

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARROLLTON, TEXAS, PROHIBITING THE USE OF DESIGNATED GROUNDWATER FROM BENEATH THE PROPERTY GENERALLY LOCATED IN THE DOWNTOWN AREA OF THE CITY OF CARROLLTON COVERING APPROXIMATELY 220 ACRES; AND SUPPORTING THE ISSUANCE OF A MUNICIPAL SETTING DESIGNATION BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY; PROVIDING A PENALTY; PROVIDING A SAVING CLAUSE; PROVIDING A SEVERABILITY CLAUSE AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Carrollton has prepared an application seeking the approval of an ordinance prohibiting the use of shallow groundwater (below ground surface to a depth of 50 feet) from beneath the designated property generally located in the downtown Carrollton area (the legal description being attached hereto as Exhibit A) in support of its application with the Texas Commission on Environmental Quality (TCEQ) for a Municipal Setting Designation (MSD) certification of the designated property ; and,

WHEREAS, Chapter 361, Subchapter W of the Texas Health and Safety Code authorizes the TCEQ to create municipal setting designations; and,

WHEREAS, certification by the TCEQ of a property as a MSD requires that the city with territorial jurisdiction over the designated property must prohibit the use of groundwater from beneath the designated property;

WHEREAS, Chapter 175, “Municipal Setting Designations” of the City of Carrollton’s Code of Ordinances authorizes ordinances prohibiting the use of designated groundwater as potable water; and,

WHEREAS, the City Council of the City of Carrollton finds that:

- (1) the eligibility requirements of Section 361.803 of the Texas Health and Safety Code have been met;
- (2) a public drinking water supply system exists that satisfies the requirements of Chapter 341 and that supplies or is capable of supplying drinking water to the designated property and property within one-half mile of the designated property;
- (3) the city does not utilize the designated groundwater as a source of potable water for its public water system and will not have an adverse effect on the current or future water resource needs of the City of Carrollton;
- (4) the concentrations of the contaminants of concern (benzene, ethylbenzene, and toluene) in the designated groundwater exceed the human ingestion protective concentration levels and present an actual or potential threat to human health, safety and welfare; and,

WHEREAS, the City Council of the City of Carrollton has duly given the required notices and has held the required public meeting and hearing regarding this MSD ordinance application;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CARROLLTON, TEXAS, THAT:

SECTION 1

All of the above premises are found to be true and correct legislative and factual findings of the City Council, and they are hereby approved, ratified and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2

For purposes of this municipal setting designation ordinance, “designated property” means the property generally located in downtown Carrollton and described in Exhibit A, Legal Description, attached to this ordinance.

SECTION 3

For purposes of this municipal setting designation ordinance, “designated groundwater” means water below the ground surface of the designated property to a depth of 50 feet.

SECTION 4

For purposes of this municipal setting designation ordinance, “potable water” means water that is used for drinking, showering, bathing, cooking or irrigating crops intended for human consumption.

SECTION 5

The use of the designated groundwater as potable water is prohibited.

SECTION 6

The use of the designated groundwater from beneath public rights-of-way immediately adjacent to the designated property as potable water is prohibited.

SECTION 7

The public rights-of-way immediately adjacent to the designated property are included in the municipal setting designation application to the Texas Commission on Environmental Quality.

SECTION 8

Any person owning, operating or controlling the designated property remains responsible for complying with all applicable federal and state laws and regulations; all ordinances, rules and regulations of the City of Carrollton; and, all environmental regulations. 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 9

Approval of this municipal setting designation ordinance shall not be construed to subject the City of Carrollton to any responsibility or liability for any injury to persons or damages to property caused by any contaminant of concern.

SECTION 10

The City Council supports the application to the Texas Commission on Environmental Quality for a municipal setting designation on the designated property.

SECTION 11

The Environmental Services Director shall file a certified copy of the municipal setting ordinance in the Deed Records of the county where the designated property is located within sixty (60) days after adoption of this municipal setting designation ordinance;

SECTION 12

The Environmental Services Director shall send a certified copy of the municipal setting designation ordinance to the Texas Commission on Environmental Quality within sixty (60) days after adoption of this municipal setting designation ordinance; and that the Environmental Services Director shall notify the Texas Commission on Environmental Quality sixty (60) days prior to any amendment or repeal of this municipal setting designation ordinance.

SECTION 13

The Environmental Services Director shall send certified copies of the municipal setting ordinance to offices of Building Inspection, Economic Development, Engineering, Public Works and Urban Development to inform them of the imposition of this municipal setting designation ordinance on the designated property and designated groundwater.

SECTION 14

A person who violates any provision of this municipal setting designation ordinance, upon conviction, is punishable as set forth in §10.99 and that the Texas Commission on Environmental Quality shall be notified of any conviction of a violation.

SECTION 15

Chapter 175 of the Carrollton Code of Ordinances shall remain in full force and effect, save and except, as amended by this municipal setting designation ordinance.

SECTION 16

The terms and provisions of this municipal setting designation ordinance are severable and are governed by Sec. 10.07 of the Carrollton Code of Ordinances.

SECTION 17

This ordinance shall become and be effective on and after its adoption and publication.

DULY PASSED AND APPROVED by the City Council of the City of Carrollton, Texas, this 18th day of April, 2017.

Matthew Marchant, Mayor

ATTEST:

Laurie Garber, City Secretary

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Meredith Ladd, City Attorney

Scott Hudson,
Environmental Services Director