

City of Houston, Texas, Ordinance No. 97-1570

**AN ORDINANCE DESIGNATING A CONTIGUOUS GEOGRAPHIC AREA WITHIN CITY OF HOUSTON GENERALLY BOUNDED BY U. S. HIGHWAY 90 (S. MAIN STREET) ON THE NORTH, SOUTH POST OAK ROAD ON THE EAST, SIMS BAYOU ON THE SOUTH AND BLUE RIDGE ROAD ON THE WEST (SOUTH POST OAK AREA) AS A REINVESTMENT ZONE FOR TAX INCREMENT FINANCING PURPOSES PURSUANT TO CHAPTER 311 OF THE TEXAS TAX CODE; CREATING A BOARD OF DIRECTORS FOR SUCH ZONE; CONTAINING FINDINGS AND PROVISIONS RELATED TO THE FOREGOING SUBJECT; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.**

\* \* \* \* \*

WHEREAS, pursuant to Chapter 311 of the Texas Tax Code, the City may designate a contiguous geographic area within the City as a reinvestment zone if the area satisfies the requirements of certain sections of Chapter 311 of the Texas Tax Code; and

WHEREAS, the City has received a petition, as supplemented, (the "Petition"), requesting that a contiguous geographic area in Houston, Texas, generally bounded by U. S. Highway 90 (South Main Street) on the North, South Post Oak Road on the East, Sims Bayou on the South, and Blue Ridge Road on the West, ("South Post Oak Area"), be designated as a reinvestment zone under the provisions of Chapter 311 of the Texas Tax Code; and

WHEREAS, the Petition was submitted by the owners of property constituting at least fifty percent of the appraised value of the property in the proposed reinvestment zone according to the most recent certified appraisal roll for Harris County, Texas, the county in which the proposed zone is located; and

**WHEREAS**, the City prepared a preliminary reinvestment zone financing plan, which provides that City of Houston ad valorem taxes are to be deposited into the tax increment fund, and that taxes of other taxing units may be utilized in the financing of the proposed zone; and

**WHEREAS**, the City provided written notice of the public hearing held on December 10, 1997, on the creation of the proposed zone, complying with the requirements of Chapter 311, Texas Tax Code, to the governing body of all taxing units levying taxes on property in the proposed zone; and

**WHEREAS**, a notice of the December 10, 1997, public hearing on the creation of the proposed zone was published on December 3, 1997, in the Houston Chronicle, a newspaper of general circulation in the City; and

**WHEREAS**, Harris County, pursuant to Section 311.003, Texas Tax Code, has waived the Tax Code requirement that it receive sixty (60) days notice of the public hearing on the creation of the proposed zone; and

**WHEREAS**, the Houston Independent School District, pursuant to Section 311.003, Texas Tax Code, has waived the requirement that it receive sixty (60) days notice of the public hearing on the creation of the proposed zone; and

**WHEREAS**, at the public hearing on December 10, 1997, interested persons were allowed to speak for or against the creation of the proposed zone, its boundaries, or the concept of tax increment financing; and

**WHEREAS**, evidence was received and presented at the public hearing in favor of the creation of the proposed zone under the provisions of Chapter 311, Texas Tax Code, and no one appeared or presented evidence in opposition to the creation of the proposed zone; and

**WHEREAS**, no owner of real property in the proposed zone protested the inclusion of their property in the proposed zone; and

**WHEREAS**, the City has provided all information, and made all presentations, given all notices and done all other things required by Chapter 311, Texas Tax Code, or other law as a condition to the creation of the proposed zone; and

**WHEREAS**, the total appraised value of taxable real property in the proposed zone and all other reinvestment zones previously created by the City is approximately \$770,855,670; and

**WHEREAS**, the total appraised value of taxable real property in the City and in the industrial districts created by the City exceeds \$55,000,000,000; and

**WHEREAS**, the total appraised value of taxable real property taxable by Harris County, in which the proposed zone is located, is approximately \$96,085,732,000; and

**WHEREAS**, the total appraised value of real property taxable by the Houston Independent School District, in which the proposed zone is located, is \$34,186,024,000; and

**WHEREAS**, the total area within the proposed zone is approximately 237 acres, excluding property that is publicly owned; **NOW, THEREFORE,**

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

**Section 1. Findings.**

(a) That the facts and recitations contained in the preamble of this Ordinance are hereby found and declared to be true and correct and are adopted as part of this Ordinance for all purposes.

