

Chapter 32

PARKS AND RECREATION

ARTICLE I. IN GENERAL

Sec. 32-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ~~ascribed to them~~ assigned in this section, except where the context clearly indicates a different meaning:

(1) ~~Department or the department~~ means the parks and recreation department of the city.

(2) ~~Director or the director~~ means the director of the department of parks and recreation of the city or the director's designee.

Members of the public shall include all persons other than (1) those engaged in park maintenance and construction under authority of the city, and (2) officers, employees, and agents of government while engaged in the performance of their duties of employment or office.

(3) ~~Parks or the parks~~ means the various properties under the direction, control and supervision of the director pursuant to the authority granted in sections 32-4 and 32-5 of this Code.

Sec. 32-2. Department--Created.

There is hereby created and established the ~~department of parks and recreation~~ department of the city.

Sec. 32-3. Same--Director generally.

There is hereby created the office of director of the department of parks and recreation of the city. The director shall be the head of the department and shall be appointed by the mayor, subject to confirmation by the city council.

Sec. 32-4. General duties of director.

It shall be the duty of the director to direct, control and manage all parks, parkways, esplanades, trails, playgrounds and recreation buildings and other improvements on park and playground property belonging to or under the control of the city and such other grounds as may be placed under his control, from time to time, by the mayor and city council, and to direct the improvement and maintenance of all such properties.

Sec. 32-5. Authority of the director.

(a) The director shall have authority to ~~prescribe~~ promulgate written rules and regulations for the administration of the department and for the orderly ~~government management~~ and use of ~~the parks by the public~~, provided that such regulations do not conflict with valid laws or ordinances. A copy of such rules and regulations shall be published on the city=s website and maintained for public inspection in the offices of the director and the city secretary. ~~Without limitation, the director is authorized to include provisions that govern the use of parks by the public and may prescribe such rules and regulations that promote the healthful and generalized use of the parks, including, but not limited to, setting forth rules that limit the possession or consumption of any alcoholic beverages while in the parks. Nothing in this subsection is intended to limit the ability of the director to prescribe rules and regulations relating to the sale or distribution of alcoholic beverages by city authorized vendors, park permittees and concessionaires operating within the parks.~~

(b) The director shall be authorized to contract with referees and sports field monitors for athletic contests and instructors for recreation classes. Fees paid to referees, sports field monitors, and ~~or~~ recreation instructors shall be approved by the city council. No such referee, sports field monitor, or recreation instructor shall be considered an employee of the city.

_____ (c) From time to time, city council may approve contracts with other entities for the operation or management of various parks or park facilities. These city council approved contracts shall be the governing rules and regulations for the specified parks or park facilities.

Sec. 32-6. Trees, shrubs and plants in public property.

(a) The director shall ~~be clothed with~~ have authority and jurisdiction over all trees, shrubs and plants of any kind and character ~~which that~~ are now or may hereafter be planted ~~in on~~ or along the streets or other public places of the city, ~~the director being vested with full power, authority and jurisdiction over~~ including all plantings of every kind and character lying outside of the property lines of privately owned property and as prescribed in chapter 33 of this Code. ~~It is hereby made the duty of the director:~~

_____ (b) The director shall have the duty to:

- (1) ~~To direct,~~ Direct, regulate and encourage the planting, culture and preservation of shade and ornamental trees and plants ~~in on~~ the streets and public places of the city;
- (2) ~~To direct,~~ Direct, regulate and encourage the pruning, spraying, cultivation and maintenance of such trees and plants, and to direct the time and method of pruning and trimming the same;

- (3) ~~To remove~~ Remove or cause to be removed any tree or plant, or other obstruction, ~~which that~~ in his judgment, would interfere with the development of adjoining trees or plants or with the free use of the streets or sidewalks;
- (4) ~~To advise~~ Advise property owners with respect to the kinds of trees to plant or shrubbery desired ~~in on~~ the particular street, and the method of planting the same;
- (5) ~~To take~~ Take all such measures as may be deemed necessary or desirable to control all dangerous insects, pests and plant diseases ~~which that~~ may affect trees or shrubbery on the streets or other public places in the city;
- (6) ~~To devise~~ Devise plans for the planting of trees on and along the streets between the curbs and property lines within the city, where trees may be desirable;
- (7) ~~To prescribe~~ Prescribe the character, kind, size, space and position of all trees so planted ~~upon~~ or along public streets or other public places;
- (8) ~~To prevent~~ Prevent the planting of trees, shrubs or other plants ~~which that~~ are not in his judgment desirable; and
- (9) ~~To plant~~ Plant or cause to be planted such trees ~~in on~~ or along such streets or other public places as the director may deem proper.

Sec. 32-7. Revenues from park operations.

(a) All revenues derived by the city in any manner from park user fees as defined in section 32-69 of this Code and from concession agreements authorized under section 32-8(b) (collectively denoted "park revenues"), except revenues received by the city from city park golf facilities as set out in subsection (b) ~~below of this section~~, shall be regularly remitted to the city controller with an accounting thereof. Unless otherwise expressly provided by ordinance or state law, park revenues shall be deposited in the Parks Special Revenue Fund to be used exclusively for repairs, replacement, and renovation of ~~parks' the department's~~ revenue producing facilities, and equipment and for maintenance and operation of parks' the department's revenue producing facilities and activities, including the purchase of goods, supplies, and services for programs offered at the department's revenue producing facilities.

