Municipal Setting Designations in Texas

A Proven Tool for Urban Redevelopment and Regulatory Closure

Prepared By ESE Partners

Executive Summary

Across Texas, redevelopment of underutilized commercial and industrial properties often encounters a familiar obstacle—groundwater contamination that may no longer pose an exposure risk but still prevents regulatory closure. The Municipal Setting Designation (MSD) program, administered by the Texas Commission on Environmental Quality (TCEQ), offers a proven risk-based solution that enables property owners, developers, and lenders to move projects forward without unnecessary remediation expense.

An MSD is a formal designation that prohibits the use of affected groundwater for potable purposes within a defined boundary, thereby eliminating ingestion as an exposure pathway under the Texas Risk Reduction Program (TRRP). By removing the need to restore groundwater to drinking-water standards when it is already non-potable, an MSD allows responsible parties to focus resources on soil and vapor pathways that present real risk.

For commercial real-estate lenders, developers, and environmental attorneys, MSDs deliver measurable benefits—expedited regulatory closure, reduced cleanup costs, and greater transactional certainty. They also provide municipalities a controlled framework for protecting public health while promoting economic redevelopment.

ESE Partners has guided clients through the MSD process in Houston, Dallas, Fort Worth, Austin, San Antonio, and Katy, where the firm helped establish the city's MSD program and close its first MSD site near its downtown, positioning the property for redevelopment. With decades of statewide experience, ESE has become Texas' trusted partner for evaluating MSD feasibility, coordinating with local governments, and securing TCEQ certification.

Understanding the Municipal Setting Designation (MSD) Program

Regulatory Foundation

The MSD program was created in 2003 through Texas Health and Safety Code §§ 361.801–361.808 and implemented under 30 TAC Chapter 350 (TRRP). Its purpose is to allow cities to manage residual groundwater contamination consistent with actual exposure conditions rather than generic drinking-water criteria. TCEQ serves as the certifying authority, while local governments maintain ordinance-level control within their jurisdictions.

Core Concept

An MSD recognizes that in most Texas cities, residents and businesses obtain potable water from public supply systems, not private wells. Where municipal service exists and groundwater use is already restricted, the MSD ordinance formalizes that restriction. Once approved, the TCEQ adjusts the critical Protective Concentration Level (PCL) under TRRP to exclude the groundwater ingestion pathway. This adjustment frequently enables site closure with no active remediation of dissolved-phase plumes.

Key Takeaway

An MSD allows groundwater risk to be managed through land-use controls rather than costly active remediation when municipal water service is already in place. By removing the groundwater ingestion pathway under TRRP, eligible sites can often achieve regulatory closure without treating dissolved-phase plumes.

Eligibility, Process and Benefits

Eligibility Criteria

To qualify for an MSD:

1. Municipal jurisdiction – The property must lie within city limits or extraterritorial jurisdiction of a municipality authorized by ordinance to support MSDs.
2. Urbanized area designation – Generally, the city must serve a population > 20,000 and provide centralized water service to affected properties.
3. Prohibition of potable groundwater use – An ordinance must restrict the installation or use of potable wells within the designated area.
4. Administrative completeness – Applicants must provide historical site data, groundwater analytical results, and a list of registered wells within a 0.5-mile to 5-mile radius depending on municipal requirements.

Application and Approval Process

1. Property owner application ➔ Submit to the municipality for preliminary review.
2. Municipal public hearing and resolution ➔ City council adopts an ordinance supporting the MSD and commits to enforcing groundwater restrictions.
3. TCEQ review and certification ➔ After city approval, TCEQ evaluates the technical documentation and issues the official MSD Certificate.

Typical timelines range from six to twelve months, depending on city ordinance requirements, well-notification radius, and TCEQ review cycles.

Regulatory Integration

MSDs operate within TRRP as one of several exposure-control mechanisms available to achieve response-action completion. When combined with participation in the Voluntary Cleanup Program (VCP) or Industrial and Hazardous Waste (IHW) closure pathways, an MSD can lead directly to issuance of a Certificate of Completion (COC) or regulatory release. The designation effectively shifts the remedy focus from groundwater restoration to long-term land-use management and institutional controls.