(b) That the City Council further finds and declares that the proposed improvements in the zone will significantly enhance the value of all the taxable real property in the proposed zone and will be of general benefit to the City.

(c) That the City Council further finds and declares that the proposed reinvestment zone meets the criteria and requirements of Section 311.005 of the Texas Tax Code because:

- (1) The proposed zone is predominantly open and is underdeveloped, and because it lacks public water distribution, wastewater collection and storm drainage facilities, it substantially impairs and arrests the sound growth of the City; and
- (2) The proposed zone is an area described in a petition submitted by the owners of the property constituting at least 50 percent of the appraised value of the property in the area requesting that the area be designated as a reinvestment zone.

(d) That the City Council, pursuant to the requirements of Chapter 311, Texas Tax Code, further finds and declares:

- (1) That the proposed zone is a contiguous geographic area located wholly within the corporate limits of the City of Houston;

- (2) That the total appraised value of taxable real property in the proposed zone, and in the City's existing reinvestment zones, does not exceed fifteen percent of the total appraised value of taxable real property in the City and in the industrial districts created by the City;
- (3) That the proposed zone does not contain more than fifteen percent of the total appraised value of real property taxable by Harris County or the Houston Independent School District; and
- (4) That the development or redevelopment of the property in the proposed zone will not occur solely through private investment in the reasonably foreseeable future.

**Section 2. Exception to Guidelines**

That the City hereby excepts the proposed zone from compliance with any City tax increment reinvestment zone guidelines established by the City pursuant to Resolution No. 90-203 that are applicable to the proposed zone and that the zone does not satisfy. Section 1 of Resolution No. 90-203 specifically authorizes the City Council to grant exceptions on a zone-by-zone basis.

**Section 3. Designation of the Zone**

That the City, acting under the provisions of Chapter 311, Texas Tax Code (the "Act"), including Section 311.005(a), does hereby designate as a reinvestment zone, and create and designate a reinvestment zone over, the area described in Exhibit "A" and depicted in the map attached hereto as Exhibit "B" to promote the redevelopment of the area. The reinvestment zone

shall hereafter be named for identification as Reinvestment Zone Number NINE<sup>1</sup>, City of Houston, Texas, (the "Zone"). The City Council specifically declares that the Zone is designated pursuant to Section 311.005(a)(5) of the Texas Tax Code.

**Section 4. Board of Directors**

That there is hereby created a Board of Directors for the Zone, which shall consist of nine (9) members. Position One on the Board of Directors shall be filled by the State Senator representing the area included within the Zone or his designee. Position Two on the Board of Directors shall be filled by the State Representative representing the area included within the Zone or his designee. The Mayor is hereby authorized to nominate and appoint the remaining seven (7) members of the Board of Directors to Positions Three through Nine, subject to the consent and approval of the City Council; provided, however, that Harris County shall be entitled to appoint a director to Position Nine if Harris County approves the payment of all or part of the tax increment attributable to Harris County; and that the Houston Independent School District ("HISD") shall be entitled to appoint a director to Position Eight if HISD approves payment of all or part of the tax increment attributable to HISD.

The directors or their designees in Position One and Position Two shall be members of the Board by operation of law pursuant to Section 311.009(b), Texas Tax Code. The directors appointed to Positions Three, Four, and Five shall be appointed for two year terms, beginning January 1, 1998, while the directors appointed to Positions Six, Seven, Eight and Nine shall be

---

<sup>1</sup> Sequential number of Reinvestment Zone to be inserted by City Secretary upon adoption of ordinance in accordance with Chapter 311, Tax Code.

appointed to a one year term beginning January 1, 1998. All subsequent appointments shall be appointed for two-year terms. The member of the Board of Directors appointed to Position Three is hereby designated to serve as chair of the Board of Directors for the term beginning January 1, 1998, and ending December 31, 1998. Thereafter the Mayor shall annually nominate and appoint, subject to City Council approval, a member to serve as chair for a term of one year beginning January 1 of the following year. The City Council authorizes the Board of Directors to elect from its members a vice chairman and such other officers as the Board of Directors sees fit.

