

City of Houston, Texas, Ordinance No. 2012-345

**A MUNICIPAL SETTING DESIGNATION ORDINANCE PROHIBITING THE USE OF DESIGNATED GROUNDWATER BENEATH PROPERTY CONTAINING 9.9574 ACRES COMMONLY KNOWN AS 308 AND 320 HUGHES STREET, HOUSTON, HARRIS COUNTY, TEXAS; AND SUPPORTING ISSUANCE OF A MUNICIPAL SETTING DESIGNATION BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.**

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**WHEREAS**, Subchapter W, "Municipal Setting Designations," of Chapter 361, "Solid Waste Disposal Act," of the Texas Health and Safety Code authorizes the Texas Commission on Environmental Quality ("TCEQ") to create municipal setting designations; and

**WHEREAS**, on August 22, 2007, by Ordinance No. 2007-959, the City Council adopted Article XIII, of Chapter 47, Code of Ordinances, Houston, Texas, to provide a process for establishing municipal setting designation ordinances and amended that process on July 14, 2010, by Ordinance No. 2010-556; and

**WHEREAS**, Sections 47-765(f) and 47-767(a) of the Code of Ordinances, Houston, Texas, authorize municipal setting designation ordinances that prohibit the use of designated groundwater as potable water and thereby enable the TCEQ to certify a municipal setting designation for designated property; and

**WHEREAS**, on December 23, 2010, **GNR RECYCLING, L.P.**, a Texas limited partnership ("Applicant") applied to the Director of the Public Works and Engineering Department, requesting that the City Council support a municipal setting designation ordinance for 308 and 320 Hughes Street, located in Houston, Texas 77023; and

**WHEREAS**, on March 7, 2012, the Director of the Public Works and Engineering Department conducted a public meeting as required by section 47-764 of the Code of

Ordinances, Houston, Texas, at the Eastwood Community Center, 5000 Harrisburg Road, Houston, Texas 77011, and notified the community when the public hearing would occur; and

**WHEREAS**, a City Council committee, designated by the Mayor, conducted a public hearing on March 22, 2012; and

**WHEREAS**, the City Council finds that:

(1) the application meets the eligibility criteria of section 361.803 of the Texas Health and Safety Code;

(2) the municipal setting designation will not have an adverse effect on the current or future water resource needs or obligations of the City of Houston;

(3) there is a public drinking water supply system that satisfies the requirements of Chapter 341 of the Texas Health and Safety Code and that supplies or is capable of supplying drinking water to the designated property and property within one-half mile of the designated property; and

(4) this Municipal Setting Designation Ordinance is necessary because the concentration of contaminants of concern exceeds human ingestion protective concentration levels, and the establishment of a municipal setting designation will allow the property to be brought back into productive use; and

(5) the public rights of way immediately adjacent to the designated property be included, at no additional cost to the city, in the TCEQ application; and

(6) certain reasonable and necessary conditions are imposed on the Applicant; and

**WHEREAS**, City Council finds that the Director of the Public Works and Engineering Department on behalf of City Council, in accordance with the Charter of the City of Houston, state law, and the ordinances of the City of Houston, has given the required notices, the Development and Regulatory Affairs Committee of City Council has held the required public hearing regarding this Municipal Setting Designation Ordinance and all procedural requirements have been satisfied; **NOW, THEREFORE:**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:**

**Section 1.** That for purposes of this Municipal Setting Designation Ordinance, the "designated property" means the property described in Exhibit A, attached to this Ordinance and incorporated by reference herein.

**Section 2.** That for purposes of this Municipal Setting Designation Ordinance, "designated groundwater" means groundwater beneath the designated property to a depth not to exceed 200 feet that is prohibited from use as potable water by this Ordinance.

**Section 3.** That use of the designated groundwater from beneath the designated property as potable water, as that term is defined in section 47-761 of the Code of Ordinances, Houston, Texas, is prohibited.

