

Municipal Setting Designation Application Form

Texas Commission on Environmental Quality

Instructions

Application Form

Submit this application form to the TCEQ when applying for a Municipal Setting Designation (MSD) Certificate. The MSD application process is governed by Texas Health and Safety Code (THSC) Chapter 361, Subchapter W. Failure to use this application form will result in denial of the application [THSC 361.804(b)(1)]. In general, the application form is self-explanatory. Indicate by checking “Yes” or “No” or “NA”, as appropriate in response to the confirmation statement or question. “NA” means not applicable. Some sections of the application form contain footnotes that provide additional information or instructions. Be sure to read all footnotes. Complete the form electronically and submit a copy of the form and the supporting information. If any of the responses on the form require more space than is provided in the form, add the additional information to the end of the form and note that additional information is included in the answer space.

Supporting Information

Certain information must be provided to meet the requirements of THSC Chapter 361, Subchapter W, and to facilitate review of the application. A checklist is provided to ensure the necessary information is included with the application. Except as stated below or in the checklist, the information is not required to be submitted in any particular format, except that it must be clear, complete, concise, and correct. Present the completed checklist and the requested information in the sequence set in the checklist.

Maps

All maps must be accurate, and drawn to-scale. The supporting information can be consolidated on fewer maps than are listed in the Supporting Information Checklist provided the information is legible.

Supporting Information Item 3. Legal description of the MSD

Submit a metes and bounds description and plat map that clearly demarcates the MSD property certified by a registered professional surveyor registered by the Texas Board of Professional Surveying attesting to the accuracy of its descriptions, or a lot and block legal property description listing the lot number(s) and block number(s) followed by a reference to a subdivision tract recorded in the county property records. An adequate legal property description would include the volume and page number of the County Deed record where the lot and block are described (e.g., Lots 9 and 10 in Block 11, of Richey Addition, a subdivision in Harris County, Texas, according to the map or plat thereof recorded in Volume 1, Page 550, of the Deed Records of Harris County, Texas).

Submit the application form and all supporting information to:

By Regular U.S. Mail

Texas Commission on Environmental Quality
MSD Application Program MC-221
P.O. Box 13087
Austin, TX 78711-3087

By Overnight/Express Mail

Texas Commission on Environmental Quality
MSD Application Program MC-221
12100 Park 35 Circle
Austin, TX 78753



TCEQ Office Use Only:

ApplicatiOn No: _____

Date Received: _____

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Municipal Setting Designation Eligibility Criteria

Confirm that the statement is true:

<p>A. The proposed municipal setting designation (MSD) is within the corporate limits or within the extraterritorial jurisdiction of a municipality authorized by statute.</p>	Yes
<p>Provide the name of the municipality :</p>	
<p>B. There is a public drinking water supply system that satisfies the requirements of Texas Health and Safety Code Chapter 34 and supplies or is capable of supplying drinking water to:</p> <p style="margin-left: 20px;">1. the proposed MSD property, and</p> <p style="margin-left: 20px;">2. each property within 0.5 miles beyond the boundary of the proposed MSD.</p>	Yes

If either A or B are not true then the eligibility criteria are not met. **Do not submit an application.**

Applicant and Fee Payment Information:

Contact Person:		
Title:		
Company Name:		
Mailing Address:		
City:	State:	Zip:
Phone Number:	Fax Number:	
E-mail Address:		
<p>The required \$1,000 application fee has been submitted under separate cover to the TCEQ Cashier's Office. (The application is not complete and will not be reviewed without payment of the application fee)</p>		Yes

MSD Property Information:

Street Address:	
City:	Zip Code:
County:	Acres:
<p>List all existing TCEQ and US Environmental Protection Agency (EPA) registration, permit, identification numbers (e.g., Solid Waste Registration No., Voluntary Cleanup Program ID No., Leaking Petroleum Storage Tank No., EPA ID No.), if any, that apply to the cleanup of the groundwater contamination within the proposed MSD boundary. State "none" if none are applicable.</p>	
Regulatory ID No's.:	

For multiple properties provide an attachment to the application providing the above information for each property.

Notice Information:

On or before the date of submission of the application to TCEQ, notice was provided to:

A. Each municipality:		
1. where the proposed MSD is located;	Yes	
2. with a border within 0.5 miles beyond the proposed MSD boundaries;	Yes	NA
3. that owns or operates a groundwater supply well located within five miles of the proposed MSD boundaries.	Yes	NA
B. Each current owner of a private well registered with the commission and located within five miles beyond the proposed MSD boundaries.	Yes	NA
C. Each retail public utility, as defined by Texas Water Code §13.002, that owns or operates a groundwater supply well located within five miles beyond the proposed MSD boundaries.	Yes	NA

NA only when no such municipality, private well owner, or retail public utility exists.