(b) One hundred percent of the revenues received by the city and derived from all city-owned golf facilities, whether operated by the city or private entities, including all related concession fees, shall be deposited into the Parks Golf Special Fund to be used exclusively for the maintenance, operation and improvements of any or all of such golf facilities.

Sec. 32-8. Concessions in parks.

(a) Except as otherwise specifically authorized in this ~~chapter~~ Code, no person shall have the right to offer or promote anything for sale or barter, or to exhibit anything, or to conduct any amusement, recreational activity, sports event, or other business for which any participation or admission fee is charged or revenue is otherwise derived, within any park without first obtaining the written consent of the ~~city~~ director as provided in this section.

(b) Consent, for the purpose of subsection (a) of this section, may be granted in writing by the director upon receipt of uniform standard fees, conditions and consent forms, adopted therefor pursuant to section 32-69 of this Code, if the right is nonexclusive and of six months' duration or less. Any other consent shall be effective only if granted by an express written contract therefor which has been executed by the mayor pursuant to an ordinance of the city specifically authorizing the execution thereof.

Sec. 32-9. ~~Certain downtown facilities to be managed by the convention and entertainment facilities department~~ Houston First Corporation.

The city facilities known as Fish Plaza, Jones Plaza, Miller Outdoor Theater, Sesquicentennial Parks I and II, Sweeney Clock Triangle and Root Memorial Square shall be managed by ~~the convention and entertainment facilities department~~ Houston First Corporation. The provisions of this chapter shall be applicable to ~~the said~~ these facilities to the extent that they may constitute parks, but any duties and responsibilities placed upon the ~~parks and recreation~~ department and its director and employees hereunder shall, with respect to ~~the said~~ these facilities, be instead performed by ~~the convention and entertainment facilities department and its director and employees~~ Houston First Corporation. Nothing in this section shall be construed to affect the status of ~~the said~~ these facilities, and their mention in this section shall not be construed to dedicate the facilities as parks if they have not already been so dedicated.

Sec. 32-10. Maintenance or adoption of natural areas.

Any person desiring to maintain a "natural area," as provided in section 10-451(b)(10) of this Code, whether situated in a park or not, or desiring to adopt such an area that is located in a park, parkway, trail, esplanade or playground, or other property belonging to or under the control of the city, shall submit an application to the director, and obtain a permit for that purpose. As authorized in section 32-5 of this Code, the director shall promulgate rules and regulations for natural areas, which shall include, but not be limited to, permit procedures, a list of unacceptable plants, and maintenance requirements.

Sec. 32-11. Off-leash dog recreation areas.

(a) The director is authorized to designate parks or portions of parks as off-leash dog recreation areas in which persons may allow unleashed dogs to be at large. The director may promulgate rules and regulations as provided in section 32-5 of this Code for the operation of off-leash dog recreation areas, provided that any such regulations shall be

reviewed and countersigned by the director of the department of administration and regulatory affairs with respect to animal regulation and care issues ~~(b) Off-leash dog recreation areas shall be established by the director in consultation with the director of the department of administration and regulatory affairs, and due consideration shall be given to operational and animal regulation and care issues, including but not limited to:~~

- (1) Security measures to assure that the unleashed dogs remain contained within the dog recreation area;
- (2) Control of noise and other potential nuisances that might affect nearby land uses;
- (3) Parasite control;
- (4) Feces control within the dog recreation area and feces runoff from the dog recreation area; and
- (5) Provisions for the exclusion of dogs that do not participate in compliance with the applicable regulations or that demonstrate aggressive behavior towards other dogs or persons.

(b) Dogs within off-leash dog recreation areas shall not be subject to impoundment for being or running at large as otherwise provided in chapter 6 of this Code provided that such dogs, while in the designated off-leash dog recreational areas, must remain under the immediate personal supervision and command of their owner or handler. It is a defense to prosecution under any provision of chapter 6 of this Code relating to being or running at large of a dog that the dog and its owner or handler were in a designated off-leash dog recreation area of a park.

~~—— (c) The director may issue regulations as provided in section 32-5 of this Code for the operation of off-leash dog recreation areas, provided that any such regulations shall, before promulgation, be reviewed and countersigned by the director of the department of administration and regulatory affairs with respect to animal regulation and care issues.~~

~~—— (d) Subject to the approval of city council as provided in section 32-69 of this Code, the director may establish fees for use of off-leash dog recreation areas. The schedule of fees approved under this provision shall be included in the city fee schedule. Use of off-leash dog recreation areas is subject to payment of any applicable fees, and it shall be unlawful for any person to utilize an off-leash dog recreation area without having paid all applicable fees.~~

~~—— (e) Subject to payment of any applicable fees and compliance with all applicable regulations issued hereunder:~~

- ~~(1) Dogs within off-leash dog recreation areas shall not be subject to impoundment for being or running at large as otherwise provided in chapter 6 of this Code provided that such dogs, while in the designated off-leash~~

~~recreational areas, must remain under the immediate personal supervision and command of their owner or handler; and~~

~~(2) — It is a defense to prosecution under any provision of chapter 6 of this Code relating to being or running at large of a dog that the actor dog was at the time of the alleged offense within an off-leash dog recreation area of a park.~~

~~— (f) The director shall consult with the city attorney regarding legal liability issues that may be associated with off-leash dog recreation areas and may require persons utilizing the areas to execute acknowledgments of the risks associated with their use and agreements to hold harmless and indemnify the city and its employees and officials for risks to dogs and persons using an off-leash dog recreation area.~~

Secs. 32-12--32-254. Reserved.

