



# CITY OF SAN ANTONIO MUNICIPAL SETTING DESIGNATION FREQUENTLY ASKED QUESTIONS

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## **What is a Municipal Setting Designation?**

A Municipal Setting Designation (MSD) is a type of deed restriction. It is an official designation given by the state to prevent people from drinking contaminated groundwater. The prohibition is in the form of an ordinance that is enforceable by the City and is filed in the county property records. A MSD cannot be issued by the state until an ordinance is adopted by the City, and is supported by any other cities within five miles of the site. A restrictive covenant on the property does not preclude getting a Municipal Setting Designation on the same property.

## **What is the purpose?**

By permanently prohibiting the use of contaminated groundwater for potable purposes, the MSD limits the scope of groundwater investigations and may eliminate the need for groundwater response actions. This does not limit any liability from the responsible party or property owner nor alter any clean up requirements related to soil contamination, vapor intrusion or other means of contact with the contaminants.

## **What must I do before I can apply?**

The following are the expectations of a site that is applying for a MSD.

1. The site must already participate in a State or Federal clean-up program.
2. The site must have been thoroughly investigated. The extent and composition of the groundwater plume should be known and delineated to the standards established by the clean-up program in which the site is participating.
3. All reasonably expected contaminants should have been investigated.
4. There must be sufficient monitoring data to demonstrate that the groundwater plume is stable or contracting.
5. The source of contamination has been remediated or in process of being remediated.
6. A licensed engineer or geologist must be willing to seal a certification form indicating that the plume is stable or contracting. It is helpful to be able to confirm that the source is no longer present.

An applicant who meets all of these conditions can apply for a MSD.

## **How do I apply?**

An application must be completed by an electronic portable digital file. Seven paper copies of the application, and any supporting documentation, must be submitted to the Environmental Management Division along with an application fee of \$2,000.



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### **Are there other costs associated with the MSD process?**

A processing fee of \$6,000.00 shall be required prior to the processing of any application, preparing and issuing public notices for a public meeting, conducting a public hearing, and scheduling for City Council consideration of the MSD ordinance.

### **Are there additional costs associated with the MSD?**

The applicant is also responsible for the following:

- the certified mail out notices
- the regular mail out notices
- the newspaper ad for the public meeting
- public meeting location uses fee

### **What steps are taken after I submit an application?**

A copy of the complete application is forwarded to various city departments for review and comment, as well as to the TCEQ. After the staff review process is complete, Environmental Management Division (EMD) will determine whether the application is administratively complete. Within 45 days after submission of an application, the Director will notify the applicant whether the application is administratively complete or not. Incomplete applications have 60 days to correct the deficiencies or submit additional documentation. Failure to correct or supplement the application will result in the application being withdrawn and the filing fee being forfeited. No application is complete until all supporting documentation is supplied. Following receipt of administrative completeness, the City Technical review team will begin their review of the application to ensure it meets MSD requirements. Once the City approves it for further processing, EMD will contact the applicant to schedule the public meeting.

### **Who schedules the public meeting and public hearing?**

EMD staff will coordinate with the applicant to schedule a meeting date in a facility open to the public close to the applicant's site or City facility. Public hearing will be scheduled after the completion of the public meeting. The City will notify the public hearing date to the attendees at the public meeting and post the public hearing date on the City's MSD and City Council Agenda website.

### **Who sends notice of the meeting and hearing?**

The City transmits the meeting and hearing notices at the expense of the applicant. Once receipt of the estimated cost of mailing notices and advertising is received, the City of



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San Antonio will send notice of the meeting and hearing by regular mail to all persons identified in the application at least 15 days prior to the meeting. Notice of the public meeting will also be published in a newspaper of general circulation at least 15 days before the public meeting. The notice will be written in at least English and Spanish. A copy of the application will be placed at the public library closest to the property at least 15 days prior to the public meeting.

### **Who must attend the public meeting?**

The applicant and its licensed environmental professional must be present. Because a MSD is a voluntary restriction on an applicant's property, the City takes very seriously any failure of the applicant to appear. An absence may result in the application being withdrawn, fees being forfeited or a rescheduling of the public meeting at the applicant's expense. The public meeting is intended to provide general information to the community about the MSD process. The applicant will explain the specific conditions at its site. The community will also be notified of the date of the public hearing.

### **What happens at the public hearing?**

Prior to the public hearing, the director shall prepare a recommendation to City Council as to whether the municipal setting designation ordinance should be granted or denied for the site, and listing any conditions that should be imposed. If the application is recommended to be approved, the director shall publish notice of the public hearing on the City's MSD website at least 15 days before the public hearing and posted on City Council Agenda website before the public hearing date. The applicant, who signed and sealed the application, must be present at the public hearing. If the required person is not present at the public hearing, the body conducting the hearing may either deny the application or continue the public hearing. Following the public hearing, the director shall schedule the MSD ordinance briefing with the full City Council for their consideration of the municipal setting designation ordinance. The City Council shall take appropriate action on the MSD application.

### **Are there additional requirements after the approval of an application?**

Yes. Within thirty (30) days after the MSD certificate is issued by the TCEQ, the applicant must provide:

1. 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 to the EMD representative,
2. The applicant shall provide the EMD representative with a copy of the MSD certificate issued by the TCEQ pursuant to Section 361.807 of the Texas Health and Safety Code within thirty (30) days after issuance of the certificate, and



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3. The applicant must provide the EMD representative with a copy of the certificate of completion or other analogous documentation issued by the TCEQ or EPA.

### **General MSD Site Restrictions**

1. No MSD will be granted to a project within ½ mile of a San Antonio Water System (SAWS) primary pump station. The SAWS primary pump station consists of all equipment located within the property boundary.
2. Site-Specific geology, the lithologies that make up the Edwards Aquifer, **must be a minimum of 150-feet below ground surface** (depth to Edwards Aquifer) across the entire site or MSD property boundary.

### **Who do I contact if I have questions?**

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