Do not submit an application without including the *signed* notice delivery receipts (TSHC 361.805(c))

MSD Information:

A. Is the proposed designated groundwater contaminated in excess of an applicable potable water use standard (i.e. 30 TAC §350, groundwater ingestion protective concentration limit)? Do not submit an application if the answer is no.	Yes	No
B. Was the groundwater contamination previously reported to the TCEQ? (To comply with of Texas Water Code Sections 26.408 and 5.236)	Yes	No
C. Is there a potable-use well within the boundary of the proposed MSD that uses the designated groundwater as a water source? Do not submit an application if the answer is yes.	Yes	No
D. Is there a potable use well within the boundary of the proposed MSD that uses a deeper groundwater zone as a source of water that is not properly sealed off from the designated groundwater? Do not submit an application if the answer is yes.	Yes	No
E. Is the applicant aware of any non-consumptive use of the groundwater or other human health or ecological exposure pathways of concern?	Yes	No
If the answer to E is yes, specify:		
F. Is the property for which the MSD is sought located in a municipality that has a population of two million or more (See most recent place population estimate reported at the Texas State Data Center)	Yes	No
G. Is the property for which the MSD is sought currently or previously been under the oversight of the TCEQ or the U.S. Environmental Protection Agency? If the answer is yes, provide an attachment describing the nature and history of the oversight.	Yes	No
H. For MSDs located in a municipality with a population less than two million, has each municipality and retail public utility in THSC 361.8065 provided firm commitment to adopt an ordinance or resolution in support of the application? Do not submit an application if the answer is no.	Yes	No
I. For MSDs located in a municipality with a population more than two million, was a resolution opposing the application adopted by a municipality or retail public utility within 120 days of receipt of the notice? Do not submit an application if the answer is yes.	Yes	No

Exhibit B
Municipal Setting Designation
Affidavit of Eligibility

BEFORE ME, the undersigned authority, on this day personally appeared _____, as an authorized representative of _____, known to me to be the person whose name is subscribed below who being by me first duly sworn, upon their oath, stated as follows:

I am over the age of 18 and legally competent to make this affidavit. I have personal knowledge of the facts stated herein.

I affirmatively state that (place an X in all applicable blanks)

The MSD eligibility criteria of THSC Section 361.803 are satisfied.

True and accurate copies of all documents demonstrating that the MSD eligibility criteria provided by THSC 361.803 have been satisfied and are included with the application.

A true and accurate copy of a legal description of the proposed MSD property is included with the application.

Notice has been provided in accordance with THSC 361.805.

A copy of an ordinance or restrictive covenant and any required resolutions are provided in this application or will be provided before the executive director certifies this application.

Signature

Date: _____

Printed Name

Title

STATE OF _____

COUNTY OF _____

SUBSCRIBED AND SWORN before me on this the _____ day of _____ 20__ , to which witness my hand and seal of office.

Notary Public in and for the State of _____

MSD Supporting Information Checklist:

This checklist is provided to assist the MSD applicant with submitting a complete application. Please present the completed checklist and the requested information in the sequence set in the checklist.

<p>1. A map of the municipality in which the proposed MSD is located that demarcates all corporate limits, extraterritorial jurisdictions and the boundaries of the proposed MSD.</p>	
<p>2. A map of the public water distribution system that demonstrates that a public drinking water system exists or is capable of supplying drinking water to the proposed MSD property and all property within 0.5 miles of the proposed MSD OR a statement from the appropriate authority for the public drinking water system(s) that they supply drinking water or are capable of supplying drinking water to the proposed MSD property and all property within 0.5 miles of the proposed MSD. If a map is provided demarcate the proposed MSD and the area within 0.5 miles beyond the boundary of the proposed MSD and identify the key potable water mains and water service lines on the map.</p>	
<p>3. A legal description of the MSD property (see special note in the instructions). Also, provide sufficient global positioning satellite coordinate locations to allow the MSD property boundaries to be plotted (map view) in a geographic information system.</p>	
<p>4. A specific description of the designated groundwater that will be restricted under the ordinance or restrictive covenant. Describe the specific upper and lower bounding intervals in feet below ground surface of the designated groundwater zone(s), and provide any designated geological formation/unit/member names.</p>	
<p>5. Documentation of the type of known groundwater contamination in the designated groundwater. Provide a table with the name and Chemical Abstract System Number for each known contaminant with a concentration in excess of potable water use standard, the maximum concentration in mg/L units, and the associated potable water use standard in mg/L units. If this groundwater contamination is being newly submitted to the TCEQ via this application, provide a complete copy of the most recent investigation report that supports the presence of groundwater contamination within the MSD boundary and illustrates the designated groundwater zone.</p>	
<p>6. Provide a copy of the ordinance or restrictive covenant and any required resolutions, or a statement that the applicant will provide a copy of the ordinance or restrictive covenant and any required resolutions satisfying the requirement of THSC 361.8065 before the executive director certifies the MSD.</p> <p>For an MSD located within a municipality with a population of two million or more provide documentation (which may be in a form of an affidavit) of the following: that no resolution opposing the MSD has been adopted by any municipality or retail public utility that is required to be notified pursuant to THSC 361.805 within 120 days of receiving their notice; that the property is currently or has previously been under the oversight of the U.S. EPA or the TCEQ; and is subject to an ordinance or restrictive covenant restricting the designated groundwater use beneath the property as potable water and other restricted uses as appropriate.</p>	
<p>7. A map of the proposed MSD and the area five miles beyond the proposed MSD boundary with plotted:</p> <ul style="list-style-type: none"> • Boundaries of the proposed MSD; • Boundaries of the corporate limit and extraterritorial jurisdiction for all municipalities coincident within an area extending 0.5 miles beyond the boundaries of the proposed MSD; • Service boundaries for any retail public utility(ies) coincident with the five mile area (if any); and • Locations of each private well registered with the commission within the five mile area. For each identified private well, include a unique well identification number on the map and a copy of the Water Well Report. 	

