

ORDINANCE NO. 5154

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, PROHIBITING THE USE OF AND CONTACT WITH DESIGNATED GROUNDWATER FROM BENEATH THE PROPERTY GENERALLY LOCATED AT 2106, 2108, AND 2110 NORTH GALLOWAY AVENUE IN MESQUITE, DALLAS COUNTY, TEXAS, TO FACILITATE CERTIFICATION OF A MUNICIPAL SETTING DESIGNATION (MSD) OF SAID PROPERTY BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY PURSUANT TO THE TEXAS SOLID WASTE DISPOSAL ACT; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY NOT TO EXCEED \$2,000.00; PROVIDING PUBLICATION OF THE CAPTION HEREOF; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 361, Subchapter W of the Texas Health and Safety Code (“**MSD Statute**”) authorizes the Texas Commission on Environmental Quality (“**TCEQ**”) to certify Municipal Setting Designations (“**MSDs**”) for properties upon receipt and approval of a proper application to the TCEQ; and

WHEREAS, the Texas legislature, in enacting the MSD Statute, found that an action by a municipality to restrict access to or the use of groundwater in support of or to facilitate an MSD advances a substantial and legitimate State interest; and

WHEREAS, as part of the application process for a MSD, an applicant is required to provide the TCEQ with documentation of a resolution or ordinance of support from the municipality in which the MSD is being sought, which ordinance prohibits the use of and contact with groundwater from beneath the designated property for potable purposes; and

WHEREAS, due to limited quantity and low quality, there are areas of shallow groundwater within the City of Mesquite (the “**City**”) that are not valuable as potable water sources and therefore are not utilized for potable water; and

WHEREAS, some property within the City formerly used for certain commercial and industrial purposes are underlain with unusable groundwater that has become contaminated by historical on-site or off-site sources; and

WHEREAS, the potable use of groundwater in designated areas should be prohibited to protect public health and welfare when the quality of the groundwater presents an actual or potential threat to public health; and

WHEREAS, the use of an MSD allows for a State-evaluated corrective action process for groundwater that is directed towards the protection of human health and the environment; and

WHEREAS, the City Council finds that the MSD application to TCEQ to be filed by Vista Crossing SC, LLC (the “**Owner**”) for certification of a MSD for properties located within the City’s corporate limits in the Vista Crossing Shopping Center and located at 2106, 2108, and 2110

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North Galloway Avenue in Mesquite, Dallas County, Texas, more particularly described and depicted in Exhibit A hereto incorporated herein by reference (the “**Property**”), and owned by Owner, is in the public interest; and

WHEREAS, Oxford Cleaners (from as early as 1985) and Debonair Cleaners (from 1993 until 2011) were two historical dry cleaners that occupied Suite 105 in the Property and were identified as a recognized environmental condition; and

WHEREAS, a subsurface investigation was conducted in 2011 by Property Solutions, Inc., to determine if a release of dry cleaning solvents had occurred and, as a result of the investigation, the presence of several chlorinated volatile organic compounds was found but the concentrations did not exceed the Texas Risk Reduction Program Tier 1 soil-to-groundwater protective concentration levels established for residential land use; and

WHEREAS, the Owner applied to the TCEQ’s Voluntary Cleanup Program (“**VCP**”) on December 18, 2013, and was assigned VCP No. 2637; and

WHEREAS, the most recent October 2023 sampling event for the Property indicates that groundwater is consistent with measurements collected over the last nine years; and

WHEREAS, the Owner has certified that the type of known contaminants that are documented within the uppermost groundwater beneath the Property at concentrations above potable standards are as set forth in Exhibit B, attached hereto and made a part hereof; and

WHEREAS, the Owner has certified that:

1. The purpose of the application is to assist the Owner in obtaining from the TCEQ closure documentation demonstrating the TCEQ’s determination, after completion of any remediation requirements and appropriate review by the TCEQ, that no further environmental cleanup or restoration is required by the TCEQ with respect to the Property; and
2. As a part of the application, the Owner has or will submit to the TCEQ a statement regarding the type of known contamination in the groundwater beneath the Property and has identified that shallow groundwater contains chemicals of concern above Tier 1 groundwater ingestion protective concentration levels, as set forth in 30 Texas Administrative Code, Chapter 350, the Texas Risk Reduction Program; and

WHEREAS, the Owner has continuing obligations to satisfy applicable statutory and regulatory provisions concerning groundwater contamination investigation and response actions at the Property; and

WHEREAS, a public drinking water supply system exists that satisfies the requirements of Texas Health and Safety Code, Chapter 341 for the Property and property within one-half mile of the Property; and

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WHEREAS, the City Council further finds it to be in the best interest of the public and the City to authorize the City Manager to execute and file such additional documents as are necessary to support the Owner's application of an MSD on the Property and to facilitate the City's efforts to secure approval of such MSD and TCEQ closure documentation by passage of this Ordinance.

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

SECTION 1. The City Council finds that the declarations and findings set forth in the preamble of this Ordinance are true and correct and are incorporated herein.

SECTION 2. The City Council finds this Ordinance is necessary because the contaminant concentrations exceed TCEQ potable water standards.

SECTION 3. The City Council supports the Owner's application for designation of the Property as a MSD and hereby authorizes the City Manager, acting on behalf of the City, to prepare, execute and submit, or cause to be prepared, executed and submitted, to the TCEQ any such additional documents as are necessary to support the Owner's application and take such other action as may be reasonable and necessary to obtain an MSD for the Property.

SECTION 4. The City Council finds it is in the best interest and welfare of the public to facilitate TCEQ's certification of an MSD for the Property as well as the TCEQ closure documentation.

SECTION 5. Upon and after the effective date of this Ordinance, the drilling of wells and use of designated groundwater for any purpose, including, but not limited to, any potable purpose, and excepting only: (i) wells used as monitoring wells for the collection of groundwater samples for chemical or biological laboratory analysis; and (ii) wells used for the purpose of remediation of soil or groundwater contamination, is hereby prohibited on or from any portion of the Property.

SECTION 6. All portions of ordinances of the City of Mesquite in conflict with the provisions of this ordinance, to the extent of such conflict are hereby repealed; otherwise, they shall remain in full force and effect.

SECTION 7. Should any word, sentence, clause, paragraph, or provision of this ordinance be held to be invalid or unconstitutional, the remaining provisions of this ordinance shall remain in full force and effect.

SECTION 8. An offense committed before the effective date of this Ordinance is governed by prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 9. Any violation of the provisions or terms of this ordinance by any "person," as defined in Mesquite City Code, Chapter 1, [Section 1-2](#), shall be deemed a Class C Misdemeanor criminal offense, and upon conviction thereof, shall be subject to a penalty of fine,

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or any other general penalties, as provided in Mesquite City Code, Chapter 1, [Section 1-6](#), as amended.

SECTION 10. This Ordinance shall be published in the City's official newspaper in accordance with Mesquite City Charter, Article IV, [Section 24](#).

SECTION 11. This Ordinance shall take effect and be in force from and after five days after publication.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 17th day of February 2025.

Signed by:  
*Daniel Alemán, Jr.*  
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Daniel Alemán, Jr.  
Mayor

ATTEST:

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*Sonja Land*  
C2518095973F46A...

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Sonja Land  
City Secretary

APPROVED AS TO LEGAL FORM:

Signed by:  
*David L. Paschall*  
666E18891208434...

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David L. Paschall  
City Attorney