The Board of Directors shall make recommendations to the City Council concerning the administration of the Zone. The Board of Directors shall prepare or cause to be prepared and adopt a project plan and a reinvestment zone financing plan for the Zone as described in Section 311.011, Texas Tax Code, and shall submit such plans to the City Council for its approval. The City hereby delegates to the Board of Directors all powers necessary to prepare and implement the project plan and reinvestment zone financing plan, subject to approval by the City Council, including the power to employ consultants or enter into any reimbursement agreements payable solely from the Tax Increment Fund established pursuant to Section 7 of this Ordinance, subject to the approval of the Director of the Finance and Administration Department, that may be reasonably necessary or convenient to assist the Board of Directors in the preparation of the project plan and reinvestment zone financing plan and in the issuance of tax increment obligations.

**Section 5. Duration of the Zone**

That the Zone shall take effect on January 1, 1998, and termination of the operation of the Zone shall occur on December 31, 2022, or at an earlier time designated by subsequent ordinance, or at such time, subsequent to the time that all project costs, tax increment bonds, notes and other obligations of the Zone, and the interest thereon, have been paid in full.

**Section 6. Tax Increment Base**

That the Tax Increment Base of the City or any other taxing unit participating in the Zone for the Zone is the total appraised value of all real property taxable by the City or other taxing unit participating in the Zone and located in the Zone, determined as of January 1, 1997, the year in which the Zone was designated as a reinvestment zone (the "Tax Increment Base").

**Section 7. Tax Increment Fund**

That there is hereby created and established a Tax Increment Fund for the Zone which may be divided into subaccounts as authorized by subsequent ordinances. All Tax Increments, as defined below, shall be deposited in the Tax Increment Fund. The Tax Increment Fund and any subaccount shall be maintained at the depository bank of the City and shall be secured in the manner prescribed by law for funds of Texas cities. The annual Tax Increment shall equal the property taxes levied by the City and any other taxing unit participating in the Zone for that year on the captured appraised value, as defined by the Act, of real property located in Zone that is taxable by the City or any other taxing unit participating in the Zone, less any amounts that are to be allocated from the Tax Increment pursuant to the Act. All revenues from the sale of any tax

increment bonds, notes or other obligations hereafter issued for the benefit of the Zone by the City, if any; revenues from the sale of property acquired as part of the project plan and reinvestment zone financing plan, if any; and other revenues to be used in the Zone shall be deposited into the Tax Increment Fund. Prior to the termination of the Zone, money shall be disbursed from the Tax Increment Fund only to pay project costs, as defined by the Texas Tax Code, for the Zone, to satisfy the claims of holders of tax increments bonds or notes issued for the Zone, or to pay obligations incurred pursuant to agreements entered into to implement the project plan and reinvestment zone financing plan and achieve their purpose pursuant to Section 311.010(b) of the Texas Tax Code.

**Section 8. Severability**

If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person to set circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining provisions of this Ordinance or their application to other persons or set of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or regulations connected herein shall become operative or fail by reason of any unconstitutionality, voidness or invalidity of any portion hereof, and all provisions of this Ordinance are declared severable for that purpose.

**Section 9. Open Meetings**

It is hereby found, determined and declared that a sufficient written notice of the date, hour, place and subject of the meeting of the City Council at which this Ordinance was adopted was posted at a place convenient and readily accessible at all times to the general public at the City Hall of the City for the Time required by law preceding its meeting, as required by the Open Meetings Law, Texas Government Code, ch. 551, and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter hereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

**Section 10. Notices**

The contents of the notice of the public hearing, which hearing was held before the City Council on December 10, 1997, and the publication of said notice, are hereby ratified, approved and confirmed.

**Section 11. Emergency**

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 of its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

PASSED AND ADOPTED this 17<sup>th</sup> day of December, 1997.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 1997.