ARTICLE II. USE OF PARKS

Sec. 32-25. Alcohol.

The director may promulgate rules and regulations as provided in section 32-5 of this Code relating to the possession or consumption of any alcoholic beverages while in the parks. Nothing in this section limits the director's authority to promulgate rules and regulations relating to the sale or distribution of alcoholic beverages by city-authorized vendors, park permittees, and concessionaires operating within the parks.

Sec. 32-26. Playing of musical instruments.

Without the express written permission of the director, it shall be unlawful for any person to play any musical instrument or use any sound amplification equipment in violation of the applicable provisions of chapter 30 of this Code within the parks other than for his own enjoyment, provided that such person shall not thereby encroach upon the use and enjoyment of the parks by others.

Sec. 32-27. Glass bottles and containers prohibited.

Without the express written permission of the director, it shall be unlawful for any person to bring into or upon the parks, or have in his possession while therein or thereupon any glass receptacle, including but not limited to, glass bottles, glass jars, drinking glasses and glass containers of any kind. This provision shall not apply to baby bottles, baby food jars, glass lined vacuum bottles and glass lined picnic beverage coolers.

Sec. 32-28. Camping.

(a) For purposes of this article, the term *camp* or *camping* means the erection of a tent or the use of other materials, including but not limited to, sleeping bags, bedrolls, blankets, sheets, tarps, cardboard, or other materials, to provide sleeping quarters for temporary human habitation.

~~_____~~ (b) It shall be unlawful for any person to ~~establish a campsite upon or use camp in~~ any area of the parks ~~as a campsite~~. This section shall not apply to persons camping in areas designated for overnight camping pursuant to rules and regulations promulgated in accordance with section 32-5 of this Code.

Sec. 32-29. ~~Driving~~ Parking and driving vehicles.

(a) It shall be unlawful for any person to park any vehicle on park property except in areas designated for such purpose.

~~_____~~ (b) It shall be unlawful for any person to drive or propel any vehicle over or through the parks, except along or upon park roads ~~drives, parkways or park boulevards~~, or to drive or propel along or over any park road drive, parkway or park boulevard, any heavily laden vehicle or vehicle carrying merchandise, goods, material or rubbish, or any moving van or truck. This section shall not apply to golf carts operated upon golf course cart paths or bikes and personal assistance mobility devices operated upon designated park roads authorized for such use by the director. For purposes of this subsection, *personal assistance mobility device* means any mobility device powered by batteries or fuel or other engine that is used by an individual with mobility impairment.

Sec. 32-30. Riding or driving animals.

It shall be unlawful for any person to ride or to drive any horse or other animal over or through the parks, except along and upon the designated bridle paths and driveways.

Sec. 32-31. ~~Molesting, injuring~~ Injuring, etc., animals, fowl or fish.

~~No person shall~~ It shall be unlawful for any person to tease, annoy, molest injure, catch, or throw any stone, object or missile of any kind at, or strike with any stick, object or weapon, any animal in the parks.

Sec. 32-32. Erecting structures, bill posting, etc.

It shall be unlawful for any person to place, erect, or attach any structure, sign, bulletin board, post, pole or advertising device of any kind whatever in the parks, or to attach any notice, bill, poster, sign, wire, rod or cord to any tree, shrub, fence, railing, post or structure in the parks unless authorized by rule or regulation promulgated pursuant to section 32-5 of this Code.

Sec. 32-33. Walking, standing or sitting on borders, flower beds, etc.

~~No person shall~~ It shall be unlawful for any person to walk, stand or sit on any border, flower bed, monument, vase, fountain, railing or fence in the parks.

Sec. 32-34. Hunting and firearms.

~~No person shall~~ It shall be unlawful for any person to hunt any animal or shoot, fire, display, or discharge any air-gun, paint-ball gun, pistol, shotgun or, rifle, or other firearm or

archery arrow in, on, along or across the parks; provided however, the director may authorize hunting for wildlife management purposes in Lake Houston Wilderness Park during designated seasons and times according to state law and the regulations of the Texas Parks and Wildlife Department. The provisions of this section shall not apply to designated target ranges and other areas of the parks approved for such use by the director. The provisions of this section are cumulative of all applicable state laws concerning the regulation of firearms by municipalities.

Sec. 32-35. Fishing.

~~No person shall~~ It shall be unlawful for any person to catch fish within the parks. It shall be an affirmative defense to prosecution under this section that the actor is:

- (1) Fishing in an area of Lake Houston, Lake Houston Wilderness Park, Cullinan Park Oyster Creek, or Keith Weiss Park in which fishing is permitted under this Code; or
- (2) Twelve years of age or less or 65 years of age or more and is fishing in any body of water which has been designated for fishing by children and elderly persons by regulations promulgated by ~~of the~~ director pursuant to section 32-5 of this Code.

Sec. 32-36. Playing baseball, football, etc.

~~No person shall~~ It shall be unlawful for any person to play at any game of baseball, football, golf, cricket, lacrosse, polo, soccer, hockey or other game of like character in the parks, except at the places set apart and designated as grounds therefor.

Sec. 32-37. Canoeing or boating on lakes.