**Section 4.** That the use of the designated groundwater from beneath public rights-of-way immediately adjacent to the designated property as potable water, as that term is defined in section 47-761 of the Code of Ordinances, Houston, Texas, is prohibited.

**Section 5.** That the designated property must receive a certificate of completion or other analogous documentation issued by the TCEQ or the United States

Environmental Protection Agency ("EPA") showing that any site investigations and response actions required pursuant to section 361.808 of the Texas Health and Safety Code have been completed to the satisfaction of the TCEQ or EPA within the time period required by them.

**Section 6.** That the City Council supports the application to the TCEQ for a municipal setting designation on the designated property, with the following comment:

(1) The TCEQ and the EPA, as agencies charged to protect human health and the environment, are requested to thoroughly review the conditions on the designated property and issue a certificate of completion only when all contaminants of concern, through the applicable routes of exposure, have been addressed.

**Section 7.** That any person owning, operating, or controlling the designated property remains responsible for complying with all applicable federal and state laws and regulations and all ordinances, rules, and regulations of the City of Houston. The City Council's approval of a municipal setting designation ordinance in itself does not change any environmental assessment or cleanup requirements applicable to the designated property.

**Section 8.** That approval of this Municipal Setting Designation Ordinance shall not be construed to subject the City of Houston to any responsibility or liability for any injury to persons or damages to property caused by any contaminant of concern.

**Section 9.** That within 30 days after adoption of this Municipal Setting Designation Ordinance, the Applicant shall provide the Director of the Public Works and Engineering Department with an electronic file showing the location of the designated property and the designated groundwater in a format compatible with the City's

geographic information system and its integrated land management system, and shall provide an electronic file showing the location of the designated property and the designated groundwater to the Harris County Appraisal District in a format compatible with its system.

**Section 10.** That within 30 days after adoption of this Municipal Setting Designation Ordinance, the Director of the Public Works and Engineering Department shall send a certified copy of this ordinance to the Applicant, TCEQ and EPA.

**Section 11.** That the Applicant shall provide the Director of the Public Works and Engineering Department with a copy of the municipal setting designation certificate issued by the TCEQ pursuant to section 361.807 of the Texas Health and Safety Code within 30 days after issuance of the certificate.

**Section 12.** That within 30 days after receipt of the municipal setting designation certificate from the TCEQ, the Director of the Public Works and Engineering Department shall file a certified copy of this Municipal Setting Designation Ordinance in the deed records of Harris County.

**Section 13.** That if any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their applicability to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or

invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

**Section 14.** There exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor.

**PASSED AND APPROVED** this 18th day of April, 2012.

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Mayor of the City of Houston

Pursuant to Article VI, Section 6, Charter of the City of Houston, Texas, the effective date of the foregoing Ordinance is APR 24 2012.



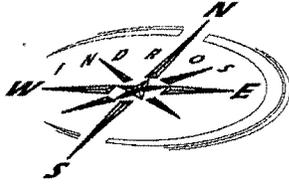
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City Secretary

(Prepared by Legal Dept. )  
(CP:lks 4/6/12) Sr. Assistant City Attorney

(Requested by Daniel W. Krueger, P.E., Director, Public Works and Engineering Dept.)

L.D. File No. 063-12000 94 -001  
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AYE	NO	
✓		<b>MAYOR PARKER</b>
••••	••••	<b>COUNCIL MEMBERS</b>
	✓	BROWN
✓		DAVIS
✓		COHEN
✓		ADAMS
✓		SULLIVAN
✓		HOANG
✓		PENNINGTON
✓		GONZALEZ
✓		RODRIGUEZ
✓		LASTER
✓		GREEN
✓		COSTELLO
✓		BURKS
✓		NORIEGA
✓		BRADFORD
✓		CHRISTIE
CAPTION	ADOPTED	



