

ORDINANCE NO. 4017

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, PROHIBITING THE USE OF DESIGNATED GROUNDWATER FROM BENEATH CERTAIN PROPERTY GENERALLY LOCATED AT 3000 SKYLINE DRIVE AND SUPPORTING CERTIFICATION OF A MUNICIPAL SETTING DESIGNATION BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY; PROVIDING FOR A PENALTY NOT TO EXCEED TWO THOUSAND (\$2,000.00) DOLLARS FOR EACH OFFENSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREOF.

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 create municipal setting designations; and

WHEREAS, pursuant to Section 401.005(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, pursuant to Section 401.005(b) of the Texas Local Government Code, for the purpose of establishing and enforcing a municipal setting designation, the governing body of a municipality by ordinance may extend to the extraterritorial jurisdiction of the municipality the application of municipal ordinances; 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 Mesquite;
- (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 concentration of chemicals of concern exceed concentrations considered safe for human ingestion.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE:

SECTION 1. That for purposes of this municipal setting designation (MSD) ordinance, the “designated property” means the property described in Exhibit “A” attached hereto to the ordinance.

SECTION 2. That for purposes of this MSD ordinance, “designated groundwater” means water below the surface of the designated property to a depth of 200 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 MSD ordinance in itself does not change any environmental assessment or cleanup requirements applicable to the designated property.

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

SECTION 7. That within 60 days after adoption of this MSD ordinance, the Director of Public Works shall cause to be filed a certified copy of this MSD ordinance in the deed records of the county where the designated property is located.

SECTION 8. That within 60 days after adoption of this MSD ordinance, the Director of Public Works shall send a certified copy of this MSD ordinance to the Texas Commission on Environmental Quality.

SECTION 9. That the Director of Public Works shall notify the Texas Commission on Environmental Quality 60 days prior to any amendment or repeal of this MSD ordinance.


SECTION 10. That any person, firm or corporation violating any of the provisions or terms of this MSD ordinance shall be deemed to be guilty of a Class C Misdemeanor and upon conviction in the Municipal Court of the City of Mesquite, Texas, shall

be subject to a fine not to exceed Two Thousand (\$2,000.00) Dollars for each offense, and each and every day or portion of a day such violation continues shall constitute a separate offense, and that the Texas Commission on Environmental Quality shall be notified of any violations.

SECTION 11. That it is the intention of the City Council that this MSD ordinance, and every provision hereof, shall be considered severable, and the invalidity or unconstitutionality of any section, clause, provision or portion of this ordinance shall not affect the validity or unconstitutionality of any other portion of this ordinance.


SECTION 12. That this MSD ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Mesquite, and it is accordingly so ordained.


DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 15th day of December, 2008.

  
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John Monaco  
Mayor

ATTEST:

APPROVED:

  
\_\_\_\_\_  
Judy Womack  
City Secretary

  
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B. J. Smith  
City Attorney

## DESCRIPTION

BEING a tract of land in the Daniel Tanner League, Abstract No. 1462, and being a portion of a tract of land described in a deed to TYCO Electronics Power Systems, Inc., as recorded in Volume 2000251, Page 5145, Deed Records of Dallas County, Texas, and being more particularly described as follows:

BEGINNING at a X cut set in the intersection of the southerly right of way line of Skyline Drive (125' ROW) and the easterly right of way line of Town East Boulevard (100' ROW);

THENCE along the southerly right of way line of said Skyline Drive as follows:

North 71 deg 53 min 45 sec East, a distance of 206.42 feet to a PK NAIL set for the beginning of a curve to the right with a radius of 540.00 feet, a chord bearing of North 87 deg 57 min 15 sec East, and a chord length of 298.75 feet;

Continuing along said curve to the right through a central angle of 32 deg 07 min 00 sec and an arc length of 302.69 feet to a PK NAIL set for corner;

South 75 deg 58 min 42 sec East, a distance of 2310.68 feet to a PK Nail found for the northwesterly corner of Lot 1, Block A, Skyline Trade Center, an addition to the City of Mesquite, recorded in cc#20070058328, Map Records of Dallas County, Texas;

THENCE departing the southerly right of way line of said Skyline Drive, along the westerly right of way line of said Lot 1, Block A, Skyline Trade Center, as follows:

South 59 deg 02 min 11 sec West, a distance of 84.87 feet to a 1/2 inch iron rod found for corner;

South 14 deg 03 min 04 sec West, a distance of 1399.99 feet to a 1/2 inch iron rod found for corner in the northerly right of way line of the Texas and Pacific Railroad (200' ROW), said iron being the southwest corner of Lot 3, Block A, Skyline Trade Center, an addition to the City of Mesquite, recorded in cc#20070058327, Map Records of Dallas County, Texas;

THENCE along the northerly right of way line of said Texas and Pacific Railroad, North 78 deg 32 min 14 sec West, a distance of 2587.90 feet to a 1/2 inch iron rod found for corner in the easterly right of way line of said Town East Boulevard (100' ROW);

THENCE along the easterly right of way line of said Town East Boulevard as follows:

North 11 deg 26 min 45 sec East, a distance of 1094.48 feet to a 1/2 inch iron rod found for the beginning of a curve to the left with a radius of 700.00 feet, a chord bearing of North 00 deg 55 min 15 sec West, and a chord length of 299.83 feet;

This is a Pro Forma Policy furnished to or on behalf of the party proposed to be insured for discussion only. It does not reflect the present status of title and is not a commitment to insure the estate of interest as shown herein, nor does it evidence the willingness of the Company to provide any coverage shown herein. Any such commitment must be an express written undertaking issued on the appropriate forms of the Company.

### DESCRIPTION

Continuing along said curve to the left through a central angle of 24 deg 44 min 00 sec and an arc length of 302.17 feet to the POINT OF BEGINNING;

CONTAINING within these metes and bounds is 91.092 acres or 3,967,951 square feet of land, more or less.

NOTE: COMPANY DOES NOT REPRESENT THAT THE ABOVE ACREAGE AND/OR SQUARE FOOTAGE CALCULATIONS ARE CORRECT.