(a) It shall be unlawful for any person to place any canoe, kayak, ~~raft or~~ boat, or vessel of any type or description upon the waters of any lake or pond upon the parks except Lake Houston. This section shall not apply to model or toy boats that are not designed or intended for human transportation or to any recreational project sponsored by the department and supervised by its employees or representatives, ~~to model or toy boats that are not designed or intended for human transportation,~~ or, in accordance with subsection (b), ~~to canoeing or kayaking~~ in Cullinan Park, Lake Houston Wilderness Park, or Keith Weiss Park that is conducted in compliance with the director's rules and regulations.

(b) The director may by rules and regulations adopted under section 32-5 of this Code authorize canoeing for individual and family pleasure in Cullinan Park, Lake Houston Wilderness Park, or Keith Weiss Park. Without limitation, the rules and regulations shall be intended to preserve the park as a place of beauty and peacefulness and shall not authorize motorized canoes or kayaks, canoe or kayak rentals, or concessions or competitive canoeing or kayaking activities.

Sec. 32-38. Compliance with law is condition of use of parks and playgrounds.

(a) ~~Any person may use the parks for any lawful purpose; provided however, the use of the parks shall be subject to compliance with all applicable provisions of this Code and state and federal law. Compliance is a condition of the use of the parks. Subject thereto, any person may use the parks for any lawful purpose.~~

(b) ~~The director, all other employees of the department, and members of the City of Houston Police Department and City of Houston Park Police are hereby individually and severally authorized and directed for and on behalf of the city to notify any person who fails or refuses to comply with any applicable provision of law or of departmental rules and regulations to depart from any city property or building under the control of the department. It shall be unlawful for any person. Any such person who, upon receiving such notice, fails to depart from any such property or building shall be subject to prosecution under section 30.05 of the Texas Penal Code for criminal trespass in addition to prosecution for any other crime that he may have committed thereupon.~~

Sec. 32-39. Exemptions.

~~The provisions of this article, shall not be construed to apply to workmen of the city and its agents and contractors in the lawful discharge of their respective duties.~~

Sec. 32-40. Violations declared nuisance.

~~In addition to being, It shall be unlawful for any person to neglect or refuse to comply with any provision of this article. Additionally, any neglect or refusal to comply with any of the provisions of this article shall be deemed a nuisance, and may be abated in the manner provided by law and by the ordinances of the city for abatement of nuisances.~~

Sec. 32-41. Hours closed to public Park hours--Generally.

(a) ~~With the exception of overnight camping areas designated by the director, No Parks or park facilities shall be open to members of the public between the hours of 11:00 p.m. and 6:00 a.m. and 11:00 p.m. unless other public use or visitation hours have been posted for such park or park facility pursuant to rules and regulations promulgated in accordance with section 32-5 of this Code or permitted in writing by the director in accordance with article III of this chapter.~~

~~(b) For purposes of this section, the following definitions shall apply:~~

~~(1) *Members of the public* shall include all persons other than those engaged in park maintenance and construction under authority of the city, and public officers or employees while engaged in the performance of their duties of employment or office.~~

~~(2) *Park or park facility* shall include any portion of the park system, excluding overnight camping areas designated pursuant to sections 32-5 and 32-28 of this Code and Hermann Square.~~

~~(cb) This section shall not be construed to create any independent criminal prohibition; however, It shall be unlawful for any person to remain found within any park or park facility outside the hours designated or permitted for its use who fails to leave immediately after being requested to do so, or who is otherwise on notice that the park or park facility is not open to the public shall be subject to prosecution under Section 30.05 of the Texas Penal Code for criminal trespass in addition to prosecution for any other crime that may have been committed thereupon.~~

~~(dc) Nothing in this section shall be construed to prohibit the use of sidewalks, roadways, parkways, trails, streets, or esplanades for vehicular or pedestrian traffic outside of designated park hours unless they have been designated and posted by the director in compliance with such use is prohibited pursuant to section 45-121-26-91 of this Code. The director is authorized to ~~post~~ designate interior sidewalks, roadways, parkways, trails, streets and esplanades that are dedicated for park use and ~~which~~ serve park areas only.~~

~~(e) Nothing in this section shall be construed to require that members of the public found inside such fenced or enclosed areas during the hours they are closed to the public must be requested to leave before being subject to prosecution under Section 30.05 of the Texas Penal Code.~~

Secs. 32-42--32-6058. Reserved.

ARTICLE III. PUBLIC GATHERINGS PARK EVENTS

Sec. 32-59. Park use permit required.

~~(a) Park use permits are required for certain activities so that parks personnel can limit or eliminate activities that would tend to damage the park or are likely to create an atmosphere that would discourage use of the park for its intended purpose or, if not limited via regulatory controls or eliminated, would allow one person or group to monopolize any portion of a park, park road, or other park property to the exclusion of others. Pursuant to section 32-5 of this Code, the director shall identify and may from time to time amend the designation of any portion of a park, park road, or park property wherein any conduct authorized by this article or other proposed use inconsistent with the use of the park, park road, or park property for its intended purposes is strictly prohibited.~~

~~(b) Notwithstanding the regulatory provisions of this article and other applicable provisions of this Code incorporated by reference herein, nothing in this article shall be construed to prevent members of the public from assembling in parks for the purpose of engaging in lawful activities without holding a permit pursuant to the terms of this article.~~

Sec. 32-60. Definitions.

~~The following words, terms and phrases, when used in this article, shall have the meanings assigned in this section, except where the context clearly indicates a different meaning:~~

~~Park event means:~~

- (1) Any group activity or organized event involving more than 30 people, including but not limited to picnics, parties, family, church, community or school events, or other similar activities; or
- (2) Any group activity or organized event involving fewer than 30 people that involves the reservation or temporary exclusive use of a designated areas of a park, park road, or other park property.

