



# City of Houston Legislative Priorities

85<sup>th</sup> Legislative Session



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***City of Houston Legislative Principles***  
***For the 85th Session of the Texas Legislature***

***City of Houston Mission Statement***

The City of Houston will focus its proactive legislative efforts on the enhancement of life in Houston through emphasis on public safety and criminal justice initiatives; economic development and increasing jobs; protecting the quality of life; improving mobility; creating complete communities; working towards creating a healthier environment; providing affordable housing opportunities; and making the government more responsive, transparent, and fiscally responsible.

All of this must be pursued with a focus on regional cooperation, preserving local control and ending unfunded state mandates.

***Regional Cooperation/General Government***

Oppose all unfunded state mandates that negatively affect the operations of the City of Houston fiscally, by requiring state micro-management of local programs, or by limiting the City's local authority, public safety, revenue collection, city operations or other local programs.

Oppose diminishing the City of Houston's regulatory authority, water rights, and representation on the Metropolitan Transit Authority of Harris County (METRO) Board of Directors, Port of Houston Authority, or other entities. Support and protect the City's authority in its rights of way and on municipal premises.

Support proportionate funding and financing models by the State and other relevant units to assist Houston in meeting its needs including health care, public safety, housing, transportation and infrastructure development.

### **Public Safety/Criminal Justice**

Support improvements in the ability to train, deploy, and fund emergency operations and public safety personnel. Support legislative and administrative efforts to assist the City of Houston in preparation for and prevention of acts of terrorism and emergencies, including the equitable, threat-based distribution of Homeland Security funds.

Support changes and improvements to the Criminal Justice Codes, Juvenile Justice Codes and Transportation Codes including those supported by the City of Houston in previous sessions of the Texas Legislature.

Support legislation to address the growing problem of substance abuse, with a particular focus on synthetic drugs (such as Kush) and the ramifications of these drugs in society.

Support legislation to combat human trafficking and provide additional tools to law enforcement, prosecutors and city regulators to eliminate this crime. Support legislation that provides assistance to trafficking victims.

Support legislative efforts to prevent and end homelessness and connect individuals and families with appropriate services.

### **Neighborhood Improvement and Quality of Life**

Support technical legislation that assists the City's homeowners and strengthens neighborhoods, our environment and quality of life, as well as neighborhood and park programs.

Support legislation that reduces unnecessary regulatory burdens for removing dangerous buildings and urban blight.

### **Economic Development**

Support legislation enhancing economic development and fostering job creation in regional growth areas. Support legislative efforts to promote inner city redevelopment including the creation and maintenance of quality affordable workforce housing. Support legislative and administrative initiatives to improve the economic viability of the Houston Airport System, including funding for the Spaceport Trust Fund.

Support efforts that allow for continued cooperation between municipal management districts and other jurisdictions to enhance community development in Texas cities.

Support the arts and Cultural District funding through the Texas Commission on the Arts' agency budget as submitted.

### **Environment & Public Utilities**

Support legislative and administrative efforts to assist the Houston region in improving air quality and addressing flooding/drainage challenges. Support initiatives for additional green space, urban forestation and park enhancements.

Support legislation promoting energy efficiency and the authority of local governments, the Public Utility Commission, Railroad Commission and the Texas Commission on Environmental Quality (TCEQ) to have sufficient regulatory authority over industry participants to protect consumer interests and make delivery systems more reliable and resilient.

Support legislation that protects adequate compensation for the use of City of Houston property and public rights-of-way.

### **Education**

Support legislation to enhance after school programs and summer programs for youth.

Support legislation to improve education, health and safety, literacy, library programs, and to emphasize opportunities for youth to ensure our workforce remains competitive.

Support additional funding for the TexShare and TexQuest shared online resources.

Support reforms to the State's education finance system that halt the practice of requiring recapture of funds for urban school districts that are deemed "property wealthy" but have a high proportion of economically disadvantaged students.

Support the community schools model that promotes city-wide collaboration to support local schools with wrap around services and resources.

Support increased state funding and investment in research and development at institutions of higher learning. Support incentives to institutions of higher learning to collaborate with local government entities to assist in collaboratively solving public issues.

Support arts education and access initiatives, increasing the scope of the Texas Commission on the Arts to include arts education and expanding the Arts Department at the Texas Education Agency.

### **Health**

Support legislation and funding for expanded health care coverage and access for Texans, including continued progress on behavioral health.

