

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

ORDINANCE

PROHIBITING THE USE OF DESIGNATED GROUNDWATER FROM BENEATH A TRACT OF LAND CONTAINING 2.692 ACRES LOCATED IN AND AROUND 420 BROADWAY IN SAN ANTONIO, TEXAS AND SUPPORTING CERTIFICATION OF A MUNICIPAL SETTING DESIGNATION BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY; ESTABLISHING A PENALTY AND DIRECTING THE CITY CLERK TO PUBLISH NOTICE

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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 to certify municipal setting designations; and

WHEREAS, pursuant to Section 551.005(a) of the Texas Local Government Code, for the purpose of establishing and enforcing a municipal setting designation, the governing body of a municipality may regulate the pumping, extraction, or use of groundwater by persons other than retail public utilities, as defined by Section 13.002, Water Code, to prevent the use of or contact with groundwater that presents an actual or potential threat to human health; and

WHEREAS, the City Council finds that:

- (1) The eligibility criteria of Section 361.803 of the Texas Health and Safety Code have been met;
- (2) This municipal setting designation ordinance will not have an adverse effect on the current or future water resource needs or obligations of the City of San Antonio;
- (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 concentrations of chemicals of concern in the groundwater beneath the designated property exceed concentrations considered safe for human ingestion; and

WHEREAS, passing this municipal setting designation ordinance will encourage the redevelopment of the designated property consistent with the goals of the City; **NOW THEREFORE**,

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

SECTION 1. That for purposes of this municipal setting designation ordinance, the "designated property" means a tract of land containing 2.692 acres located in and around 420 Broadway and adjacent portions of the public right-of-way in San Antonio, Texas and within the corporate limits of the City of San Antonio that is described in **Exhibit A** attached hereto.

SECTION 2. That for purposes of this municipal setting designation ordinance, "designated groundwater" means water below the surface of the designated property to a depth of 100 feet.

SECTION 3. That use of the designated groundwater from beneath the designated property as potable water, as defined in Section 361.801(2) of the Texas Health and Safety Code, and the following uses of or contacts with the designated groundwater are prohibited:

- (1) Human consumption or drinking.
- (2) Showering or bathing.
- (3) Cooking.
- (4) Irrigation of crops for human consumption.

SECTION 4. That the City Council supports the application to the Texas Commission on Environmental Quality for certification of a municipal setting designation for the designated property.

SECTION 5. That any person owning, operating, or controlling the designated property remains responsible for complying with all applicable federal, state, and local statutes, ordinances, rules, and regulations relating to environmental protection and that this municipal setting designation ordinance in itself does not change any environmental assessment or cleanup requirements applicable to the designated property.

SECTION 6. That approval of this municipal setting designation ordinance shall not be construed to subject the City of San Antonio to any responsibility or liability for any injury to persons or damages to property caused by any chemical of concern.

SECTION 7. That after adoption of this municipal setting designation ordinance, the City Manager, or designee, or the Director, Public Works Department, or designee, shall cause to be filed a certified copy of this municipal setting designation ordinance in the deed records of the county where the designated property is located.

SECTION 8. That the City Manager, or designee, or the Director, Public Works Department, or designee, shall notify the Texas Commission on Environmental Quality 60 days prior to any amendment or repeal of this municipal setting designation ordinance.

SECTION 9. That a violation of Section 3 of this municipal setting designation ordinance is punishable by a fine not to exceed \$2,000.00, and that the Texas Commission on Environmental Quality shall be notified of any violations.

SECTION 10. 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 11. The City Clerk is directed to publish notice of this Ordinance in accordance with Section 17 of the Charter of the City of San Antonio. The penalty, fine or forfeiture provisions in this ordinance shall apply five days after publication.

SECTION 12. There is no fiscal impact associated with the approval of this Ordinance.

SECTION 13. The financial allocations in this Ordinance are subject to approval by the Deputy Chief Financial Officer, City of San Antonio. The Deputy Chief Financial Officer may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific Cost Centers, WBS Elements, Internal Orders, General Ledger Accounts, and Fund Numbers as necessary to carry out the purpose of this Ordinance.

SECTION 14. 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 hereof.

PASSED and APPROVED this ____ day of December, 2022.

M A Y O R
Ron Nirenberg

ATTEST:

APPROVED AS TO FORM:

Debbie Racca-Sittre, City Clerk

Andrew Segovia, City Attorney

EXHIBIT A to Municipal Setting Designation Ordinance

DESCRIPTION OF “DESIGNATED PROPERTY”

A tract of land containing 2.692 acres located in and around 420 Broadway and adjacent portions of the public right-of-way in San Antonio, Texas and within the corporate limits of the City of San Antonio, as more fully described by the attached plats and metes and bounds descriptions.

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