

City of Houston, Texas, Ordinance No. 2013- 1157

A MUNICIPAL SETTING DESIGNATION ORDINANCE PROHIBITING THE USE OF DESIGNATED GROUNDWATER BENEATH A TRACT OF LAND CONTAINING 12.145 ACRES COMMONLY KNOWN AS 2200 TEXAS AVENUE, 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 March 15, 2013, the **CITY OF HOUSTON, TEXAS**, a municipal corporation situated in Harris, Fort Bend and Montgomery Counties, Texas ("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 2200 Texas Avenue, Houston, Texas 77030; and

WHEREAS, on June 12, 2013, the Director of the Public Works and Engineering Department conducted a public meeting at the Houston Permit Center, 1002 Washington Avenue, Houston, Texas 77002 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 July 11, 2013; 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 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 5. 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 6. 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 7. 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 8. 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 9. 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, to TCEQ and to EPA.

Section 10. 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 11. 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 12. 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 13. 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 December, 2013.

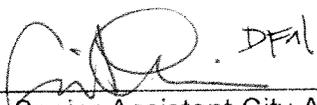
APPROVED this _____ day of _____, 2013.

Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is DEC 17 2013.



City Secretary

Prepared by Legal Dept. 
CP/lks 7/30/2013 Senior Assistant City Attorney
Requested by Daniel W. Krueger, P.E., Director,
Public Works and Engineering Department

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AYE	NO	
✓		MAYOR PARKER
.....	COUNCIL MEMBERS
	✓	BROWN
✓		DAVIS
✓		COHEN
✓		ADAMS
✓		MARTIN
✓		HOANG
✓		PENNINGTON
✓		GONZALEZ
✓		RODRIGUEZ
✓		LASTER
✓		GREEN
✓		COSTELLO
✓		BURKS
✓		NORIEGA
✓		BRADFORD
✓		CHRISTIE
CAPTION	ADOPTED	

**METES AND BOUNDS DESCRIPTION
EXHIBIT "A"**

City of Houston

12.145 Acres of Land out of and a Part of the James Wells Survey, A-832, Harris County, Texas
Parcel No. Q11-001 - Drawing No. 17601A

PROPERTY DESCRIPTION of 12.145 acres (529,031 square feet) of land out of and a part of the James Wells Survey, Abstract 832, Harris County, Texas, and also being all of Blocks 203, 204, 205, 218, 219, and 220 of the unrecorded subdivision know as South Side of Buffalo Bayou and all of the rights-of-way of Bastrop Street, Capitol Avenue and Rusk Avenue inclusive within the exterior line of the aforesaid six (6) blocks. Said parcel being more particularly described by metes and bounds as follows:

COMMENCING at a $\frac{3}{4}$ -inch brass rod found marking the intersection of the center lines of Hutchins Street (80 feet wide) and McKinney Avenue (80 feet wide), said brass rod with punch being City of Houston Center Line Reference Monument #34, said found brass rod having coordinate values of N = 13,838,541.11, E = 3,125,015.73 (all coordinates listed herein are expressed in units of U.S. Survey feet, are grid coordinates and are referenced to the Texas Coordinate System, North American Datum of 1983, South Central Zone. All bearings listed herein are referenced to the Texas Coordinate System, North American Datum of 1983, South Central Zone. To convert coordinates from grid to "surface", apply a scale factor of 0.9998918).

THENCE North $32^{\circ} 52' 00''$ East with the centerline of Hutchins Street as re-established in the 1868 and ratified by City Ordinance in the same year, a distance of 370.56 feet to a point: Thence South $57^{\circ} 08' 24''$ East a distance of 40.00 feet to a $\frac{3}{4}$ -inch iron rod with cap set marking the intersection of the southeasterly right-of-way line of said Hutchins Street and the northeasterly right-of-way line of Walker Avenue (80.60 feet wide) and the westerly corner of the herein described parcel and the POINT OF BEGINNING, having coordinated of N = 13,838,831.86, E = 3,125,249.27;

THENCE North $32^{\circ} 52' 00''$ East, with the southeasterly right-of-way line of said Hutchins Street, a distance of 911.80 feet to a $\frac{3}{4}$ -inch iron rod with cap set marking the intersection of the southwesterly right-of-way line of Texas Avenue (100 feet wide) with the southeasterly right-of-way line of Hutchins Street and the northerly corner of the herein described parcel;

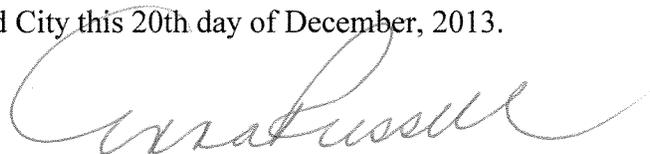
THENCE South $57^{\circ} 08' 24''$ East, with the southwesterly right-of-way line of said Texas Avenue, a distance of 580.20 feet to a $\frac{5}{8}$ -inch iron rod with cap set at the intersection of the northwesterly right-of-way line of Dowling Street and the southwesterly right-of-way line of said Texas Avenue marking the easterly corner of the herein described parcel;

THENCE South $32^{\circ} 52' 00''$ West, with the northwesterly right-of-way line of Dowling Street, a distance of 911.80 feet to a hole punched in concrete set on the intersection of the northwesterly right-of-way line of said Dowling Street and the northeasterly right-of-way line of said Walker Avenue, marking the southerly corner of the herein described parcel;

THENCE, North $57^{\circ} 08' 24''$ West with the northeasterly right-of-way line of said Walker Avenue, a distance of 580.20 feet to the POINT OF BEGINNING, containing 12.145 acres (529,031 square feet) of land.

I, ANNA RUSSELL, City Secretary of the City of Houston, Texas, do hereby certify that the within and foregoing is a true and correct copy Ordinance No. 2013-1157, passed and adopted, by the City Council of said City on 11th day of December, 2013, as the same appears in the records in my office.

WITNESS my hand and the Seal of said City this 20th day of December, 2013.



Anna Russell
City Secretary of the City of Houston

