

City of Houston, Texas, Ordinance No. 2022- 775

**A MUNICIPAL SETTING DESIGNATION ORDINANCE PROHIBITING THE USE OF DESIGNATED GROUNDWATER BENEATH A TRACT OF LAND CONTAINING 0.4740 ACRES COMMONLY KNOWN AS 100 NORTH JACKSON STREET, HOUSTON, HARRIS COUNTY, TEXAS; SUPPORTING ISSUANCE OF A MUNICIPAL SETTING DESIGNATION BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY AT THE REQUEST OF SORENSEN REAL ESTATE COMPANY, LLC CONTAINING OTHER PROVISIONS RELATED TO THE FOREGOING SUBJECT; 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(c) 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 June 14, 2021, Sorensen Real Estate Company, LLC ("Applicant") applied to the Director of Houston Public Works, requesting that the City Council support a municipal setting designation ordinance for property that is located generally at 100 North Jackson Street (0.4740 acres), Houston, Harris County, Texas 77002; and

**WHEREAS**, on March 1, 2022, the Director of Houston Public Works conducted a public meeting via Microsoft Teams, 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**, the Regulatory and Neighborhood Affairs Council Committee, designated by the Mayor, conducted a public hearing on March 8, 2022; 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 concentrations of contaminants of concern exceed 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 Houston Public Works 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 Regulatory and Neighborhood Affairs Council Committee 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 as 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:

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 Houston Public Works 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 Houston Public Works shall send a certified copy of this ordinance to the Applicant, the TCEQ, and the EPA.

**Section 10.** That the Applicant shall provide the Director of Houston Public Works 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 Houston Public Works 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 5<sup>th</sup> day of October, 2022.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is OCT 11 2022.

*[Signature]*  
City Secretary

DocuSigned by:

*Mia Marie Pugh*

(Prepared by Legal Department  
(MMP/jb 09/21/2022 Assistant City Attorney)  
(Requested by Carol Ellinger Haddock, P.E., Director, Houston Public Works)  
(L.D. File No. 063-2200345-001)

Meeting 10/05/2022

Aye	No	
✓		<b>Mayor Turner</b>
....	....	<b>Council Members</b>
Absent on personal business		Peck
✓		Jackson
Absent on personal business		Kamin
✓		Evans-Shabazz
✓		Martin
✓		Thomas
✓		Huffman
✓		Cisneros
✓		Gallegos
✓		Pollard
Out of city on city business		Castex-Tatum
✓		Knox
✓		Robinson
✓		Kubosh
✓		Plummer
✓		Alcorn
Caption	Adopted	

Captions Published in DAILY COURT REVIEW  
 Date: 10/11/2022

**EXHIBIT "A"**

**Survey of Designated Property**  
(3 pages)



EXHIBIT \_\_, PAGE 1 OF 2 PAGES

County: Harris  
Project: Industry Brew  
M&B No: 18-064  
CS Job No: 18076

**METES AND BOUNDS DESCRIPTION OF 0.4740 ACRE**

Being a tract of land containing 0.4740 acre (20,647 square feet), located in the John Austin Survey, Abstract 1, in Harris County, Texas; Said 0.4740 acre tract being a portion of Lots 1, 2, 6, 7 and 12 of South Side Buffalo Bayou, an unrecorded subdivision, same being all of a called 0.228 acre tract of land recorded in the name of American Engine and Grinding Company in Harris County Clerk's File Number (H.C.C.F. No.) T606586 and a tract of land recorded in the name of Ceduh, LLC, in H.C.C.F. No. 20100344983; Said 0.4740 acre tract being more particularly described by metes and bounds as follows (all bearings are referenced to Texas Coordinate System of 1983, South Central Zone):

**BEGINNING**, at a building corner at the easterly intersection of Ruiz Street (width varies) and North Jackson Street (width varies, as widened by a called 0.037 acre tract of land dedicated to the Texas Department of Transportation in H.C.C.F. No. N479779), being the west corner of said 0.228 acre tract and the south corner of said 0.037 acre tract;

**THENCE**, North 33° 07' 10" East, with the southeast Right-of-Way (R.O.W.) line of said North Jackson Street as widened, same being the southeast line of said 0.037 acre tract, and with the northwest line of said 0.228 acre tract, a distance of 97.24 feet to an "X" cut in concrete set at the north corner of said 0.228 acre tract and the east corner of said 0.037 acre tract, same being the west corner of a called 0.335 acre tract of land recorded in the name of the Texas Department of Transportation in H.C.C.F. No. N376320;

**THENCE**, South 58° 11' 04" East, with the northeast lines of said 0.228 acre tract and said Ceduh, LLC tract and with the southwest line of said 0.335 acre tract, a distance of 190.59 feet to a 5/8-inch capped iron rod set at the southeast corner of said 0.335 acre tract, same being the north corner of a called 0.033 acre tract of land dedicated to Texas Department of Transportation in H.C.C.F. No. N638183, on the northwest R.O.W. line of McKee Street (width varies);

**THENCE**, South 14° 02' 21" West, with the east line of said Ceduh, LLC tract and the west line of said 0.033 acre tract, a distance of 106.74 feet to an "X" cut in concrete set at the southerly corner of said Ceduh, LLC tract and the southwest corner of said 0.033 acre tract on the northeast R.O.W. line of said Ruiz Street;

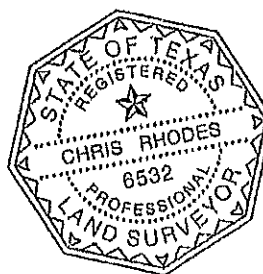
EXHIBIT \_\_, PAGE 2 OF 2 PAGES

**THENCE**, North 57° 03' 32" West, with the southwest lines of said Ceduh, LLC tract and said 0.228 acre tract and with northeast R.O.W. line of said Ruiz Street, a distance of 225.43 feet to the **POINT OF BEGINNING** and containing 0.4740 acre of land.

A Land Title Survey of the herein described tract was prepared in conjunction with and accompanies this description.



Chris Rhodes, R.P.L.S.  
Texas Registration Number 6532

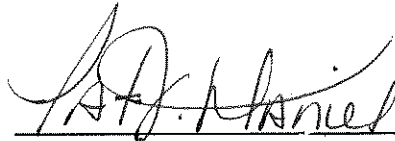


CIVIL-SURV LAND SURVEYING, LC  
PH: (713) 839-9181  
June 7, 2018



I, PAT J. DANIEL, City Secretary of the City of Houston, Texas, do hereby certify that the within and foregoing is a true and correct copy of Ordinance 2022-775 passed and adopted by the City Council of said City on the 5th day of October, 2022, as the same appears in the records in my office.

WITNESS my hand and the Seal of said City this 13th day of October, 2022.

A handwritten signature in cursive script, appearing to read "Pat J. Daniel", written over a horizontal line.

Pat J. Daniel  
City Secretary