Permittee means a person in receipt of a park use permit.

Park use permit means written authorization from the director for the use of a park, park road, or other park property to conduct a park event.

Sec. 32-61. ~~Public gatherings~~ Park event—park use permit areas required.

(a) ~~No permit~~ Except as otherwise specifically authorized in this Code, it shall be required to use unlawful for any person to conduct a park event without first having secured a park use permit.

(b) Notwithstanding any other provision of this article, any request to conduct a park event that is of a size and nature requiring the significant provision or coordination of city services shall require a special event permit pursuant to chapter 25 of this Code. the parks or to hold any public meeting or gathering except in the following designated areas of the parks:

- (1) ~~Any building or facility for which a rental fee is imposed by the city pursuant to section 32-69 of this Code;~~
- (2) ~~Any baseball field, basketball court, tennis court, swimming pool, golf course, or other area specifically designated and equipped for sporting or recreational events, whether a rental fee is imposed pursuant to section 32-69 of this Code therefor or not;~~
- (3) ~~The Houston Zoo;~~
- (4) ~~The Houston Arboretum;~~
- (5) ~~Any other improved and specially maintained area so designated by a rule or regulation~~

(c) The provisions of this article shall be cumulative of all applicable rules and regulations promulgated pursuant to section 32-5 of this Code.

Sec. 32-62. Park event areas.

(b) ~~(a) In each park, the~~ The director shall maintain in each of the parks a map or general description of the areas designated in or pursuant to subsection (a) of this section as each area in that park. A complete list designated for park event use. Complete lists of

the parks with designated areas shown thereon shall be maintained in the offices of the director and the city secretary. The use of any other portion of a park, park road or other park property for a park event is strictly prohibited unless expressly authorized in writing by the director.

~~(eb)~~ Use of the ~~areas~~ designated in or pursuant to subsection (a) of this section areas for park events shall be on a first-come, first-served basis, unless a permit for a specific area has been issued. The director shall cause all completed written applications received pursuant to section 32-63 of this Code to be immediately time stamped upon their actual receipt by his office. The first in time shall be the first in right, provided that if two or more conflicting applications are received simultaneously, then the precedence shall be determined by an impartial means of chance.

~~Sec. 32-62 Permit required.~~

~~It shall be unlawful for any person to hold any public meeting or gathering in any of the areas designed in or pursuant to section 32-61 of this Code, without first having secured written permission therefor from the director.~~

Sec. 32-63. Application for park use permit.

~~Any person desiring the permission required in section 32-62 of this Code~~ An applicant for a park use permit shall make written application to the director setting forth the following information:

- (1) The date of application;
- (2) The ~~designated~~ proposed area desired to be used to conduct the park event;
- (3) The date and time period for use of the ~~designated~~ proposed area;
- (4) The name, address and phone number of the applicant;
- (5) The name of the person reserving ~~facility~~ the park, park road, or other park property;
- (6) The estimated attendance;
- (7) The type or purpose of the function;
- (8) The type of sound system or amplified sound equipment to be used, if any;
- (9) The special effects or features to be utilized, if any; for example, hot air balloons, gun salutes (blanks only), fireworks, bands, moonwalks, petting zoos, or portable stages;
- (10) Whether the function sponsored is for profit or nonprofit;

~~(11)~~ Whether the person will clean up and remove any litter or debris generated by its use; and

~~(12)~~(11) Whether goods will be sold or fees charged; and

(12) Any other information required by the director.

Sec. 32-64. ~~Reasons for permit~~ Review; issuance; denial of park use permit.

~~Upon receiving such written application the director must grant permission to use the designated area unless:~~

The director shall review each application to ensure the proposed park event complies with all applicable provisions of this chapter. Upon reviewing the application, the director shall:

(a1) Issue a park use permit if the applicant has satisfied all applicable requirements of this chapter; or

(b2) Deny the issuance of the park use permit if:

~~(1)~~a. The proposed designated area has been previously reserved;

~~(2)~~b. The proposed designated area is not one in which park events are authorized pursuant to subsection (a) of section 32-62 of this Code.

~~(3)~~c. The applicant refuses to pay any applicable fees imposed by the city pursuant to section 32-69 of this Code;

~~(3)~~d. The applicant refuses to obtain a concession consent pursuant to section 32-8 of this Code, if applicable;

~~(4)~~e. The size and, nature, or duration of the ~~meeting~~ proposed park event is inappropriate for the proposed designated area ~~requested~~ or will substantially interrupt the safe and orderly movement of traffic, or police, fire or ambulance emergency equipment on streets adjacent to, running through or around the park; ~~or~~

~~(5)~~f. The proposed ~~function~~ park event would be disruptive to or incompatible with, or cause an adverse effect on the use and enjoyment of the designated area by others;

g. The proposed designated area is not suitable because of landscaping, planting or other environmental conditions reasonably likely to be harmed or damaged by the proposed event;

- h. The proposed designated area is not suitable because it is a specialized area designated for a particular use (i.e. the zoo, a swimming pool, or golf course);
- i. The application contains a material falsehood or misrepresentation;
- j. The proposed park event is of a size and nature requiring the applicant to obtain a special event permit;
- k. The proposed park event consists of conduct prohibited by law;
- l. The applicant refuses to comply with conditions imposed by the director to ensure that public property is not damaged and the comfort, convenience, safety, and welfare of the public is not disturbed; or
- m. The applicant fails or refuses to comply with any other applicable law or directive of the director.