Support expanded capacity for substance use treatment in the Houston area, as well as fully funding Graduate Medical Education positions to increase our healthcare workforce.

Support funding for research into health care related initiatives to grow Houston's economy, and trauma funding to improve Houston's ability to respond to emergencies.

### **Pensions**

Support efforts to enact the Mayor's proposal on City of Houston pensions for Houston Firefighters Relief and Retirement Fund, Houston Municipal Employees Pension System and Houston Police Officers Pension System.

### **Mobility**

Support legislation to expand transportation funding for regional connectivity, project implementation, congestion relief and enhanced mobility to enable economic opportunity in the region. Pursue balance in the region's allocation of transportation funding based on the region's population, projected growth, vehicle miles traveled, and public transportation efforts.

Support an end to diversions from the state highway trust fund for use with non-transportation programs.

Support legislation that provides resources to the Port of Houston, the Houston Airport System, and the Metropolitan Transit Authority of Harris County (METRO).

### **Other**

Support, where possible, other local governments, school districts, local colleges, universities and medical institutions, health care providers, non-profits, and film, arts and tourism.

*Passed by Houston City Council 10/19/16*



## **Sustainable Pensions**

### **Current Law**

The City of Houston has three pension systems for employees: one for firefighters, one for police officers and one for municipal employees. Pensions for firefighters are included in state statute.

### **Problem**

Due largely to miscalculations in 2001 reforms, pensions have become unsustainable. Overly generous benefits and overly high expected rates of return have led to the City underfunding the pension systems. The systems are in open amortization, and the unfunded liability may never be paid off in the current course. Required payments will become higher and higher, leading to layoffs, cuts in service and potential financial danger.

### **Proposed Legislative Change**

Mayor Turner has negotiated agreements to immediately reduce unfunded liability, bring the remaining liability into a closed amortization schedule and implement a cost corridor to control future costs. All three pension boards and City Council have approved the deal. The Legislature must codify the deal.



## **Reduction of Prima Facie Speed Limit on Local Roadways**

### **Current Law**

The current statute sets the prima facie speed limit on local roadways at 30 miles per hour (mph).

### **Problem**

Recent studies, such as a 2011 AAA Traffic Safety Foundation report "Impact Speeds and a Pedestrian's Risk of Severe Injury or Death," find that higher speeds increase the risk to pedestrians. This study found that there is a significant difference in risk in crashes involving pedestrians and vehicles traveling at or above 30 mph versus those traveling at or below 25 mph. Current law allows for a reduction of speed, but requires specific signing. For instance, if the City were to reduce the speed limit within the Rice Military neighborhood (approximately ½ sq. mile) to 25 mph, the City would need to install almost \$100,000 in signs. By reducing the prima facie speed limit, the City would not be required to post signs in neighborhoods unless the City wanted to raise a speed limit above 25 mph. Most roadways that require higher speeds (25 to 45 mph) already have signage.

The reduction in prima facie speed limit will improve safety and save cities money.

### **Proposed Legislative Change**

Reduce the prima facie speed limit on local roadways to 25 mph by amending Texas Transportation Code Section 545.352.



## **Electronic Campaign Finance Reporting**

### **Current Law**

Texas Government Code Section 571.0671 states electronic reports or financial statement data saved in the Texas Ethics Commission temporary storage location for later retrieval and editing is confidential and may not be disclosed before the report or financial statement is filed. After the report or financial statement is filed with the commission, the information disclosed in the filed report or financial statement is public information to the extent provided by the law requiring the filing of the report or financial statement.

### **Problem**

In 2015, the Texas Ethics Commission (TEC) introduced a web-based filing application for state campaign finance filings that allows users to save electronic data online for later retrieval and editing before sending the finalized report to the TEC. The TEC's new filing application raised confidentiality concerns among state filers that information uploaded during the preparation process could be disclosed publicly, resulting in the potential misuse or misinterpretation of that preliminary information. This prompted the 84<sup>th</sup> Legislature to pass HB 3680 which clarifies that information uploaded to TEC's electronic software during the preparation phase of creating a campaign finance report is confidential and not subject to the Public Information Act.

At a November 2015 meeting of the Texas Ethics Commission, Executive Director Natalia Ashley advised that the TEC is working to share the code for creation of the state's electronic filing system with other political subdivisions for their use in updating their electronic filing systems. Utilizing data from the TEC to create a new filing system would likely result in cost-savings for the City.

If the City moves forward with an electronic filing system similar to the state's system, the City will need a similar confidentiality provision to the Government Code section cited above for local filing authorities to protect preliminary data shared by local candidates and special-purpose committees.

**Proposed Legislative Change**

Amend Texas Election Code Chapter 254.0401 by adding subsection (g) to read as follows:

(g) Electronic report data saved in a local filing authority's temporary storage location for later retrieval and editing before the report is filed is confidential and may not be disclosed. After the report is filed with the local filing authority, the information disclosed in the filed report is public information to the extent provided by the law requiring the filing of the report.



## **Violations of the Texas Alcoholic Beverage Code**

### **Current Law**

Currently, only the County or District Attorney is authorized to file an injunction based on a liquor violation.

### **Problem**

There are numerous establishments in Houston with Texas Alcoholic Beverage Commission (TABC) violations that are problematic for law enforcement. Some are "BYOB" type clubs that operate without a TABC license, while others are establishments that do have a TABC license. Authorizing the City as an entity to independently file an injunction action against these types of rogue and difficult clubs would allow the City to address these problem establishments directly. If the TABC Code is amended to include municipalities, the City would have the authority to file a nuisance action to close these establishments. These establishments may not have other crimes or activity associated with its operation that would rise to the level of a common nuisance action under Chapter 125 of the Civil Practice and Remedies Code, yet are nuisances operating in violation of the TABC.

### **Proposed Legislative Change**

Amend Texas Alcoholic Beverage Code Section 101.70(b) to include a municipality as one of the governmental entities that is authorized to file an injunction action pursuant to Section 101.70 (TABC violations).



## **Texas Comptroller’s Mandatory Review of All Municipal Contingency Fee Legal Services Contracts**

### **Current Law**

Government Code Section 2254.103 requires all “state governmental entities” to obtain the Texas Comptroller’s review and approval<sup>1</sup> for all contingency fee<sup>2</sup> legal services contracts. Since the definition of “state governmental entity” in Section 2254.102(1) does not include municipalities, this requirement facially has no impact on the City and the Mayor’s choice of attorney.

However, Section 403.0305 of the Government Code requires all “public agencies” as defined in Section 30.003(3) of the Water Code to obtain review and approval of the Comptroller as provided in Chapter 2254 for any contingency fee legal services contract. The definition of “public agency” in Section 30.003(3) does include cities. Thus, Section 403 accomplishes what Section 2254 clearly sought to avoid.

Approval of such a contingency fee legal agreement makes sense in the context of environmental litigation under the Water Code, but not otherwise. Section 7.353 of the Water Code makes the Texas Commission on Environmental Quality (Commission) a necessary and indispensable party, and Section 7.107 requires an equal division of civil penalties between the “local government”<sup>3</sup> and the State of Texas. So, in that context, the requirement to have the State of Texas review any contingency fee agreement for any Water Code enforcement action is logical. The State wants to review and approve the law firm and the legal services agreement that could impact its share of the ultimate civil penalty. In this limited instance, Section 403’s incorporation of the approvals in Section 2254 is appropriate.

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<sup>1</sup> Chapter 2254 also requires notification and approval of the Legislative Review Board, Gov’t Code §2254.103(e), and in some cases approval of the Attorney General or Governor, Gov’t Code §2254.103(b) and (c). The Comptroller agrees that these approvals are not applicable to a municipal legal services contract and therefore are not relevant to any proposed legislative action.

<sup>2</sup> This includes mixed hourly and contingency fee legal services contracts. Gov’t Code §2254.107.

<sup>3</sup> The term “local government” used in the Water Code does include cities. Water Code §§30.003(7) and 26.001(18).

**Problem**

The rationale above does not apply to any litigation not seeking civil penalties for violation of the Water Code, and therefore municipalities and other political subdivisions should not be required to have all of their contingency fee legal service agreements reviewed and approved by the Comptroller.

**Proposed Legislative Change**

Amend Section 403.0303 of the Texas Government Code to limit the application of Section 403, and by extension Section 2254, to instances where the City is initiating suit under the Water Code where the Commission, i.e. State of Texas, is a necessary and indispensable party to that suit.



## **Expunction in Municipal Courts**

### **Current Law**

Code of Criminal Procedure Article 55.02 gives jurisdiction on expunctions to district courts, even for matters that originated in municipal courts. Article 102.006 establishes the fee for expunction as the fee for filing an ex parte petition in a civil action in district court, plus an additional \$3 for postage costs. The pertinent fee in Harris County district courts is \$247, plus \$6 for each agency that must be notified.

### **Problem**

Defendants charged in municipal courts with Class C misdemeanors often seek expunction in the court in which the offense was heard, as this seems the most logical starting point. The current requirement that defendants seeking expunction must obtain it in the district court means that defendants must pay a large cost to expunge a minor offense. District courts are significantly more difficult to navigate, so many defendants also incur significant expenses by hiring an attorney.

### **Proposed Legislative Change**

Amend Code of Criminal Procedure Article 55.02 to include "municipal court of record" to the courts having jurisdiction to hear expunctions. Amend Article 102.006 to state that the provision regarding the fee for an ex parte petition is only applicable to expunctions heard in district court, and add a section providing that the fee in a municipal court of record will be \$100 to defray the cost of notifying state agencies.



## **Creating Consistency in Magistrate Proceedings**

### **Current Law**

When a person is arrested on a new local charge/local warrant and that person also has an out-of-county warrant, the timeframe for taking that person before a magistrate conflicts with various statutory provisions.

Texas Code of Criminal Procedure Article 14.06 (and similarly Article 15.17) states that a person arrested on a new local charge must receive a magistrate warning at their first court appearance or within 48 hours, whichever comes first. However, Article 15.18, which applies to persons arrested on out-of-county warrants, does not expressly provide the 48-hour window for presentation to a magistrate, so it is presumed that it must be done immediately. Article 15.18 also does not consider circumstances for when a person is also arrested on a new local charge/local warrant.

In addition, Article 15.21 mandates that if the county that issued the out-of-county warrant does not demand and take charge of the arrested person before the 11<sup>th</sup> day after the person is put in jail in the arresting county, then the person shall be discharged. In practice, the person arrested will not be released to the originating office for the out-of-county warrant until the local charge/local warrant is disposed of accordingly, which may exceed the 10-day timeframe described in Article 15.21.

### **Problem**

Legislative change is necessary to alleviate the conflicts between various statutory provisions with regard to persons arrested on an out-of-county warrant that also have a local charge/warrant. Current law does not provide a procedure to process a person who has been arrested on an out-of-county warrant with a new local charge/warrant, if the local charge is not adjudicated within 10 days. Additionally, requiring a person arrested on an out-of-county warrant to be taken before a magistrate immediately upon arrest (as required by Art. 15.18) is inefficient if that person must see a magistrate within 48 hours on the local charge/warrant (as is required by Article 14.06 and 15.17).

**Proposed Legislative Change**

Amend Article 15.18 to include language that mirrors the text of Articles 14.06 and 15.17 that provide a 48-hour window for presenting the person to a magistrate. In addition, amend Article 15.21 to clarify that the 10-day clock for a person arrested on an out-of-county warrant who also has a local charge/local warrant begins once the local charge/local warrant has been disposed and/or adjudicated.



## **Panhandling**

### **Current Law**

Transportation Code Section 552.007 states that a person may not stand in a roadway to solicit a ride, contribution, employment, or business from an occupant of a vehicle, except that a person may stand in a roadway to solicit a charitable contribution if authorized to do so by the local authority having jurisdiction over the roadway.

### **Problem**

The Harris County District Attorney believes the statute's legal distinction based solely on the content of the solicitation violates equal protection and constitutional principles. For this reason, prosecutors will not file any cases based on Section 552.007(a) of the Transportation Code or approve a detention, search or arrest on a violation of that law. The District Attorney further advises that evidence of other crimes discovered as a result of an arrest based solely on a violation of Section 552.007(a) will not be admissible.

### **Proposed Legislative Change**

Amend Transportation Code Section 552.007 to eliminate any reference to a particular type of speech [solicitation of ride, employment, contribution] to make the statute neutral and thereby allow enforcement for a pedestrian entering or standing in a roadway regardless of why they are doing so.



## **Prohibiting the Sale of Pipe Bombs at Gun Shows**

### **Current Law**

Currently Penal Code Section 46.05(a) contains a list of weapons where it is automatically an offense if a person intentionally or knowingly possesses, manufactures, transports, repairs or sells the weapon – i.e. knuckles, armor-piercing ammunition, a chemical dispensing device, a zip gun, or a tire deflation device.

Penal Code Section 46.05(a) (1) also contains a subset list of weapons where it is an offense if a person intentionally or knowingly possesses, manufactures, transports, repairs or sells the weapon UNLESS the weapon is registered by the ATF or classified as a curio or relic by the United States Department of Justice.

### **Problem**

Recently at a Gun Show in the George R. Brown Convention Center, a vendor was found to have manipulated this defense of being “registered” so as to have legally displayed components of pipe bombs and mines. This same registration defense could be applied to suicide vests and Molotov cocktails. This is possible because the ATF apparently gives weight to the position that if the legislature is willing to provide an avenue to essentially “legalize” explosive weapons, then they are going to grant applications of registration.

As a temporary solution, the ATF has stopped registering “explosive weapons;” however, a legislative fix is necessary to solve the problem.

### **Proposed Legislative Change**

Amend Penal Code Section 46.05 by deleting the term “an explosive weapon” from Section 46.05(a)(1)(A), and add the term as newly created Section 46.05(a)(7). Moving the term out from under the registration requirement would essentially put those explosive devices back into the prohibited weapons category.

A second issue is that, as written, Section 46.05(a)(1) puts the burden on the prosecution to prove that a weapon listed in (a)(1)(A) is not registered. A prosecutor has no way of proving this unless they call an ATF agent into court who must verify existence of the registration (which is a

tax record and therefore not otherwise accessible). Prior to the most recent changes to this law in 2015, the burden was on the owner, such that they simply had to provide their registration papers.



## **Solid Waste Disposal Fee**

### **Current Law**

The 2013 Legislature reduced the \$1.25 per ton tip fee paid to the state by landfill owners to \$0.94 per ton. In addition, the Fund 5000 allocation was changed from 50% to the Texas Commission on Environmental Quality for solid waste program administration and 50% back to the Councils of Governments for the Solid Waste Reduction grant programs to 66.7% to TCEQ and 33.3% for grant programs.

### **Problem**

The City of Houston Solid Waste Management Department (SWMD) has received over \$3 million since 1993 from the grant program for solid waste reduction and recycling programs. The amount of available funding to the grant program has been severely reduced by the 2013 legislation, and therefore, the SWMD and the City of Houston's opportunity to receive monies through the grant program has been reduced.

In addition, the fund balance for Fund 5000 is currently over \$130 million. The monies cannot be utilized for anything other than solid waste programs, but do not necessarily have to be spent, and therefore have been used for budget balancing purposes. With the Zika virus crisis ever evolving, these funds could be used to help clean up and eliminate scrap tire piles within the state.

### **Proposed Legislative Change**

Restore the fee and funding levels to previous amounts.

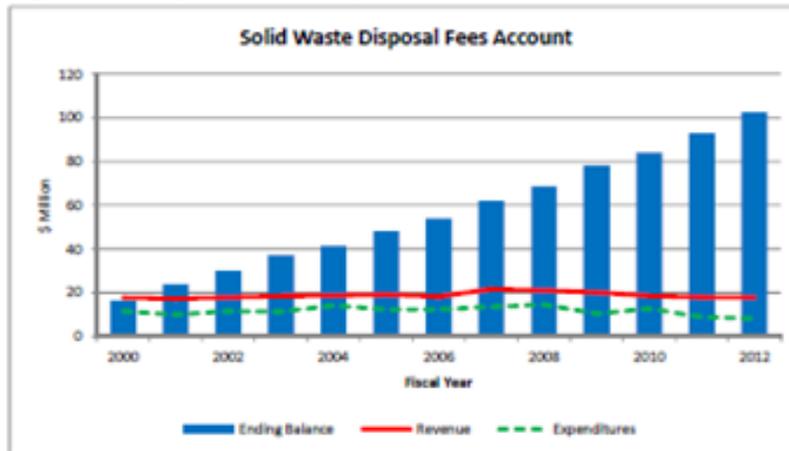
## Summary of Selected GR-D Accounts

(in Millions)

Account Number/Name	Estimated 2015 Ending Balance Biennial Revenue Estimate	2016-17 Estimated Revenue Collections	2016-17 Appropriations	2016-17 Estimated Amount Available for Certification
5000 - Solid Waste Disposal Fees	\$122.3	\$19.0	\$11.0	\$130.3

Presented to the House Appropriations Committee by Legislative Budget Board Staff, May 18, 2016

Figure 2: History of Revenue, Expenditures, and Cash Balances



Source: Comptroller of Public Accounts



## **Storage, Transportation and Disposal of Scrap Tires**

### **Current Law**

Texas Administrative Code Title 30, Chapter 328, Subchapter F, grants the Texas Commission on Environmental Quality (TCEQ) authority to manage and regulate the management of used or scrap tires.

### **Problem**

Illegally dumped tires are an ongoing problem for the City of Houston, and pose a significant health and safety risk, especially in light of the Zika virus and other mosquito borne illnesses. In 2015 the City reinstated our own local program for enforcing regulations around the proper storage, transportation and disposal of scrap tires. If the state made their program more robust by strengthening manifest requirements, reinstating the per-tire fee, and allocating appropriate resources to enforcement, it would support and strengthen local efforts.

The TCEQ has the regulation in place to mitigate the scrap tire problem; however they do not have an adequate number of inspectors going around the state to check on the manifests being produced by businesses involved with used and/or scrap tires.

### **Proposed Legislative Change**

Amend the Texas Health and Safety Code Section 361.112 to institute a required fee per transaction for each time a tire is sold. The fee would be remitted to the TCEQ, and used to abate illegally dumped tires, and abandoned tire stockpiles across the state. Funding should be provided back to local communities based on sales volume to cover municipalities' costs in clearing illegally dumped tires.

Additionally, amend the Texas Health and Safety Code to prevent a customer from taking a removed scrap tire home when purchasing new or used tires.



## **Towing and Impounding Authority for Non-Peace Officers**

### **Current Law**

State law currently requires a peace officer to authorize a tow of an illegally-parked vehicle or illegally operated vehicle-for-hire, unless the vehicle has been booted or the vehicle is illegally parked in a designated Residential Permit Parking Area. A parking compliance officer or a regulatory investigator in the City of Houston's Department of Administrative & Regulatory Affairs must notify the Houston Police Department to dispatch a tow truck in order to initiate a tow.

### **Problem**

Vehicle removal is the single most effective enforcement tool available for illegal parking and illegal vehicles-for-hire, however, peace officers often have more pressing public safety matters to address, and it may be several hours before the Police Department may be able to respond to a request to tow an illegally-parked vehicle or an illegally operated vehicle-for-hire. Parking compliance officers for the City of Houston need to be able to quickly remove illegally-parked vehicles and thereby provide a remedy to the parking problem at issue. Regulatory Investigators for the City of Houston also need to be able to remove illegally operated vehicles-for-hire from the street to protect the safety of citizens utilizing vehicle-for-hire services.

### **Proposed Legislative Change**

1. For illegally parked vehicles, amend Occupations Code Section 2308.354 to provide that employees designated by the municipality may be authorized to request towing of vehicles parked illegally, where on-street parking is regulated and designated as a tow-away zone.
2. For illegally operated vehicles-for-hire, amend Local Government Code Section 215.004 to authorize a municipality to adopt an ordinance providing that employees designated by the municipality may be authorized to facilitate the towing and impoundment of a vehicle operated in violation of the municipality's requirements for vehicles-for-hire.



## **Improve Enforcement of Parking in Yards Ordinance**

### **Current Law**

Texas Transportation Code Section 545.308 provides that a local authority issuing a citation for a parking offense may presume that the person to whom the vehicle is registered committed the offense. The presumption allows officers to leave a citation on a vehicle rather than track down and identify the person committing the offense. The presumption applies to offenses listed in Chapter 545 Subsection G.

In 2009, Houston City Council passed an ordinance enabling neighborhoods to petition to prohibit parking in yards. The ordinance creates a criminal offense and provides a penalty of \$150 for any person who parks in a yard in a neighborhood that successfully petitions.

### **Problem**

The parking in yards ordinance is not listed Chapter 545 Subsection G. Therefore, the City cannot presume that the person to whom the vehicle is registered committed the offense. The officer, therefore, must identify the person who committed the offense. Rather than being able to place the citation on the vehicle, officers must knock on doors and ascertain who actually parked the vehicle in the yard and issue the citation to that person.

### **Proposed Legislative Change**

Amend Chapter 545 Subsection G to add Houston's parking in yards ordinance to the list of offenses. The offense could be bracketed to only include Houston, or could apply statewide to cities that pass ordinances like Houston's.