**Windrose Land Services, Inc**

3628 Westchase

Houston, Texas 77042

Phone (713) 458-2281 Fax (713) 461-1151

**Professional Development Consultants**

*Land Surveying, Platting, Project Management and GIS Services*

**DESCRIPTION OF  
9.9574 ACRES OR 433,746 SQ. FT.**

A TRACT OR PARCEL CONTAINING 9.9574 ACRES OR 433,746 SQUARE FEET OF LAND, SITUATED IN THE S.M. WILLIAMS SURVEY, ABSTRACT NO. 87, HARRIS COUNTY, TEXAS BEING ALL OF A CALLED 5.1631 ACRE TRACT CONVEYED TO GNR RECYCLING, L.P. IN H.C.C.F. NO. 20080565301 AND THE RESIDUE OF A CALLED 10.4145 ACRE TRACT CONVEYED TO GNR RECYCLING IN H.C.C.F. NO. 20080565300 AS WELL AS ALL OF LOT 3 OF SUPPLY ROW CENTER, MAP OR PLAT THEREOF RECORDED IN VOL. 30, PG. 16, H.C.M.R., WITH SAID 9.9574 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS WITH ALL BEARINGS BEING BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE, NAD 83:

BEGINNING AT AN "X" FOUND IN CONCRETE ON THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF HUGHES STREET (R.O.W. VARIES) MARKING THE CALLED MOST NORTHERLY CORNER OF SAID 5.1631 ACRE TRACT AND THE MOST NORTHERLY CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE SOUTH 71 DEG. 58 MIN. 30 SEC. EAST, ALONG AND WITH THE NORTHERLY LINE OF SAID 5.1631 ACRE TRACT, A DISTANCE OF 488.12 FEET TO AN ANGLE POINT;

THENCE SOUTH 32 DEG. 31 MIN. 30 SEC. WEST, ALONG AND WITH AN EASTERLY LINE OF SAID 5.1631 ACRE TRACT, A DISTANCE OF 21.65 FEET TO AN INTERIOR CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE SOUTH 71 DEG. 58 MIN. 30 SEC. EAST, ALONG AND WITH A NORTHERLY LINE OF SAID 5.1631 ACRE TRACT, A DISTANCE OF 64.77 FEET TO A POINT ON THE CALLED NORTHWESTERLY LINE OF LOT 1 OF SAID SUPPLY ROW CENTER MARKING THE COMMON MOST EASTERLY CORNER OF SAID 5.1631 ACRE TRACT AND OF THE HEREIN DESCRIBED TRACT;

THENCE SOUTH 18 DEG. 04 MIN. 58 SEC. WEST, ALONG AND WITH CALLED NORTHWESTERLY LINE A DISTANCE OF 360.28 FEET TO A POINT ON THE CALLED NORTHERLY LINE OF LOT 3 OF SAID SUPPLY ROW CENTER, MARKING AN INTERIOR CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE SOUTH 72 DEG. 02 MIN. 41 SEC. EAST, ALONG AND WITH CALLED NORTHERLY LINE OF SAID LOT 3, A DISTANCE OF 0.80 FEET TO AN ANGLE POINT;

THENCE SOUTH 17 DEG. 57 MIN. 19 SEC. WEST, ALONG AND WITH THE CALLED COMMON LINE BETWEEN SAID LOTS 2 AND 3, A DISTANCE OF 285.63 FEET TO A POINT ON THE CALLED NORTHEASTERLY RIGHT-OF-WAY LINE OF SUPPLY ROW (BASED ON A WIDTH OF 60 FEET) MARKING THE MOST EASTERLY SOUTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE NORTH 72 DEG. 02 MIN. 41 SEC. WEST, ALONG AND WITH SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 100.83 FEET TO THE MOST NORTHERLY CORNER OF SAID SUPPLY ROW, SAME BEING THE SOUTHWEST CORNER OF SAID LOT 3, AND AN INTERIOR CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE SOUTH 17 DEG. 57 MIN. 19 SEC. WEST, ALONG AND WITH THE WESTERLY LINE OF SAID SUPPLY ROW, A DISTANCE OF 60.00 FEET TO THE MOST SOUTHERLY SOUTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

