

**City of Houston, Texas, Ordinance No. 2019-1028**

**AN ORDINANCE AMENDING CHAPTER 42 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO THE USE OF THE PARK AND RECREATION DEDICATION FUND FOR THE PROVISION OF CERTAIN PARKS AND OPEN SPACES, BY AMENDING SECTION 42-1 AND SECTION 42-255; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.**

\* \* \* \* \*

**WHEREAS**, the City of Houston (the “City”) is a municipal corporation organized under the Constitution and the general and special laws of the State of Texas and exercises powers granted by the City’s Charter and the provisions of Article XI, Section 5 of the Texas Constitution; and

**WHEREAS**, in the exercise of its lawful authority, the City may enact police power ordinances to promote and protect the health, safety, and welfare of the public; and

**WHEREAS**, the City may, under the provisions of Chapter 212 of the Texas Local Government Code (“Chapter 212”), establish by ordinance general rules and regulations governing plats and subdivisions of land, and development plats of land, within its corporate limits and area of extraterritorial jurisdiction in order to promote the health, safety, morals or general welfare of the City, and to promote the safe, orderly and healthful development of the City; and

**WHEREAS**, the City heretofore established rules and regulations governing plats and subdivisions of land, and development plats of land, within its corporate limits and area of extraterritorial jurisdiction that are codified in Chapter 42 of the Code of Ordinances, Houston, Texas (“Chapter 42”); and

**WHEREAS**, pursuant to Ordinance No. 2007-1141, effective November 1, 2007, the City heretofore established the Park and Recreation Dedication Fund (“Fund”) for the deposit of all sums paid in lieu of land dedication under Division 7 of Article III of Chapter 42, and rules and regulations regarding the use of moneys in the Fund; and

**WHEREAS**, under Section 42-255 of the Code of Ordinances, Houston, Texas, moneys in the Fund shall be used for the acquisition and improvement of parks; and

**WHEREAS**, for purposes of Chapter 42, park is defined as “an area owned or to be owned by the City that may be used for passive or active recreational use or otherwise left in an unimproved state...”; and

**WHEREAS**, under certain agreements, the City currently operates and maintains public parkland that is neither owned nor to be owned by the City (e.g., Burnett Bayland Park), and the City desires to use moneys in the Fund for the improvement of such public parkland; and

**WHEREAS**, it is hereby declared by the City Council that adequate and varied recreational areas in the form of different sized parks, recreational areas, recreational amenities and improvements are necessary and serve the public health, safety, and general welfare of the City; and

**WHEREAS**, this Ordinance is adopted to provide sufficient and varied park and recreational areas, recreational amenities and improvements to serve residents of the City; and

**WHEREAS**, the City Council finds that it is appropriate to expend moneys from the Fund for the improvement of parkland open to the public on which the City may construct or place improvements pursuant to a written agreement, provided that all other requirements of Chapter 42 are satisfied; and

**WHEREAS**, the City Council finds that it is necessary and appropriate to expand the definition of the term *park* solely for purposes of Section 42-255 of the Code of Ordinances, Houston, Texas; and

**WHEREAS**, on July 24, 2019, the City Council held a public hearing on the proposed amendments to Chapter 42; and

**WHEREAS**, the City Council finds that all procedural requirements necessary for the adoption of amendments to Chapter 42 have been complied with and satisfied; **NOW, THEREFORE**,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:**

**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 definition of the term *sector* in Section 42-1 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“*Sector* means a geographic area within the city as shown in the City of Houston Parks Master Plan for designation of new park needs or additional park improvements.”

**Section 3.** That Section 42-255 of the Code of Ordinances, Houston, Texas, is hereby amended by adding a new Subsection (e) that reads as follows:

"(e) For purposes of this section only, a *park* is defined as either of the following: (i) park as defined in section 42-1 of this Code, or (ii) an area open to the public that may be used for passive or active recreational use or otherwise left

in an unimproved state, and on which the city may construct or place improvements pursuant to a written agreement."

**Section 4.** 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 5.** 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 6.** 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 11<sup>th</sup> day of December, 2019.**

**APPROVED this 11<sup>th</sup> day of December, 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. \_\_\_\_\_  
JN:asw 07/02/2019 Assistant City Attorney

Requested by Margaret Wallace Brown, Interim Director, Department of Planning and Development  
L.D. File No. 061-1900097-001