

City of Houston, Texas, Ordinance No. 2012-645

A MUNICIPAL SETTING DESIGNATION ORDINANCE PROHIBITING THE USE OF DESIGNATED GROUNDWATER BENEATH A TRACT OF LAND CONTAINING 0.4504 ACRES COMMONLY KNOWN AS 6601 HARRISBURG BOULEVARD, HOUSTON, HARRIS COUNTY, TEXAS AND PORTIONS OF RIGHTS OF WAY OF 66TH STREET AND HARRISBURG BOULEVARD, 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.

* * * * *

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 February 17, 2012, **METROPOLITAN TRANSIT AUTHORITY OF HARRIS COUNTY**, a governmental agency that is a county mass transit authority created consistent with Chapter 457 of the Texas Transportation Code, ("Applicant") applied to the Director of the Public Works and Engineering Department, requesting that the City

Council support a municipal setting designation ordinance for its property that is located generally at 6601 Harrisburg Boulevard, Houston, Texas 77011; and

WHEREAS, the 6500 and 6600 block of Harrisburg Boulevard, the 100 block of South 66th Street, and the 100 block of 66th Street are all located adjacent to the designated property; and

WHEREAS, on May 21, 2012, the Director of the Public Works and Engineering Department conducted a public meeting at the Magnolia Multi-Service Center, 7037 Capitol Street, Houston, Texas 77011 as required by section 47-764 of the Code of Ordinances, and notified the community when the City Council public hearing would occur; and

WHEREAS, a City Council committee, designated by the Mayor, conducted a public hearing on June 12, 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 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

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 Technology, Transportation and Infrastructure 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 tract 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 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 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 application 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. That 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 that date and shall take effect immediately upon its passage and approval by the mayor; however, in the event that the Mayor fails to sign this Ordinance within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

PASSED AND ADOPTED this 11th day of July, 2012.

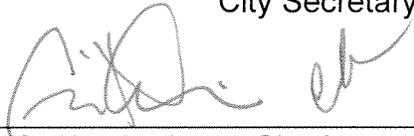
APPROVED this ____ day of _____, 2012.

Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is JUL 17 2012.



City Secretary

Prepared by Legal Depart. 
CP/amh 7/3/2012 Senior Assistant City Attorney
Requested by Daniel W. Krueger, P.E., Director,
Public Works and Engineering Department
L.D. File No. _____

AYE	NO	
✓		MAYOR PARKER
....	COUNCIL MEMBERS
	✓	BROWN
✓		DAVIS
	ABSENT-ON PERSONAL BUSINESS	COHEN
✓		ADAMS
✓		SULLIVAN
✓		HOANG
✓		PENNINGTON
✓		GONZALEZ
✓		RODRIGUEZ
✓		LASTER
✓		GREEN
✓		COSTELLO
✓		BURKS
	ABSENT DUE TO BEING ILL	NORIEGA
✓		BRADFORD
	ABSENT-CITY BUSINESS	CHRISTIE
CAPTION	ADOPTED	

EXHIBIT A

Property Description

A metes and bounds description of a certain 0.4504 acres (19,618 square feet) tract of land situated in the S. M. Williams Survey, Abstract Number 87 situated in City of Houston, Harris County, Texas, being all of Lots 21 through Lot 24, Block 5, out of Plat of Central Park, a recorded subdivision plat file under Volume 5, Page 23 of the Harris County Map Records (H.C.M.R.) being all that land described in that Warranty Deed conveying said property to Parker Systems, Inc. recorded under Harris County Clerk's File (H.C.C.F.) Number N942769 of the Official Public Records of Real Property Harris County, Texas and recorded on November 5, 1992 and being more particularly described by metes and bounds as follows: All bearings are based on the Texas State Plan Coordinate System, South Central Zone 4204, NAD 83, 2001 adjustment as determined from METRO Monumented Control Point No's. MC-314, MC-315 and MC-316. All distances and coordinates are surface and can be converted to grid by multiplying by the METRO combined scale factor of 0.99988701;

BEGINNING at the northwest corner of Lot 24, Block 5 of said Central Park subdivision, same being in the east right of way line of 66th Street, 60.00 feet wide, as dedicated by said plat of Central Park and being in the south line of a 20.00 feet wide alleyway, dedicated by said plat of Central Park, from which a 5/8-inch iron rod was found which bears S, 59° 34' 41" E – 1.47 feet from said corner of the herein described tract of land, having surface coordinates of X = 3,139,698.41, Y=13,836,185.30, from which a 3-1/2 inch diameter aluminum disk in concrete being Metro Control Point "MC-314", having surface coordinates of X=3,139,903.26 and Y=13,836,718.58 and bears North 21 degrees 00 minutes 49 seconds East, a distance of 571.28 feet;

THENCE South 72 degrees 24 minutes 23 seconds East, along the northerly line of said Lots 24 through Lot 21, Block 5 of said Central Park subdivision same being the south line of said 20.00 feet wide alleyway, a distance of 100.00 feet, to a 5/8-inch iron rod with LTRA cap set for the common north corner of Lot 21 and Lot 21, Block 5 of Central Park for the northeast corner of the herein described tract of land;

THENCE South 17 degrees 29 minutes 29 seconds West, along the common line between said Lot 20 and Lot 21, Block 5 of said Central Park, same bearing the west line of a tract of land described in Warranty Deed conveying property to E. B. Warren recorded in Harris County Clerk's File (H.C.C.F.) Number F318307, recorded on September 30, 1977 in the Official Public Records of Real Property of Harris County, Texas, at 170.50 feet passing the Proposed North right of way line of Harrisburg Boulevard and continuing a total distance of 196.09 feet, to a point for corner in the existing north right of way line of Harrisburg Boulevard, (Variable width) as dedicated by said plat of Central Park for the southeast corner of the herein described tract of land, from which a 5/8-inch iron rod was found located S 37° 12' 02" W. – 1.07 feet and a 3/4-inch iron rod was found located N. 37° 24' 53" W – 0.62 feet from said southeast corner of the herein described tract of land;

THENCE North 72 degrees 30 minutes 30 seconds West, along the existing north right of way line of said Harrisburg Boulevard and South line of said Lots 21 through Lot 24, Block 5 of Central Park a distance of 100.00 feet, to a point for corner from which a chiseled "X" was found located N. 67° 48' 55" W. – 0.48 feet from the southwest corner of said Lot 24, Block 5, Central Park and southwest corner of the herein described tract of land;

THENCE North 17 degrees 29 minutes 29 seconds East, along the east right of way line of said 66th Street, same being the west line of said Lot 24, Block 5, Central Park , at 30.27 feet passing the Proposed North right of way line of Harrisburg Boulevard and continuing a total distance of 196.27 feet, returning to the POINT OF BEGINNING and containing 0.4504 acres of land (19,618 square feet).

This description is based on a Land Title Survey prepared by Lina T. Ramey & Associates, Inc., Job Number 08.035 on file in the offices of the Metropolitan Transit Authority , (contract number RA0600007; Work Authorization Number 07) Houston, Harris County, Texas.