

City of Houston, Texas, Ordinance No. 2019-668

AN ORDINANCE AMENDING SECTION 28-156 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO CONDITIONS FOR DENIAL OF ISSUANCE OR RENEWAL OF A PERMIT FOR A CORRECTIONAL FACILITY OR ALTERNATE HOUSING FACILITY; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

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WHEREAS, on March 21, 2018, City Council passed Ordinance No. 2018-227 (the “ordinance”), related, in part, to regulation of correctional facilities; and

WHEREAS, the ordinance includes a provision that requires the City to deny a permit to any applicant that intends to house more than 75 occupants; and

WHEREAS, at the time City Council passed the ordinance, the City was not aware of any correctional facility then operating that housed more than 75 occupants; and

WHEREAS, in July of 2019, a correctional facility that has been operating in the City since 1995, and is contracted to house more than 75 occupants for the federal government, sought guidance from the Administration and Regulatory Affairs Department regarding its inability to comply with the ordinance’s restriction against a facility housing more than 75 occupants; and

WHEREAS, the above-described federally-contracted facility has, according to Houston Public Works, fully complied with all Construction Code requirements and safety inspections while it has been in operation; and

WHEREAS, City Council recognizes that the purpose of passing the ordinance was, in part, to improve safety and promote compliance with the Construction Code by correctional facilities in the City; and

WHEREAS, acknowledging that existing correctional facilities would have trouble complying with some of the new restrictions created in the ordinance related to the distance any permitted facility is allowed to be from specified locations, City Council included a grandfather provision to give these facilities an opportunity to continue to operate despite their inability to fully comply with these new restrictions; and

WHEREAS, City Council further recognizes that other correctional facilities housing more than 75 occupants may have existed prior to the passage of the ordinance, otherwise comply with the requirements of the ordinance, and be deserving of a permit under the same; and

WHEREAS, City Council finds it is in the best interest of the City to expand the grandfather clause originally in the ordinance to apply to existing correctional facilities that were housing 75 occupants or more at the time City Council passed the ordinance; **NOW, THEREFORE**,

Section 1. That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as part of this Ordinance.

Section 2. That the first sentence after Item (3) in Subsection (b) of Section 28-156 of the Code of Ordinances, Houston, Texas, which reads as follows:

“A correctional facility that was operating on March 22, 2018, shall be exempt from the distance requirements of subitems a and b of item (2) above, provided that the facility is subsequently issued a permit on or before October 1, 2019, and is operated continuously thereafter under a permit or renewal without termination, revocation, or lapse.”

is here by amended to read as follows:

“A correctional facility that was operating on March 22, 2018, shall be exempt from subitems a, b, and g of item (2) above, provided that the facility is subsequently issued a permit on or before October 1, 2019, and is operated continuously thereafter under a permit or renewal without termination, revocation, or lapse.”

Section 3. That the City Attorney is hereby authorized to direct the publisher of the Code of Ordinances, Houston, Texas, (the “Code”) to make such nonsubstantive changes to the Code as are necessary to conform to the provisions adopted in this Ordinance, and also to make such changes to the provisions adopted in this Ordinance to conform them to the provisions and conventions of the published Code.

Section 4. That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained

herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 5. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor; however, in the event that the Mayor fails to sign this Ordinance within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

PASSED AND ADOPTED this 4th day of September, 2019.

APPROVED this 4th day of September, 2019.

Sylvester Turner
Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is _____.

City Secretary

Prepared by Legal Dept. _____
JWG:asw 8/29/2019 Assistant City Attorney
Requested by Tina Paez, Director, Department of Administration and Regulatory Affairs
L.D. File No. 0371900101001