge to all In-City and Out-of-City residential and commercial customers, along with an additional surcharge of \$.85 of the SJRA pumpage fees per 1,000 gallons of water consumed to recover the City's additional costs associated with the Contract with the SJRA.

It is further ordered that this rate shall automatically increase consistent with the increase in the SJRA pumpage fees assessed to the City, plus the additional surcharge of 10% of the SJRA pumpage fees per thousand gallons of water consumed to recover the City's costs associated with the Contract with the SJRA."

3. Ordinance Number 2007-110 of the City of Magnolia, Texas is hereby amended by adding a new section 13 in Article III, said section to be as follows:

**"III. Section 13. Requests for Irrigation Meters.** All current city water customers, whether residential or commercial, within the city limits or its ETJ may request that an Irrigation Meter be installed by the City. Irrespective of other provisions in this ordinance a tap fee or impact fee will not be charged to the current city water customer, however the costs and labor to install the irrigation meter will be a fee of \$140.00 to be paid by the Customer at the time of application. This fee shall be included in the "City Schedule of Fees and Rates". This fee may be adjusted time to time by City Council by Ordinance by amending the "City Schedule of Fees and Rates". The Irrigation Meter will be owned by the City. The customer grants consent for the City to enter onto the Customer's property to install the irrigation meter."

4. It is the intention of the City Council of the City of Magnolia that if any phrase, sentence, section, or paragraph of this Ordinance shall be declared unconstitutional or otherwise invalid by final judgment or a court of competent jurisdiction such unconstitutionality or invalidity shall not affect any of the remainder of this Ordinance since the same would have been enacted by the City Council without the incorporation of the unconstitutional or invalid phrase, sentence, section or paragraph.

5. That all Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

6. The City Secretary or that office designee is instructed to attach this Amending Ordinance No. O-2011-013 to Ordinance No. 2007-110.

7. 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 Local Government Code.

8. 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. **This Ordinance takes effect on in regards to item 2 on June 1, 2011. This Ordinance takes effect in regards to item 3 on the date of its passage by the City Council.**

**PASSED AND ADOPTED** by a vote of 5 "ayes" in favor and -0- "no's" against on this, the 17<sup>th</sup> day of May, 2011.

  
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Todd Kana, Mayor

Attest:

  
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Lynne George, TRMC, CPM, City Secretary

