

**THIS IS A PROPOSED DRAFT AND WILL BE REPLACED BY THE
FINAL, SIGNED ORDINANCE OR RESOLUTION ADOPTED BY THE
CITY COUNCIL.**

AN ORDINANCE

**APPROVING AND ADOPTING A MUNICIPAL SETTING
DESIGNATION POLICY AND GUIDELINES FOR THE CITY OF SAN
ANTONIO TO PROVIDE FOR THE CONSIDERATION OF
APPLICATIONS FROM PROPERTY OWNERS FOR REQUESTS FOR A
MUNICIPAL SETTING DESIGNATION, AS AUTHORIZED BY
CHAPTER 361 OF THE TEXAS HEALTH AND SAFETY CODE**

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WHEREAS, a Municipal Setting Designation (MSD) is an official state designation given to property within a municipality or its extraterritorial jurisdiction that certifies that designated groundwater at the property is not used as potable water, and is prohibited from future use as potable water, as authorized under the Texas Health and Safety Code, Chapter 361, Subchapter W (sections 361.801-808); and

WHEREAS, the MSD essentially recognizes that not all groundwater is created equal; that is, not all groundwater will be used by for potable purposes, so the use of contaminated groundwater can be restricted under appropriate circumstances; the MSD only addresses the risk of ingestion exposure based on human consumption of groundwater; the MSD does not reduce the requirement to address other risks that need to be addressed such as ecological risks or risks to surface water; and

WHEREAS, the use of municipal setting designation ordinances within the city of San Antonio and its extraterritorial jurisdiction will encourage the economic development of properties that have contaminated groundwater; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Council finds that:

- (1) due to limited quantity and low quality, there are areas within the city and its extraterritorial jurisdiction where the groundwater is not valuable as a source for potable water;
- (2) the city of San Antonio does utilize groundwater as a source for public potable water;
- (3) many properties in the city and its extraterritorial jurisdiction are underlain with unused or unusable groundwater that has become contaminated by historical on-site or off-site sources;

(4) municipal setting designation ordinances enable a state corrective process for groundwater that protects human health and the environment while also promoting the economic welfare of citizens;

(5) where the quality of the groundwater presents an actual or potential threat to human health, and another source of potable water is available, the use of designated groundwater beneath a designated property should be prohibited to protect the public health, safety, and welfare;

(6) municipal setting designation ordinances should be considered only after a process that allows for public notice and input; and

(7) the use of municipal setting designation ordinances within the city of San Antonio and its extraterritorial jurisdiction will encourage the economic development of properties that have contaminated shallow groundwater.

SECTION 2. The City Council approves the Municipal Setting Designation (MSD) Policy and MSD Guidelines as presented by the City Manager and the Director, Transportation and Capital Improvements Department (TCI), for the City's MSD Program. A copy of the approved MSD Policy and Guidelines is attached as Exhibit "A" and made a part hereof and incorporated herein for all purposes.

SECTION 3. The City Manager, or her designee, or the Director, Transportation and Capital Improvements (TCI) Department, or his designee, is authorized to develop all necessary procedures to implement the MSD Program in accordance with the MSD Policy and MSD Guidelines approved by the City Council and to modify the procedures if required. The Director, TCI shall administer the MSD Program for the City and is authorized to develop all necessary forms, applications and other required documents, and to require the submission of any information necessary to review and develop a recommendation for a MSD Application. There is hereby authorized and established a MSD application fee and a MSD processing fee, to be charged by the City to accept, process and review a MSD Application. The fees shall be in the amount of a non-refundable \$2,000.00 application fee and a \$6,000.00 processing fee, plus allowable expenses. The fees shall be included in the TCI Fee Schedule, Chapter 37 of the City Code, and subject to annual adjustment as a part of the City budget process. The Director, TCI is authorized to collect the fees and is authorized to reimburse agencies that assist in a review of an MSD Application, up to the purchasing authority limit as granted by Ordinance 93760 and Administrative Directive 1.6, if required.

SECTION 4. Should any Article, Section, Part, Paragraph, Sentence, Phrase, Clause, or Word of this Ordinance, for any reason be held illegal, inoperative, or invalid, or if any exception to or limitation upon any general provision herein contained be held to be unconstitutional or invalid or ineffective, the remainder shall, nevertheless, stand effective and valid as if it had been enacted and ordained without the portion held to be unconstitutional or invalid or ineffective.

SECTION 5. Funds generated by this ordinance will be deposited into Fund 29028000, Internal Order 223000000251 and General Ledger 4407725.

SECTION 6. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

SECTION 7. This ordinance shall be effective immediately upon passage by eight or more affirmative votes; otherwise, it shall be effective on the tenth day after passage.

PASSED and APPROVED this ____th day of _____, 2016.

M A Y O R
Ivy R. Taylor

ATTEST:

APPROVED AS TO FORM:

Leticia M. Vacek, City Clerk

Martha G. Sepeda, Acting City Attorney