Sec. 32-65. Procedure of director upon denial of park use permit denial.

If the director denies the issuance of a park use permit, then the director must shall notify the applicant of the denial and, the reasons therefor, and the applicant's right to appeal pursuant to section 32-67 of this Code, by letter mailed to the applicant within three days of the date of the receipt of the application (exclusive of Saturdays, Sundays and city-observed holidays). Such letter shall be addressed to the applicant at the applicant's address stated on the park use permit application or by electronic mail at an email address provided by the applicant. If the director fails to mail such a letter within such three day period, such failure shall be deemed a granting of permission to use the designated area as requested. If the denial is based upon paragraphs subitems (2)b, (4)d, or (5)e, f, g, or h of item (2) of section 32-64 of this Code, the director shall advise the applicant of alternative designated areas, if any, capable of handling a meeting of the requested size and nature accommodating the proposed park event.

Sec. 32-66. Meetings where Park use permit contingent upon approved traffic or security precautions necessary.

If the director, after consulting with the police chief, determines that the conduct of the meeting proposed park event may reasonably be expected to result in cause severe injury to persons or property, or create a riot or disturbance detrimental to the health, safety and welfare of the public, he may the director shall require that additional traffic or security precautions be taken to permit the use of the authorized designated area. In such event case, the director may grant issue the permission park use permit upon condition that the applicant must submit a written proposal for traffic or security proposal and obtain the director's approval thereof prior to the public gathering. Such proposed park event. The director shall not consider the content of expression or overall subject matter of the proposed park event in determining whether the provision of any traffic or security proposal shall be required. The traffic or security proposal shall be subject to review, approval and

appeal in the same manner as a park use permit application under this article provided that the director shall have two days in lieu of three days in which to approve or deny the proposal.

Sec. 32-67. Procedure Appeal of city council upon denial or revocation of park use permit denial.

(a) The decision of the director is final unless appealed under this section. A park use permit applicant may appeal the denial or revocation of a park use permit by filing a written request for a hearing with the director within ten business days of the date of receipt of the denial. A hearing shall be conducted within ten business days of the receipt of such request before a hearing officer appointed by the director.

(b) In each proceeding before the hearing officer, the burden shall be upon the park use permit applicant to demonstrate that he has satisfied all requisites of this article, including all rules and regulations promulgated by the director regarding the issuance of park use permits, and is therefore in good standing to receive the requested park use permit. Any such hearing shall be conducted under rules established by the director consistent with the nature of the proceedings. The hearing officer shall render a written decision on the matter within five business days after the date of the hearing and immediately provide a copy of the decision to the park use permit applicant. The decision shall be final and shall exhaust the park use permit applicant's administrative remedies.

(c) If the time requirements set forth in this section appear inadequate to resolve the appeal prior to the proposed date of park event, the burden shall be upon the park use permit applicant to expedite any filings required and to request that the hearing officer conduct the hearing and render a written decision in a timely manner. The park use permit applicant's request for an expedited hearing shall be granted, and the hearing officer's written decision shall be issued in a timely manner if reasonable under the circumstances.

~~— In the event the director shall deny any applicant permission to use a designated area, the director will immediately advise the city secretary of such denial. The city secretary shall place the director's denial of permission to use a designated area on the next city council meeting agenda. The applicant may appear at such next city council meeting to appeal the director's denial or the applicant may withdraw the appeal. The city council shall within seven days of the director's denial render a decision upon the appeal and such action as the city council may take thereon shall be final and conclusive. If the city council fails to render a decision within seven days of the director's refusal, the permit to use the designated area will be deemed granted.~~

Sec. 32-67.1. Duties of permittee.

(a) It shall be the duty of every permittee to:

(1) Obey all laws and terms and conditions of the park use permit;

- (2) Clean the area used at the conclusion of the park event and restore the area and property used to the same condition as existed prior to the park event; and
- (3) Reimburse the department for any expenses incurred, including the cost of labor, to clean, restore, and make any necessary repairs to park property and equipment damaged during the park event.

(b) The director may impose a cleaning or security deposit in an amount sufficient to cover the costs, including staff time, of cleaning, restoring, and repairing park property in the event park property is damaged during the park event.

(c) This provision shall be cumulative of any rules and regulations the department already has in place.

Sec. 32-68. Transfers, refunds.

The director, subject to the approval of the mayor and city council, may establish rules and regulations pursuant to section 32-5 of this Code relating to refunds. No refund shall be made except as authorized pursuant thereto. Permits may not be assigned or transferred under any circumstances.

Sec. 32-69. Park user fees.

(a) Fees and charges for park concessions, rentals, vending licenses and permits, park use permits, admissions, golf and tennis, as well as athletics and recreation classes sponsored by department (collectively denoted "park user fees") shall be established by the city council. The schedule of fees approved under this provision shall be included in the city fee schedule. A copy of the schedule of park user fees shall be maintained for public inspection both in the office of the city secretary and the office of the director.

(b) It shall be the responsibility of the director to submit to the city council, as appropriate, revisions to the schedule of park user fees. The city council may act upon any such submittal by motion.

(c) In the event a participation or admission fee is charged by any person for any activity using park grounds or facilities, then the user fee applicable thereto shall be the park user fee established by city council, if any, plus ten percent the current percentage approved by the mayor and city council of the gross revenue approved by the mayor and city council derived from participation and admission fees, ~~plus the park user fee established by the city council, if any.~~ The director shall require the use of consecutively numbered admission tickets, recording cash registers or other reasonable methods to ensure accurate accounting of receipts and revenues derived from such activities.

(d) Park facilities ~~shall may, if available, be made available for use~~ used as election day polling places in accordance with the applicable provisions of Subchapter B, Chapter 43 of the Texas Election Code by political subdivisions of the state. ~~In lieu of the applicable fee established by the city council, the user shall reimburse the city for the cost of providing~~

~~department staff for duty during the time that the park facility is used. Cost will be calculated based on the actual staff salary cost excluding employee fringe benefits.~~

(e) The director, by regulation, shall establish uniform procedures relating to reservations, deposits and the manner for paying park user fees.

(f) The director may waive park user fees for any city-sponsored or cosponsored function or event. For purposes of this subsection, the director is authorized to declare city sponsorship.

Sec. 32-70. Voluntary contributions.

~~In the event voluntary contributions may be given to or received by a permittee taken up in connection with any use of the parks facilities mentioned in section 32-69 of this Code or other functions conducted within the parks, the fees in section 32-69(c) shall be applicable, whether or not the contributions ~~whether conducted or sponsored by the city or not, without accounting or payment therefor to the city, provided such contributions are wholly voluntary, and are not imposed, solicited or requested as a condition of admission to or participation in the function conducted, or for the provision of any goods or services.~~~~

Secs. 32-71--32-85. Reserved.

ARTICLE IV. MUNICIPAL GOLF COURSES

Sec. 32-86. Supervision.

The city's municipal golf courses shall be under the direction and supervision of the director, who shall have and exercise jurisdiction and control over the grounds and properties of such golf courses.

Sec. 32-87. Maintenance.

The director shall be charged with the duty of maintaining and keeping in good repair all of the grounds of the city's golf courses.

Secs. 32-88--32-90115. Reserved.

~~**Sec. 32-91. Reserved.**~~

~~**Secs. 32-92--32-94. Reserved.**~~

~~**Secs. 32-95--32-115. Reserved.**~~

ARTICLE V. RESERVED HOUSTON GARDEN CENTER

DIVISION 1. GENERALLY

Sec. ~~32-116~~. Definitions.

~~———— The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~———— *Agreement* means the Hermann Park Development Agreement between the City of Houston, Texas, and the Friends of Hermann Park, including attachments, as amended from time to time in accordance with the provisions thereof.~~

~~———— *Board or advisory board* means the Houston Garden Center Advisory Board created by this article.~~

~~———— *Hermann Park Conservancy* means the Texas non-profit corporation, formerly known as Friends of Hermann Park.~~

~~———— *Master plan* means the draft plan for projects developed for Hermann Park public improvements as of the counter-signature date of the agreement as defined in this section, and any subsequent drafts approved by city council.~~

Sec. ~~32-117~~. Created and described; permitted use of building, etc.

~~———— (a) There is hereby created or recreated and again established an institution known and to be known as the Houston Garden Center, which is located on the five-acre tract of land (together with all improvements thereupon) in the city's Hermann Park and being the same tract of land upon which there was built, about 1942, the building which has since been known and is now known as the Garden Center Building, No. 1500 Hermann Drive, which building is subject to all of the terms of this article.~~

~~———— (b) The Garden Center Building is by virtue of its design and surroundings primarily suitable for use of all garden clubs and of all garden club groups in the city having for their purpose the fostering and promotion of programs for the development of garden club movements and community beautification, including educational programs related thereto, and for use by such groups as a place of meeting and assembly, provided, that such building may be rented for any lawful use pursuant to article III of this chapter. Such building has at all times been, is, and shall be a public building of the city and a facility and building of Hermann Park and, if approved by the director or his designee, may be used for any purpose that supports Hermann Park including, but not limited to, gardening, horticulture, and educational events.~~

Sec. 32-118. Management and control.

~~—The garden center building, with its grounds appurtenant thereto, shall be under the direct responsibility, management and control of the director to the same extent and effect as other public buildings located in the city parks.~~

Secs. 32-119–32-125. Reserved.

~~DIVISION 2. ADVISORY BOARD~~

Sec. 32-126. Created; composition; appointment of members.

~~—There is hereby created a sixteen-member advisory board to be known as the Houston Garden Center Advisory Board. The members in positions one through fourteen shall be appointed by the mayor and confirmed by the city council. The director of parks and recreation shall serve, ex officio, as the position fifteen member and shall be a voting member. The executive director for the Hermann Park Conservancy shall serve, ex officio, as the position sixteen member and shall be a non-voting member.~~

Sec. 32-127. Qualifications and terms of members; filling of vacancies.

~~—The appointed members of the board shall be persons who are active and interested in garden club work. The members in positions one through eight shall be residents of the city. The members in positions nine through fourteen may, but need not, be residents of the city. Appointed members shall serve for terms of three years each, with terms expiring on the last day of June, except in the event of death, resignation, removal or vacancy, and shall serve until their respective successors are duly appointed and confirmed. In the event of death, resignation, or removal from office of any member, a successor shall be appointed and qualified to serve the remaining unexpired portion of the term of office of the vacant position.~~

Sec. 32-128. Compensation of members.

~~—The appointed members of the board shall receive no compensation for their services and the director, as a member of the board, shall receive no additional compensation for his services as such. This shall not prohibit the reimbursing of any member for actual and reasonable traveling and living expenses incurred in any trip or in any other matter undertaken by authority of the mayor and city council.~~

Sec. 32-129. Removal of members.