Practical Benefits

- Cost reduction: Avoids high-cost pump-and-treat or monitored natural-attenuation programs.
- Expedited closure: Reduces regulatory timelines by eliminating redundant remediation steps.
- Transaction certainty: Facilitates financing and property transfers by clarifying exposure assumptions.
- Municipal flexibility: Empowers cities to tailor groundwater restrictions to redevelopment goals while maintaining public-health protection.

Comparing MSDs to Alternative Closure Strategies

The Voluntary Cleanup Program (VCP)

The VCP provides a formal mechanism for obtaining a Certificate of Completion (COC) once a site achieves applicable cleanup levels. MSDs often serve as a complementary tool—allowing participants to focus on soil or vapor remediation while excluding groundwater as a complete pathway. When combined, MSDs can reduce overall VCP project duration by several months and cut total closure costs by as much as 30–50%.

Plume Management Zones (PMZs)

PMZs are approved under TRRP for managing stable groundwater plumes that are typically on-site. While effective, PMZs typically require detailed plume stability modeling, ongoing monitoring, and periodic reporting. In contrast, an MSD can accomplish equivalent exposure control through institutional mechanisms without prolonged monitoring obligations—making it more efficient when plume migration is already limited.

Institutional and Engineering Controls

Other closure tools—such as restrictive covenants, concrete caps, and vapor barriers—address direct-contact and inhalation exposure routes but not ingestion. MSDs fill that gap by addressing the groundwater pathway specifically, often in combination with these engineering controls for holistic site management.

Timing and Cost Comparison Under VCP

Closure Strategy	Typical Duration	Typical Cost Range	Long-Term Obligations	Primary Use Case
MSD	12-24 months	$125K-$175K	None, with the exception of annual monitoring (City of Houston only)	Sites with residual groundwater contamination in municipal areas
PMZ	18-36 months	$100K-$300K	Ongoing monitoring and reporting	Large, stable on-site plumes
ICs/Engineering Control	12-? months	$100K-?	Property use restrictions and potential long-term monitoring	Soil or surface contamination within property boundary

MSDs thus represent an attractive option, providing formal regulatory closure at a fraction of the time and cost associated with full-scale remediation.

City-by-City Implementation in Texas

Houston

The City of Houston has issued more than 200 MSDs, making it the most active jurisdiction in the state. Its program, managed through Houston Public Works, requires a five-mile well survey, public hearing, and city council approval. The city's structured ordinance process provides predictability and efficiency for developers.

ESE has supported numerous Houston MSDs. These projects demonstrate how MSDs enable reinvestment in urban corridors while maintaining protective groundwater policies.

Dallas

Dallas was among the first Texas cities to adopt an MSD ordinance, managed by the Office of Environmental Quality (OEQ). Applicants must complete a technical eligibility review and secure city council approval prior to TCEQ submission. Typical turnaround is 60–90 days.

MSDs in Dallas are commonly integrated with VCP projects to obtain a COC, reducing uncertainty for developers in areas of historical solvent use or fuel releases.

Fort Worth

The Fort Worth Water Department administers the city's MSD program, emphasizing alignment with planning and public-works initiatives. Fort Worth actively encourages MSDs for redevelopment of older industrial parcels near the Trinity River corridor.

ESE has assisted clients in Fort Worth through feasibility screening, well inventory analysis, and coordination with both the city and TCEQ.

Emerging and Regional MSD Programs

Austin

Austin's MSD usage has historically been limited, partly due to reliance on the VCP and local emphasis on restrictive covenants. However, as the city continues to redevelop former industrial areas along the East Austin corridor, MSDs are gaining attention as a cost-effective tool to expedite closure without compromising protection of surface-water resources.

ESE has consulted with developers exploring MSD feasibility for mixed-use infill properties in this area.

San Antonio

San Antonio maintains an active MSD registry, administered by the Development Services Department. MSDs have supported redevelopment of several downtown and Broadway corridor properties.

ESE Partners is listed as consultant of record on the 420 Broadway MSD application, which facilitated adaptive reuse of a historic commercial structure while meeting groundwater protection standards.