\_\_\_\_\_  
Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is DEC 23 1997.

*Carla Russell*  
City Secretary

*BM*  
*PPA*  
*Michael H. Moss*  
(Prepared by Legal Dep't Assistant City Attorney)  
(MAM/rrb 12/15/97)  
(Requested by Robert Litke, Director, Planning and Development Department)  
L.D. No. 34-97601-01

AYE	NO	
✓		MAYOR LANIER
••••	••••	COUNCIL MEMBERS
✓		HUEY
✓		YARBROUGH
✓		WONG
✓		BONEY
✓		TODD
✓		DRISCOLL
✓		KELLEY
✓		FRAGA
✓		CASTILLO
✓		SAENZ
✓		ROACH
✓		SANCHEZ
✓		BELL
✓		ROBINSON
CAPTION	ADOPTED	

**LEGAL DESCRIPTION  
PROPOSED SOUTH POST OAK TIRZ**

BEGINNING AT A POINT located in the northwest corner of that certain 108.221 acres of land, Tract One, out of the John Stamps Survey, A-736, Harris County, Texas, being out of a 200 acre tract described as "First Tract" in Volume 1740, Page 631, of the Deed Records of Harris County, Texas;

Thence, in an easterly direction along the north boundary line said Tract One a distance of 4,897.12 feet to a point located in the northeast corner of said Tract One at its intersection with the west right-of-way line of Old Anderson Road;

Thence, southerly a distance of 996.68 feet to a point located at the southeast corner of said Tract at its intersection with the north right-of-way line of West Orem Drive;

Thence, southerly a distance of 100 feet to the south right-of-way line of West Orem Drive at its intersection with the northeast corner of that certain 105.274 acres of land, Tract Two, being out of the John Stamp Survey, A-736, Harris County, Texas, and being out of a 200 acre tract described as "First Tract" and a 100 acre tract described as "Second Tract" in Volume 1740, Page 631, of the Deed Records of Harris County, Texas;

Thence, southerly a distance of 976.82 feet to a point located at the southeast corner of said Tract Two at its intersection with the west right-of-way line of South Post Oak Road and north boundary line of that certain City of Houston 40 foot easement recorded under Clerk's File Number D 260521, Film Code Number 125-22-0677, Harris County Deed Records;

Thence, westerly a distance of 3,079.18 feet to a point located at the southwest corner of said Tract Two at its intersection with said 40 foot easement;

Thence, southerly a distance of 40 feet to a point of intersection between the said easement and the southeast corner of that certain 9.2539 acres owned by the City of Houston, recorded in the Harris County Real Property Records under Clerk's File Number D 260521, Film Code Number 125-22-0677;

Thence, westerly along the southerly property line of said Tract Three a distance of 1,833.37 feet to the southwest corner said Tract Three at its intersection with the east right-of-way line of that certain 95 foot Harris County Flood Control District Drainage Easement recorded in Volume 2272, Page 642 of the Harris County Deed Records;

Thence, northerly a distance of 795.85 feet to the northwest corner of said Tract Three at its intersection with that certain 200 foot Harris County Flood Control Easement recorded in Volume 4812, Page 96, of the Harris County Deed Records;

Thence, northerly a distance of 349.31 feet to a point of intersection with the southwest corner of that certain 130 foot Harris County Flood Control District Fee Tract, Clerk's File Number G 130473, Film Code 131-90-0120, Harris County Deed Records;

Thence, northeasterly along the south boundary line of said Harris County Flood Control District Fee Tract a distance of 142.04 feet to an iron rod set;

Thence, northerly a distance of 209.87 feet along the eastern boundary of said Harris County Flood Control District Fee Tract to it intersection with the southern right-of-way line of West Orem Drive;

Thence, northerly a distance of 100 feet along the eastern boundary of said Harris County Flood Control District Fee Tract to a point of intersection with the southwest corner of said Tract One and the north right-of-way line of West Orem Drive;

Thence, northerly a distance of 731.85 feet along the eastern boundary of said Harris County Flood Control District Fee Tract to the northwest corner of said Tract One to the POINT OF BEGINNING.