**DESCRIPTION OF  
9.9574 ACRES OR 433,746 SQ. FT. (CONTD.)**

THENCE NORTH 71 DEG. 56 MIN. 00 SEC. WEST, A DISTANCE OF 231.80 FEET TO AN ANGLE POINT;

THENCE ALONG AND WITH THE CALLED SOUTHERLY LINE OF SAID 10.4145 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

NORTH 72 DEG. 02 MIN. 41 SEC. WEST, A DISTANCE OF 24.55 FEET TO AN ANGLE POINT;

SOUTH 88 DEG. 56 MIN. 15 SEC. WEST, A DISTNACE OF 62.22 FEET TO AN ANGLE POINT;

NORTH 80 DEG. 10 MIN. 42 SEC. WEST, A DISTANCE OF 71.87 FEET TO AN ANGLE POINT;

NORTH 86 DEG. 58 MIN. 33 SEC. WEST, A DISTANCE OF 46.57 FEET TO AN ANGLE POINT;

NORTH 07 DEG. 30 MIN. 54 SEC. WEST, A DISTANCE OF 46.52 FEET TO AN ANGLE POINT;

NORTH 16 DEG. 53 MIN. 47 SEC. EAST, A DISTNACE OF 57.61 FEET TO AN ANGLE POINT;

NORTH 62 DEG. 30 MIN. 48 SEC. WEST, A DISTANCE OF 42.20 FEET TO AN ANGLE POINT;

THENCE NORTH 74 DEG. 47 MIN. 19 SEC. WEST, A DISTANCE OF 56.58 FEET TO A POINT ON THE CALLED EASTERLY LINE OF SAID HUGHES STREET, MARKING THE COMMON MOST WESTERLY CORNER OF SAID 10.4145 ACRE TRACT, AND THE HEREIN DESCRIBED TRACT;

THENCE NORTH 31 DEG. 34 MIN. 19 SEC. EAST, ALONG AND WITH SAID EASTERLY RIGHT-OF-WAY, A DISTANCE OF 211.20 FEET TO AN ANGLE POINT;

THENCE NORTH 10 DEG. 55 MIN. 19 SEC. EAST, CONTINUING ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 79.82 FEET TO AN ANGLE POINT;

THENCE NORTH 10 DEG. 50 MIN. 24 SEC. EAST, CONTINUING ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 97.58 FEET TO AN ANGLE POINT;

THENCE NORTH 71 DEG. 58 MIN. 30 SEC. WEST, CONTINUING ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 0.33 FEET TO AN ANGLE POINT;

THENCE NORTH 32 DEG. 59 MIN. 27 SEC. EAST, CONTINUING ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 294.41 FEET TO THE PLACE OF BEGINNING AND CONTAINING 9.9574 ACRES OR 433,746 SQUARE FEET OF LAND, AS SHOWN ON THE SURVEY, JOB NO. 47136WC, FILED IN THE OFFICES OF WINDROSE LAND SERVICES, INC. THIS LEGAL DESCRIPTION IS A COMPILATION OF EXISTING DESCRIPTIONS PREPARED UNDER PROVISIONS OF 22 TAC 663.21. IT IS NOT TO BE USED TO CONVEY OR ESTABLISH INTEREST IN REAL PROPERTY EXCEPT THOSE RIGHTS IMPLIED OR ESTABLISHED BY THE CREATION OR RECONFIGURATION OF THE BOUNDARY OF THE POLITICAL SUBDIVISION FOR WHICH IT WAS PREPARED.

  
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MIKE KURKOWSKI  
R.P.L.S. NO. 5101  
STATE OF TEXAS



12/14/10  
\_\_\_\_\_  
DATE: