

City of Houston, Texas, Ordinance No. 2012-1097

AN ORDINANCE AMENDING CHAPTER 26 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, TO CREATE A PARKING BENEFIT DISTRICT WITHIN THE WASHINGTON AVENUE CORRIDOR AS A PILOT PROGRAM; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

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WHEREAS, new commercial development along the Washington Avenue Corridor with facilities such as restaurants, bars, retail stores, and music venues has resulted in traffic congestion and increased demand for on-street (curbside) parking in the Washington Avenue Corridor; and

WHEREAS, the increase in commercial development has created a shortage of adequate on-street (curbside) parking affecting both residences and businesses; and

WHEREAS, the Washington Avenue Corridor does not qualify as a residential parking permit area under current Code provisions on that subject; and

WHEREAS, increased traffic in the area has also created air and noise pollution that negatively impacts the health, welfare, and safety of the residents, business owners, and visitors in the Washington Avenue Corridor; and

WHEREAS, the Parking Management Division of the Administration and Regulatory Affairs Department ("Parking Management") has conducted a parking study which found that in certain parking areas within the Washington Avenue Corridor, on Thursday evening through Sunday morning between the hours of 6:00 p.m. and 2:00 a.m., the total number of on-street parking spaces occupied by motor vehicles exceeded 60% of the total number of on-street parking spaces; and

WHEREAS, Parking Management has also conducted a substantive review of the practices of several other cities to determine the most effective ways of managing traffic and parking demand while simultaneously encouraging economic development and protecting residential property in the area, and based on that review, has determined that the most effective tool for managing traffic and regulating on-street parking while encouraging economic development and protecting residential property in the Washington Avenue Corridor is through the creation of a parking benefit district program; and

WHEREAS, a parking benefit district is created by metering on-street parking spaces and off-street parking spaces in City-owned or leased parking facilities, designating certain areas in the district for parking by permit only, and dedicating a portion of the revenue from the parking meters (less City expenses for administrative

costs, signage, enforcement, installation, operation, and maintenance of parking meters) to public safety and public amenities that enhance the quality of life in the district, such as installation and maintenance of sidewalks and pedestrian walkways, street maintenance, installation and repair of street lights, landscaping, acquisition of additional parking, and improvements that promote walking, cycling, and the use of public transportation in the district; and

WHEREAS, the traffic engineer has determined that the existing traffic conditions within the Washington Avenue Corridor allow limited use of the public street for parking and a parking benefit district in the area would be feasible and not inconsistent with current and forecast mobility requirements and the function of Washington Avenue as a thoroughfare within the City's plan; and

WHEREAS, City Council finds that the Washington Avenue Corridor has sufficient on-street parking spaces, that if metered, would pay the expenses of enforcing, maintaining, and operating parking meters, administering restricted parking in the area, and funding projects that enhance the quality of life in the district; and

WHEREAS, City Council finds that there is sufficient evidence of support by the residents and business owners for the creation of a parking benefit district in the Washington Avenue corridor; and

WHEREAS, City Council finds that designating the Washington Avenue corridor as a pilot parking benefit district until 180 days after the first anniversary of the effective date of this ordinance would be sufficient time to test the effectiveness of the parking benefit district in the Washington Avenue corridor; **NOW, THEREFORE**,

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

Section 1. That the findings and recitations contained in the preamble of this Ordinance are found to be true and correct and are adopted as part of this Ordinance for all purposes.

Section 2. That Chapter 26 of the Code of Ordinances, Houston, Texas, is hereby amended by adding a new Article XI that reads as follows:

"ARTICLE XI. PARKING BENEFIT DISTRICTS

DIVISION 1. GENERALLY

Sec. 26-701. Definitions.

As used in this article, the following terms and phrases shall have the following meanings, except where the context clearly indicates a different meaning:

Business owner means a person who holds title to or leases property for the purpose of operating or engaging in a trade, occupation, profession or other lawful commercial activity.

Business establishment means any building or portion thereof that contains one or more commercial uses other than a residential use.

City parking facility means property that is owned or controlled by the city and that is used, wholly or partially, for off-street motor vehicle parking, including, but not limited to, a parking lot, a surface lot, or a parking garage.

Notice owner means the owner of real property as shown on the records of the tax appraisal district in the county in which the property is located.

On-street (also 'curbside') parking space means a curbside parking space on the public right-of-way, excluding those portions of the right-of-way where the parking of any motor vehicle is prohibited.

Parking benefit district means an area designated pursuant to this article in which on-street curbside parking spaces or parking spaces on a city parking facility are metered or restricted to parking by permit only.

Permit, parking permit, or parking benefit district permit means a current and valid permit issued under division 3 of this article.

Projects shall include, but not be limited to, public amenities that enhance the quality of life and public safety in the parking benefit district, such as: increased security, sidewalk and pedestrian walkway improvements, street maintenance, street lights, landscaping, parking studies, parking facilities, improvements that promote walking, cycling, and the use of public transportation, and information to identify and inform the public of the Washington Avenue Corridor.

Resident means the owner or tenant of residential property.

Residential has the meaning prescribed in section 26-291 of this Code.

Washington Avenue Corridor means all streets included and bounded by Center Street to the north, Houston Street to the east, Lillian Street to the south, and Westcott Street to the west, and is further described in Exhibit A to Ordinance No. 2012-1097.¹

Sec. 26-702. Compliance with other laws.

A parking permit issued pursuant to this article does not excuse compliance with any other provisions of state law or this Code relating to parking, including but not limited to, parking meter payment, 'no parking' signs and restricted parking for persons with disabilities.

Sec. 26-703. Offenses.

(a) It is unlawful for any person to park a motor vehicle without a permit in a designated parking area in a parking benefit district on any day or during any hours for which parking is allowed only by permit as indicated by one or more official signs posted in a parking benefit district.

(b) It is unlawful for any person to falsely represent in any fashion that he is entitled to a permit authorized by this article when he is not eligible for such a permit. The display of a parking benefit district permit by a person not eligible for such a permit shall constitute such false representation.

(c) It is unlawful for any person to duplicate, or attempt to duplicate, a permit authorized by this article or to display on any motor vehicle a forged or duplicated permit.

Sec. 26-704. Defenses.

It is an affirmative defense to civil prosecution for violation of this article that the motor vehicle parked in an area restricted to permit parking within a parking benefit district was:

- (1) A motor vehicle owned by or operated under contract to a utility and in actual use in the construction, operation,

¹City Secretary/Editor shall insert the number of this Ordinance.

removal or repair of utility property or facilities or engaged in authorized work in a parking benefit district;

- (2) A motor vehicle clearly identified as owned by or operated under contract to a federal, state, or local governmental agency, and then being used in the course of official government business;
- (3) An authorized emergency vehicle; or
- (4) A motor vehicle used for delivery or service business purposes, including but not limited to motor vehicles such as moving vans and sanitation, repair, electrical and plumbing service motor vehicles then being used to conduct business at a residence or business establishment in a parking benefit district.

Sec. 26-705. Cumulative effect.

This article is cumulative of other requirements imposed by ordinances and regulations of the city. To the extent of any inconsistency, the more restrictive provision shall govern. The authority granted by this article is cumulative of the powers granted by this chapter and does not limit the authority of the traffic engineer or other officers authorized to regulate traffic.

Sec. 26-706. Removal of vehicle.

A parking enforcement officer or personnel designated by the police chief may authorize the towing of a vehicle parked in violation of this article, and in the event of such tow, the police department shall be the responsible law enforcement agency for purposes of section 8-117 of this Code.

Sec. 26-707–26-710. Reserved.

**DIVISION 2. DESIGNATION OF WASHINGTON AVENUE CORRIDOR
AS A PARKING BENEFIT DISTRICT.**

Sec. 26-711. Designation of district; time limit; continuation, modification or termination of district.

(a) City council hereby designates the Washington Avenue Corridor as a parking benefit district for a period ending on the 180th day following the first anniversary of the effective date of this ordinance, provided that the parking benefit district shall continue after the expiration

of this period unless city council takes action to terminate the district. The administration shall present an item for council consideration to affirm, modify, or terminate the district within 60 days following the foregoing period.

(b) As soon as practicable after the time period provided in subsection (a) of this section:

- (1) The director shall report to city council on the effectiveness of the parking benefit district and provide his recommendations for continuation, modification or termination of the district; and
- (2) The Washington Avenue Corridor advisory committee created in Division 4 of this article may make recommendations to the mayor and city council regarding modifications to the parking benefit district.

(c) Upon recommendation from the traffic engineer, city council may modify or terminate the parking benefit district prior to or after the time period provided in subsection (a) of this section if the traffic engineer determines that termination or modification is necessary for public safety or mobility purposes.

Sec. 26-712. Parking regulations.

(a) The traffic engineer shall develop parking regulations that establish the days of the week and the times of day that parking meters shall be operational and the days of the week and the times of day that parking shall be restricted to parking by permit only in a parking benefit district.

(b) The traffic engineer, in consultation with the parking official, shall designate the areas within a parking benefit district in which a resident and/or a business owner who receives a parking permit may park.

Sec. 26-713. Notice of designation.

(a) Within 10 days following the effective date of this ordinance, the parking official shall mail written notice to:

- (1) Each notice owner and the occupant of every address within the designated parking benefit district; and

- (2) Each notice owner and the occupant of every address within 500 feet outside of the boundary of the parking benefit district.
- (b) The written notice shall contain the following information:
- (1) The existence and boundaries of the parking benefit district;
 - (2) The effective date of the parking regulations;
 - (3) The location of the metered parking spaces; and
 - (4) The location of the parking spaces restricted to parking by permit only.
- (c) In the event that the boundaries of the district change or additional contiguous areas are restricted to permit parking, the parking official shall mail a written notice containing the same information as set forth in subsection (b) of this section to:
- (1) Each notice owner and the occupant of every address within the newly designated parking benefit district boundaries or additional contiguous areas restricted to permit parking; and
 - (2) Each notice owner and the occupant of every address within 500 feet of the newly designated parking benefit district boundaries or additional contiguous areas restricted to permit parking.

Sec. 26-714. Disposition of revenue.

(a) All fees and/or revenues generated from the use of parking meters in a parking benefit district and permits issued under this article shall be first expended to defray the city's administrative costs, signage, enforcement, debt service, and the installation, operation, and maintenance of parking meters placed in service in a parking benefit district on or after the effective date of this ordinance. Sixty percent of revenues in excess of the city's costs shall be applied to the projects recommended by the advisory committee. The remaining funds shall be deposited in the parking management special revenue fund.

(b) The threshold amount of net revenue that must be generated by a parking benefit district before a project may be initiated is \$250,000.

(c) Revenue generated from a parking benefit district may be used in conjunction with other public funds or public-private partnership funds available for projects to benefit the district.

(d) In the event that a parking benefit district is terminated, any fees and/or revenues generated from the use of parking meters in the parking benefit district that have not been expended shall be transferred to the parking management special revenue fund.

Sec. 26-715. Surrounding area may be designated as a residential parking permit area.

Areas within 1000 feet outside of the boundary of the Washington Avenue Corridor may be designated as a residential parking permit area pursuant to article VI of chapter 26 of this Code.

Sec. 26-716–26-720. Reserved.

DIVISION 3. PERMITS

Sec. 26-721. Parking benefit district permit application; issuance.

(a) Any resident of or business owner within a parking benefit district may submit an application for no more than one parking benefit district permit for each residential address or business establishment to the parking official in a form promulgated by the director for that purpose, which shall include the following:

- (1) The applicant's name, telephone number, and the applicant's residential or business address located within the parking benefit district;
- (2) Proof that the applicant is a resident of the parking benefit district in the form of:
 - a. A valid Texas driver's license, or personal identification card issued by the Texas Department of Public Safety, showing the applicant's current residential address within the parking benefit district; and
 - b. A recent utility bill acceptable to the director showing the applicant's address within the parking benefit district;

- (3) Proof that the applicant is a business owner in the parking benefit district in the form of:
 - a. A true and correct copy of a valid certificate of occupancy of the applicant's business establishment within the parking benefit district; or
 - b. A recent utility bill acceptable to the director showing the applicant's business address within the parking benefit district; or
- (4) Any other information reasonably required by the director to ensure compliance with the requirements of this article.

(b) Upon submission of a complete application for a parking benefit district permit and payment of the fee prescribed in the city fee schedule for this provision, an applicant shall be entitled to receive no more than one parking benefit district permit for each residential or business establishment address described in the application, provided that no unresolved parking citations, as defined in section 26-261 of this Code, exist for any motor vehicle owned by the applicant.

Sec. 26-722. Permits.

Motor vehicles with a permit issued under this article may park in a designated area restricted to permit parking in a parking benefit district during the days and times as established by the traffic engineer pursuant to section 26-712 of this Code.

Sec. 26-723. Effect of issuance of permit.

(a) A parking permit shall be valid for one year from its date of issuance and shall not be transferable. A permit may be renewed by filing an application pursuant to this section and paying the applicable fee at least 30 days prior to the expiration of the permit. A renewal permit application shall be reviewed and approved in accordance with this section; provided, that a permit that has been revoked pursuant to section 26-724 of this Code shall not be reissued for a period of two years from the date of revocation.

(b) No parking permit shall be issued to a person who is neither a resident nor a business owner within a parking benefit district.

(c) A parking permit issued to a resident or business owner of a parking benefit district who no longer qualifies for a parking permit is void and use thereof shall constitute an offense.

(d) An applicant may obtain a replacement parking permit during its valid term in the same manner and for the same fee as the original parking permit by providing the parking official a police report for a stolen permit or an affidavit for a destroyed or lost permit. The replacement permit shall be valid only for the remainder of the original term of the original parking permit.

(e) A permit does not guarantee or reserve a parking space within a parking benefit district. A permit issued pursuant to this article does not authorize the standing or parking of any motor vehicle in any place or during any time when the stopping, standing or parking of motor vehicles is prohibited or set aside for specified motor vehicle types. The issuance of a permit shall not excuse the observance of any traffic regulation.

(f) Whenever the holder of a permit is not in compliance with one or more of the applicable provisions of this article controlling the issuance or renewal of permits, the holder shall notify the parking official, who shall direct the holder to surrender the permit or present evidence that the permit has been removed from the motor vehicle.

(g) Until its expiration, surrender or revocation, a parking benefit district permit shall remain valid for the length of time the holder continues to reside or own and/or operate a business within a parking benefit district.

(h) A permit shall be valid only in the parking benefit district for which it is issued.

(i) Nothing in this article shall be construed to supersede the parking regulations of an area that is designated as a residential parking permit area.

Sec. 26-724. Revocation of permit.

In addition to the penalties provided for violation of this article, the parking official shall revoke the parking permit of any individual found to have committed three or more violations of this article within any preceding 12-month period. Upon a determination by the parking official that a person who holds a permit has been adjudicated to have committed three or more such violations within the prescribed period, the parking official shall provide written notification to such person by certified mail, return receipt requested, revoking the permit and ordering the surrender of such permit to the parking official. Failure to surrender a revoked permit when ordered to do so constitutes a separate violation of this article, and a signed return receipt shall be *prima facie* evidence of the delivery of the notice to surrender the permit.

Sec. 26-725. Permit fees.

(a) The annual fee for each parking benefit district permit is stated for this provision in the city fee schedule.

(b) The parking official shall not issue any permit unless and until the applicable fee identified in this section has been paid.

Sec. 26-726. Display of permit.

Each permit shall be conspicuously displayed upon a motor vehicle so as to be easily visible to any person passing the vehicle on the street or sidewalk while the vehicle is parked in an area designated for parking by permit in a parking benefit district. Any failure to display a permit shall create a presumption that no permit exists.

Sec. 26-727. Adjudication.

Cases involving violations of the parking provisions of this division shall be heard by adjudication hearing officers of the municipal courts department.

Sec. 26-728-740. Reserved

DIVISION 4. ADVISORY COMMITTEE

Sec. 26-741. Created.

There is hereby created a Washington Avenue Corridor advisory committee to make recommendations to the mayor and city council on issues relating to the parking benefit district, including: potential projects to be funded with revenue generated from the parking benefit district, the timing and order of such projects, changes to the parking meter and permit fees, and the allocation and management of permits.

Sec. 26-742. Members; chair.

(a) The committee shall consist of no less than five and no more than nine regular members and five nonvoting ex officio members.

(b) The regular members shall be business owners and residents of the Washington Avenue Corridor who have an interest in the parking issues affecting the Washington Avenue Corridor and are at least 18 years of age. A majority of the regular members shall be business owners. The regular members shall be appointed by the mayor and confirmed by the

city council. The mayor shall designate the committee chair from among the regular members of the committee. At the first meeting of the committee, the regular members shall elect a vice chair who shall perform the duties of the chair when the chair is absent or unable to perform such duties.

- (c) The ex officio members shall be:
 - (1) The director of the department of administration and regulatory affairs or his designee, who shall also serve as secretary to the committee;
 - (2) The director of the public works and engineering department or his designee;
 - (3) The director of the planning and development department or his designee;
 - (4) The chief of police or his designee; and
 - (5) A representative from the office of the mayor.

Sec. 26-743. Terms of members; dissolution of committee.

(a) Unless city council takes action to terminate the parking benefit district, regular members shall serve until the 180th day after the first anniversary of the effective date of this ordinance and shall continue in office until their successors are appointed and qualified. As soon as practicable after the 180th day following the first anniversary of the effective date of this ordinance, the mayor shall appoint or reappoint and city council shall confirm, regular members to serve on the committee for a term of two years.

(b) If a regular member moves his actual residence from or is no longer a business owner in the Washington Avenue Corridor during the term of his appointment, that person shall be disqualified from membership on the committee and his position shall become vacant effective simultaneously with such change in residency or business ownership.

(c) A vacancy in the position of a regular member shall be filled for the unexpired term by appointment by the mayor and confirmation by city council.

(d) In the event that a parking management district, a redevelopment authority, a tax increment and reinvestment zone or similar

entity is created for or in the Washington Avenue Corridor or any portion thereof, the advisory committee shall be dissolved and such newly created entity shall assume the duties and responsibilities of the advisory committee.

Sec. 26-744. Compensation

The members of the committee, in the performance of their duties as such, shall serve without compensation, provided that any member who is a city employee shall continue to receive his regular compensation while serving on the committee.

Sec. 26-745. Meetings; quorum; absence from meetings.

(a) The committee shall meet from time to time at the call of the committee chair, provided that the committee shall meet not less than five times during the period provided in section 26-711 of this Code. All meetings of the committee shall be conducted in accordance with the Texas Open Meetings Act.

(b) A majority of the regular members of the committee shall constitute a quorum for the transaction of business; however, in the event of a vacancy on the committee, a majority of the remaining regular members of the committee shall constitute a quorum for the transaction of business.

(c) Three successive unexcused absences from the regularly scheduled meetings, after due notice served by telephone, mail, or electronic mail of the time and place of such meetings, shall automatically terminate membership on the committee. Absences may be excused only by a majority of the committee members present and voting at any scheduled meeting.

Sec. 26-746. Procedures.

The committee shall adopt administrative procedures applicable to its own governance as are necessary or convenient to accomplish the purposes set out in this division."

Section 3. That Section 26-10 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“Sec. 26-10. Penalty for violation of chapter.

(a) It is a criminal offense for any person to violate any of the provisions of this chapter other than the provisions of articles II, IV, VI or XI of this chapter or of division 1 of article III of this chapter. Every person convicted of violating any of those provisions of this chapter for which another penalty is not specifically provided shall be punished by a fine of not less than \$1.00 nor more than \$200.00; provided that the penalty for violation of any provision of article X (Immobilization ("Booting") of Vehicles) of this chapter shall be a fine of not less than \$300.00 nor more than \$500.00; further provided, however, that no penalty shall be greater or less than the penalty for the same offense under the laws of this state.

(b) It is a civil offense for any person to violate any of the provisions of article II (Stopping, Standing, Parking and Operation of Vehicles), division 1 of article III (Parking Meters), article IV (Commercial Vehicle Loading Zones), article VI (Residential Parking Permits) or article XI (Parking Benefit Districts) of this chapter. Unless another fine is specifically provided by this Code or by state law, the penalty for violation of any of the aforesaid civil offense provisions shall be as follows:

Violation Of	Civil Fine
Article II (except for Sec. 26-88) Article III, Division 1 Article VI Article XI	\$1.00 - \$200.00
Article II, Section 26-88	\$500.00- \$750.00
Article IV	\$200.00 - \$500.00

(c) For violations under this chapter that are of a continuing nature, each day that the violation shall continue shall constitute a separate offense.”

Section 4. That Section 26-311 of the Code of Ordinances, Houston, Texas, is hereby amended by adding a new Subsection (c) to read as follows:

“(c) Notwithstanding the definition of residential area, areas within 1000 feet outside of the boundary of the Washington Avenue Corridor, as defined in section 26-701 of this Code, may be designated as a residential parking permit area pursuant to the procedures of this division.”

Section 5. That the parking benefit district permit fee promulgated in new section 26-725 as added by this Ordinance to the Code of Ordinances is hereby approved in the following initial amount: \$25. The Director of Administration and Regulatory Affairs shall ensure that this new fee is provided to the Director of Finance for incorporation into the City Fee Schedule as soon as possible.

Section 6. 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 7. 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.

PASSED AND APPROVED this 17th day of December, 2012.



Mayor of the City of Houston

Prepared by Legal Dept. _____

CMG:asw 12/5/12 Assistant City Attorney
 Requested by Alfred J. Moran, Jr., Director, Department of Administration and Regulatory
 Affairs
 L.D. File No. 0470800001003

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AYE	NO	
✓		MAYOR PARKER
••••	••••	COUNCIL MEMBERS
	✓	BROWN
✓		DAVIS
✓		COHEN
✓		ADAMS
	✓	SULLIVAN
✓		HOANG
✓		PENNINGTON
✓		GONZALEZ
✓		RODRIGUEZ
✓		LASTER
✓		GREEN
	ABSENT-ON PERSONAL BUSINESS	COSTELLO
✓	ABSENT-OUT OF CITY ON PERSONAL BUSINESS	BURKS
		NORIEGA
✓		BRADFORD
	ABSENT	CHRISTIE
CAPTION	ADOPTED	

EXHIBIT A

Exhibit "A"
Washington Avenue Corridor Parking Benefit District Boundary Map