Katy

The City of Katy represents one of the best examples of local innovation in environmental policy. ESE Partners worked directly with the City of Katy to help develop its MSD program and supported the closure of the city's first MSD site.

This milestone demonstrated how small but fast-growing municipalities can leverage the MSD framework to support redevelopment while ensuring sustainable groundwater management. ESE's collaboration included technical evaluation, ordinance drafting assistance, and coordination with both city staff and TCEQ.

The success of Katy's first MSD site laid the foundation for future applications and reinforced the city's commitment to environmentally responsible growth.

Policy and Planning Implications

Driving Urban Redevelopment

MSDs align closely with Texas' broader goals for brownfield revitalization. By eliminating unnecessary groundwater cleanup requirements in already-serviced urban areas, MSDs free up capital for vertical redevelopment, infrastructure, and tax-base expansion.

Municipalities benefit through increased property values, improved land utilization, and enhanced environmental stewardship.

Risk Management for Lenders and Attorneys

From a transactional perspective, MSDs provide clarity and assurance. For lenders, an MSD-supported COC minimizes environmental liability and improves underwriting confidence. For attorneys, the MSD ordinance and TCEQ certificate form a defensible regulatory record that satisfies due-diligence obligations.

Integration into Local Policy

Many Texas cities now integrate MSD policies into zoning, permitting, and redevelopment incentive programs. By adopting consistent ordinances and maintaining public registries, municipalities create predictable pathways for property owners seeking regulatory closure.

ESE Partners' Experience and Approach

Statewide Expertise

ESE Partners has successfully guided property owners, developers, and lenders through MSD projects in Houston, Dallas, Fort Worth, San Antonio, Austin, and Katy, and has advised numerous other municipalities exploring MSD adoption.

The firm's multidisciplinary team—spanning remediation, due diligence, compliance, and natural resources—ensures that MSDs are strategically integrated with each client's redevelopment and liability management goals.

Comprehensive Services

ESE's MSD services include:

- Feasibility evaluations and preliminary groundwater screening
- Coordination with municipal environmental and legal departments
- Preparation of well surveys, application packages, and public-notice documentation
- Liaison with TCEQ for technical review and certification
- Integration of MSDs into Voluntary Cleanup Program (VCP) or IHW closure pathways

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Proven Outcomes

ESE's projects have consistently delivered regulatory closure within 12-18 months while reducing remediation costs by up to 50%. The firm's deep relationships with Texas municipalities enable efficient navigation of ordinance processes and council approvals, ensuring predictable outcomes for its clients.

Practical Guidance: Evaluating MSD Feasibility

Before pursuing an MSD, property owners and developers should consider the following checklist:

1. Municipal Boundaries: Confirm the property lies within or adjacent to a city that has adopted an MSD ordinance.
2. Water Supply: Verify that potable water is supplied by the municipality and that no private wells are in use onsite.
3. Groundwater Conditions: Characterize the extent of contamination and confirm that the plume is stable and confined.
4. Well Inventory: Conduct a radius search (0.5–5 miles depending on city) to identify active wells.
5. Stakeholder Coordination: Engage municipal staff and TCEQ early to streamline the process.
6. Redevelopment Objectives: Align MSD timing with construction and financing schedules.

Decision Framework:

- MSD Recommended – Stable plume, possible off-site migration and no potential drinking water resources affected
- VCP or PMZ Preferred – Large on-site plume with uncertain stability requiring long-term monitoring.

Conclusion

The Texas Municipal Setting Designation program stands as one of the most practical tools for achieving regulatory closure on contaminated sites located in urban areas. MSDs protect public health, reduce cleanup costs, and unlock redevelopment potential—benefiting both private stakeholders and municipalities.

With decades of experience navigating the MSD process, ESE Partners offers comprehensive support from feasibility evaluation through TCEQ certification. Whether your goal is obtaining a VCP Certificate of Completion, facilitating a property transaction, or designing a municipal MSD ordinance, ESE provides the technical expertise and regulatory insight to help you move forward confidently.

To learn more or request an MSD feasibility evaluation, contact ESE Partners at www.esepartners.com