MSD Supporting Checklist - Continued:

<p>8. A description of the actions taken and sources referenced to:</p> <ul style="list-style-type: none"> • Locate all private water wells registered with the commission that are within five miles of the proposed MSD boundary, and • determine the current owner and contact information for each identified well. 	
<p>9. A table keyed to the unique identification number in item 7 above, with the name of the corresponding well owner, corresponding State of Texas Well Identification Number, a “yes” or “no” statement as to whether notice to the well owner was successfully completed, and the corresponding page number the signed notification receipt in item 10 is located. In the event several attempts are needed to complete notification illustrate on the table the number of notice attempts performed and in which attempt the notice was successfully delivered.</p>	
<p>10. A copy of each <i>signed</i> delivery receipt along with a copy of each notice letter. Number the pages on which the copies are located so that it may be cross-referenced in the table in item 9 above. To save paper, if the applicant provides a notarized statement that each letter was the same except for the addressee contact information, then one sample letter may be provided in lieu of providing a copy of each letter.</p> <p>By practice, the TCEQ has established a norm that a minimum of three attempts must be made by the applicant to complete notice, of which two attempts involve obtaining a signed receipt from the notified party.</p> <p>An established acceptable notification process is:</p> <ol style="list-style-type: none"> 1. First attempt, US Postal Service (USPS) Certified Mail, Return Receipt Requested 2. Second attempt, USPS Certified Mail, Return Receipt Requested 3. Third attempt, USPS Delivery Confirmation Service (may be performed in conjunction with the second notification attempt.) With this service, the applicant can download USPS electronic verification of the date and time delivery occurred. <p>Other methods, such as hand delivery is also acceptable notification as long as it is documented by signed receipt.</p> <p>Minimum actions to take to complete notifications activities include:</p> <ul style="list-style-type: none"> • Checking the current local school and county tax records for current property ownership information in the event initial notice letters are returned undeliverable. Internet searches may be helpful for company addresses. • For any private well located within 0.5 miles of the MSD property boundary, hand-deliver the notice to the property if other methods of delivery are unsuccessful. <i>Provide a notarized statement</i> that a notice was delivered and include the date notice was delivered and the name and contact information for the person who delivered the notice as part of the supporting information. <p>Please see the statutory notifications requirements for an MSD on the MSD web page for further information on notices.</p>	
<p>11. A paper copy and electronic listing of the contact names and mailing addresses for all persons required to be provided notice under THSC 361.805. To save paper the paper copy of contact names and addresses may be combined with the table in item 9 above. The electronic list may be provided on a CD, diskette, or via e-mail in MicroSoft Word® or Excel® and formatted as a data source for mail merge to generate the notice letters required under THSC 361.807(a). For those well owners where notification was never completed, provide the contact information for the current owner of the property as listed in the tax district records.</p>	
<p>12. An explanation on how the applicant knows whether the municipalities and/or retail public utilities entitled to receive notice firmly support the proposed MSD. Provide the name, address, telephone number, and e-mail of the contact person within each entity that must support the MSD application via ordinance or resolution. If there is not support from every entity, do not submit the application unless the proposed MSD is eligible for and intends to comply with THSC 361.8065(c) (see item 6b above).</p>	

Municipal Setting Designation Payment Submittal Form

Texas Commission on Environmental Quality

Use this form to submit your \$1,000 MSD Application Fee. Submit this form and fee in the form of a check, certified check, electronic funds transfer, or money order payable to the Texas Commission on Environmental Quality **separately** from the completed MSD application. The fee is **non-refundable**. Do not submit the MSD application without submitting the application fee in advance of or at the same time the MSD application is submitted.

Please complete the following information, staple your check in the space provided at the bottom of this document, attach a copy of the first page of the MSD application form (only the page with the applicant and fee payment information), and mail it to:

By Regular U.S. Mail

Texas Commission on Environmental Quality
Finance Administration Division
Cashiers Office, MC-214
P.O. Box 13087
Austin, TX 78711-3087

By Overnight/Express Mail

Texas Commission on Environmental Quality
Finance Administration Division
Cashiers Office, MC-214
12100 Park 35 Circle
Austin, TX 78753

Fee Code: GPA

MSD Application

Check/Money Order No.:	Amount of Check/Money Order:	
Date of Check or Money Order:		
Name on Check or Money Order:		
MSD Applicants Name:		
Company:		
Street Address:		
City:	State	Zip:

Staple Check In this Space

Cashier's Office:

Following processing of this application fee, please stamp the form with the date received and forward this form and the copy of the MSD application form page to the Remediation Division, MC-221.