

City of Houston, Texas, Ordinance No. 2023- 673

**A MUNICIPAL SETTING DESIGNATION ORDINANCE PROHIBITING THE USE OF DESIGNATED GROUNDWATER BENEATH A TRACT OF LAND CONTAINING 0.7936 ACRES COMMONLY KNOWN AS 5129, 5133, AND 0 LAWNSDALE, HOUSTON, HARRIS COUNTY, TEXAS; SUPPORTING ISSUANCE OF A MUNICIPAL SETTING DESIGNATION BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY AT THE REQUEST OF 5129 LAWNSDALE 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 November 29, 2021, **5129 Lawnsdale, 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 5129, 5133, and 0 Lawnsdale (0.7936 acres), Houston, Harris County, Texas 77023; and

**WHEREAS**, on October 6, 2022, the Director of Houston Public Works conducted a public meeting at the Microsoft TEAMS Platform, 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 November 14, 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 23rd day of August, 2023.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is AUG 29 2023.



\_\_\_\_\_  
City Secretary

DocuSigned by:

(Prepared by Legal Department  
(MMP/JB 08/02/2023  
(Requested by Carol Ellinger Haddock, P.E., Director, Houston Public Works)  
(LD-RE-0000001765)

MiaMarie Pugh

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Assistant City Attorney

Meeting 8/23/2023

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

Captions Published in DAILY COURT REVIEW

Date: 8/29/2023

**EXHIBIT "A"**

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







3000 Wilcrest Drive, Suite 210 – Houston, Texas 77042 – (713) 993-0327 – FAX (713) 993-9231

METES AND BOUNDS DESCRIPTION  
LAWNDALE ADDTION  
0.1715 ACRE (7,468 SQUARE FEET)  
LUKE MOORE SURVEY, ABSTRACT NUMBER 51  
HARRIS COUNTY, TEXAS

TRACT 5

Being a tract or parcel containing 0.1715 acre (7,468 square feet) of land situated in the Luke Moore Survey, Abstract Number 51, Harris County, Texas, being all of Lot 10 and a portion of Lot 11 in Block 12 of the Lawndale Addition according to the plat thereof recorded under Volume 528, Page 308 of the Harris County Deed Records which is all of the tract of land as described in the deed to 5129 Lawndale, LLC, et al, recorded under Harris County Clerk's File Number RP-2020-58915; said 0.1715 acre tract being more particularly described by metes and bounds as follows (all bearings are based on the on the recorded plat of Beverly Park, as recorded at Volume 551, Page 60 of the Deed Records of Harris County, Texas and at Volume 6, Page 56 of the Map Records of Harris County, Texas):

BEGINNING at an "X" found marking the northwest corner of the intersection of Henninger Street (50 feet wide) and Lawndale Avenue (60 feet wide);

THENCE, North 70°21'00" West, along the north line of said Lawndale Avenue, a distance of 69.00 feet to an "X" set marking the southwest corner of the herein described tract;

THENCE, North 20°00'59" East, crossing the aforesaid Lot 11, a distance of 108.46 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking the northwest corner of the herein described tract;

THENCE, South 69°59'00" East, along the south line of Lot 8 and lot 9 in the aforesaid Block 12 a distance of 69.00 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking the northeast corner of the herein described tract in the west right-of-way line of the aforesaid Henninger Street;

THENCE, South 20°01'00" West, along said west right-of-way line, a distance of 108.02 feet to the POINT OF BEGINNING and containing 0.1715 acre (7,468 square feet) of land. This description is based on the plat of the Land Title Survey prepared by Terra Surveying Company, Inc., dated August 19, 2019, TSC Project Number 1851-1925.



Compiled by: Mark J. Piriano, RPLS.  
Terra Surveying Company, Inc.  
MB00715.doc







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METES AND BOUNDS DESCRIPTION  
LAWNDALE ADDTION  
0.3776 ACRE (16,450 SQUARE FEET)  
LUKE MOORE SURVEY, ABSTRACT NUMBER 51  
HARRIS COUNTY, TEXAS

TRACT 6

Being a tract or parcel containing 0.3776 acre (16,450 square feet) of land situated in the Luke Moore Survey, Abstract Number 51, Harris County, Texas, being a portion of Lot 11 and all of Lots 12 and 13 in Block 12 of the Lawndale Addition according to the plat thereof recorded under Volume 528, Page 308 of the Harris County Deed Records which is all of the tract of land as described in the deed to 5129 Lawndale, LLC, et al, recorded under Harris County Clerk's File Number RP-2020-58916; said 0.3776 acre tract being more particularly described by metes and bounds as follows (all bearings are based on the on the recorded plat of Beverly Park, as recorded at Volume 551, Page 60 of the Deed Records of Harris County, Texas and at Volume 6, Page 56 of the Map Records of Harris County, Texas):

