

Municipal Setting Designations in Texas

Frequently Asked Questions

What is a Municipal Setting Designation or MSD?

In 2003, the Texas Legislature passed a bill that created the Texas Municipal Setting Designation statute. The Texas Municipal Setting Designation (MSD) program provides a means to address the problem of contaminated shallow urban groundwater by authorizing the Texas Commission on Environmental Quality (TCEQ), after approval from local governments, to create municipal setting designations to restrict the consumption of the contaminated groundwater.

A Municipal Setting Designation identifies an area of contaminated groundwater that is not being used for drinking water purposes and ensures that the groundwater underneath that designation is not consumed in the future. Before the TCEQ will issue an MSD, the groundwater has to be either deed-restricted so it cannot be consumed or a city must have passed an ordinance restricting the use of the groundwater. The City of Tyler chose to pass an ordinance to restrict the use of the groundwater.

Who is requesting the MSD and where is the contaminated groundwater?

EnSafe, Inc., on behalf of Carrier Corporation (a subsidiary of United Technologies Corporation, which is the name on the MSD application), has requested a municipal setting designation from the City of Tyler for the property located at 1700 E. Duncan Street, which was formerly a Carrier Corporation manufacturing facility. The contaminated groundwater is shallow, ranging from about 15 feet to about 119 feet below ground surface, and is confined to this area by a 70 foot thick layer of shale beneath it.

Will the City of Tyler be responsible or liable for any remediation efforts?

No, the City of Tyler has no involvement or liability with remediation efforts at the facility. Interested persons should direct all inquiries to **Kris Nelsen, Carrier Public Relations, at (317) 260-2602** for more information about the process and future plans for the facility.



What does an MSD do?

Once issued, an MSD certificate restricts the ability of people to drink or otherwise use groundwater for potable purposes under the designated area. Because shallow urban groundwater is rarely used at all, let alone for drinking, it makes little sense to clean this water to drinking water standards.

What does an MSD not do?

An MSD does not address any other environmental risks associated with urban groundwater. For example, if the groundwater discharges to a creek or water body, the TCEQ would still require the responsible party to address any adverse impact to the surface water. The same is true where there might be a risk of vapor from the groundwater rising into a building or other structure to such an extent that it created a human health risk. Again, the TCEQ would require the responsible party to address those risks.

Where can an MSD be used?

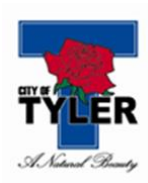
An MSD can only be issued in cities that have a population of 20,000 or more in areas that have a public drinking water supply.

Does the MSD cover the entire area where groundwater may be found?

An MSD can cover one or many properties. The City of Tyler generally requires that its properties be included in an MSD if they are adjacent to another property where an MSD application has been submitted.

What is the first step in applying for an MSD?

The first step in applying for an MSD is to submit an application to the city where the property is located and request approval of the application from the city council. The city council must either issue an ordinance restricting the use of groundwater under the property or approve a deed restriction on the use of the groundwater.



What is the second step in applying for an MSD?

Once approval is obtained from the city, an application must be submitted to the TCEQ. The TCEQ actually approves and issues the MSD certificate.

Is there an opportunity for public participation?

Yes, most cities provide for a public meeting before presenting the ordinance in support of the MSD application to their city council. In the City of Tyler, for example, owners of land within one-half mile received notice of a public meeting. The initial public meeting, held on July 8th, provided the community with an informal setting to learn about the MSD process and the EnSafe/Carrier MSD application. Attendees had the opportunity to ask questions and address any specific issue related to their property. The TCEQ also requires that owners of registered wells within five miles of the MSD property receive notice of an MSD application.

Will this affect the water quality of the City's water supply?

No, the MSD application should have no effect on the quality of the City's potable water supply. The City's primary source of drinking water is from three surface water sources: Lake Tyler, Lake Tyler East and Lake Palestine.

While the City of Tyler does own several groundwater wells, the wells are generally not used to supply potable water to its citizens, as they typically serve as a backup source of water in emergency situations only. In addition, the City's wells take groundwater from a different, much deeper, aquifer than the shallow aquifer that is subject to the MSD. The wells produce water from the Carrizo Wilcox aquifer, which ranges from 600 to 1,100 feet deep.