COMMENCING at an "X" found marking the northwest corner of the intersection of Henninger Street (50 feet wide) and Lawndale Avenue (60 feet wide);

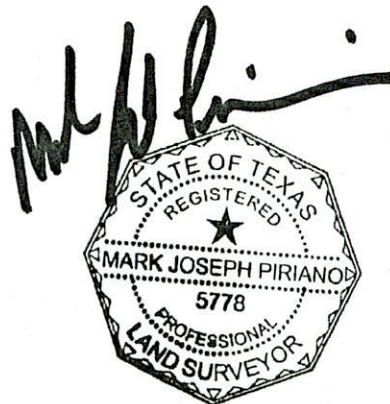
THENCE, North 70°21'00" West, along the north right-of-way line of said Lawndale Avenue, a distance of 69.00 feet to an "X" set marking the southeast corner and the POINT OF BEGINNING of the herein described tract;

THENCE, North 70°21'00" West, along said north right-of-way line, a distance of 151.00 feet to an "X" set marking the southwest corner of the herein described tract;

THENCE, North 20°00'57" East, along the west line of the aforesaid Lot 13, a distance of 109.43 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking the northwest corner of the herein described tract;

THENCE, South 69°59'00" East, along the south line of Lots 6, 7, and 8 in the aforesaid Block 12, a distance of 151.00 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking the northeast corner of the herein described tract;

THENCE, South 20°00'59" West, crossing the aforesaid Lot 11, a distance of 108.46 feet to the POINT OF BEGINNING and containing 0.3776 acre (16,450 square feet) of land. This description is based on the plat of the Land Title Survey prepared by Terra Surveying Company, Inc., dated August 19, 2019, TSC Project Number 1851-1925.



Compiled by: Mark J. Piriano, RPLS.  
Terra Surveying Company, Inc.  
MB03776.doc





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METES AND BOUNDS DESCRIPTION  
BEVERLY PARK  
0.2445 ACRE (10,650 SQUARE FEET)  
LUKE MOORE SURVEY, ABSTRACT NUMBER 51  
HARRIS COUNTY, TEXAS

TRACT 7

Being a tract or parcel containing 0.2445 acre (10,650 square feet) of land situated in the Luke Moore Survey, Abstract Number 51, Harris County, Texas, being all of Lot 5 and Lot 6 in Block 1 of Beverly Park according to the plat thereof recorded under Volume 551, Page 60, of the Harris County Deed Records which a portion of the tract of land as described in the deed to 5129 Lawndale, LLC, et al, recorded under Harris County Clerk's File Number RP-2020-58916; said 0.2445 acre tract being more particularly described by metes and bounds as follows (all bearings are based on the on the recorded plat of Beverly Park, as recorded at Volume 551, Page 60 of the Deed Records of Harris County, Texas and at Volume 6, Page 56 of the Map Records of Harris County, Texas):

BEGINNING at an "X" found marking the southwest corner of the intersection of Henninger Street (50 feet wide) and Lawndale Avenue (60 feet wide);

THENCE, South 19°39'00" West, along the west right-of-way line of said Henninger Street, a distance of 106.50 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking the southeast corner of the herein described tract;

THENCE, North 70°21'00" West, along the north lines of Lot 7 and Lot 8 in the in the aforesaid Block 1, a distance of 100.00 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking the southwest corner of the herein described tract;

THENCE, North 19°39'00" East, along the west line of the aforesaid Lot 5, a distance of 106.50 feet to an "X" set in concrete marking the northwest corner of the herein described tract in the south right-of-way line of the aforesaid Lawndale Avenue;

THENCE, South 70°21'00" East, along said south right-of-way line, a distance of 100.00 feet to the POINT OF BEGINNING and containing 0.2445 acre (10,650 square feet) of land. This description is based on the plat of the Land Title Survey prepared by Terra Surveying Company, Inc., dated August 19, 2019, TSC Project Number 1851-1925.



Compiled by: Mark J. Piriano, RPLS.  
Terra Surveying Company, Inc.  
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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 2023-673 passed and adopted by the City Council of said City on the 23rd day of August, 2023, as the same appears in the records in my office.

WITNESS my hand and the Seal of said City this 8th day of September, 2023.



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Pat J. Daniel  
City Secretary