~~—Upon it being made to appear to the mayor by certification by the president of the board or by the director, or otherwise, that any member in positions one through eight of the board has ceased to be a resident of the city or that any appointed board member has, without good and sufficient reason therefor, failed to attend four consecutive regular meetings of the board or has become otherwise incapable or unfit to serve as a member of the board, the mayor shall find and declare such fact. The mayor's declaration shall be final and conclusive, subject only to review by the city council, upon petition filed with the city~~

~~secretary by the affected member within ten days from the date that the mayor issues the declaration.~~

~~Sec. 32-130. Officers.~~

~~_____ The board shall elect a president, a vice-president and a secretary from among its appointed members to serve for such terms and under such conditions as the board shall fix.~~

~~Sec. 32-131. General powers and duties.~~

~~_____ (a) The board shall advise the director, and may from time to time make recommendations to the mayor or to the city council in any and all matters related to the operation and use of the Houston Garden Center and the general supervision, care, maintenance and upkeep of the building and grounds and of the equipment, furnishings, and other physical properties at the garden center.~~

~~_____ (b) The board shall make recommendations to the Hermann Park Conservancy Board of Directors in any and all matters related to development of the Houston Garden Center and its surroundings. The advice and recommendations of the board shall be consistent with the agreement and master plan, as defined in this article.~~

~~_____ (c) The board may so advise as to the adoption of rules and regulations pursuant to section 32-5 of this Code relating to the Houston Garden Center.~~

~~_____ (d) The duties and powers of the board shall be advisory only. The board shall have no power to make any contract, lease, or other agreement for the use of the Houston Garden Center or to employ any person to be an employee of or to be paid by the city or to incur any debt or liability whatsoever on behalf of the city.~~

~~Sec. 32-132. Adoption of rules.~~

~~_____ The board shall adopt such rules covering meetings of the board and other matters related to its organization and functions as it deems proper.~~

~~Sec. 32-133. Annual report.~~

~~_____ The board shall make an annual report to the mayor and city council on or before March first of each calendar year covering its activities and the use of the garden center building during the preceding calendar year, in such detail and in such form as the board may deem proper. There may be included in such report such recommendations related to the garden center and its use as may be deemed appropriate.~~

~~Secs. 32-116134--32-145. Reserved.~~

ARTICLE VI. THE HOUSTON ZOO

Sec. 32-146. Established.

There is hereby established a permanent and official name for the fenced off area located in Hermann Park, such area having been re-established by Ordinance No. 2002-574, passed June 26, 2002, and used as a public zoo, which fence surrounds the area used as a public zoo; which is bounded on the north by Herman Park Lane and Zoo Circle Drive extending between Outerbelt Drive and Golf Course Drive, bounded on the east by Golf Course Drive extending between the intersection with Outerbelt Drive and Zoo Circle Drive, and bounded on the west by Outerbelt Drive extending between the intersection of Zoo Circle Drive and Golf Course Drive, the names and locations of the above mentioned streets having been established by Ordinance No. 65-1877, passed September 29, 1965; and such described zoo area being contained within the following surveys: Joseph Gamble Survey, Abstract 309; G.P. Foster Survey, Abstract 273; D.W.C. Harris Survey, Abstract 325, and Pleasant W. Rose Survey, Abstract 645. Theis aforementioned aforescribed public zoo area shall be hereinafter known as The Houston Zoo.

Sec. 32-147. Official address.

The official Houston Zzoo address for all purposes shall be 1 Zoo Circle 6200 Hermann Park Drive, Houston, Texas 77030.

Sec. 32-148. Operation of zoo.

The Houston Zoo shall be under the direction and management of a non-profit corporation as provided by contract from time to time.

Sec. 32-149. Reserved.

Sec. 32-150. Hours of operation.

The organization contracted to manage the Houston Zoo shall have the right to establish the days, times and conditions for the operation of the Houston Zoo.

Sec. 32-151. Entry onto zoo grounds at unauthorized time.

It shall be unlawful for any person to enter onto or upon the zoo grounds, for any purpose, at any time other than during those times during which the zoo is open to the public as designated in section 32-150 of this Code. This section shall not apply to properly authorized zoo personnel.

Sec. 32-152. Bringing animals onto zoo grounds.

It shall be unlawful for any person to bring any animal onto or upon the zoo grounds without permission from the zoo manager.

Sec. 32-153. Throwing, etc., items into animal confinement or keeping areas.

It shall be unlawful for any person to throw, roll, shove, push or in any other way cause the entrance into an area of animal confinement or keeping, of any stone, ball, or other physical object; provided however, that this provision shall be inapplicable to the foodstuffs specifically authorized in section 32-155 of this Code. This section shall not apply to authorized zoo personnel.

Sec. 32-154. Entering animal confinement areas.

It shall be unlawful for any person to enter any area wherein an animal or animals are being confined or restrained; provided however, this section shall not apply to the authorized contact areas within the children's zoo at such times when the said children's zoo is open to the public.

Sec. 32-155. Feeding animals.

~~Except in designated areas overseen by zoo staff and set aside for feeding animals with foodstuffs sold by the zoo, it shall be unlawful for any person to feed any animal, or place any object within an animal confinement or place of keeping or otherwise induce or permit any animal to ingest any food or object, when a sign in or about the animal confinement area or place of keeping, prohibits feeding. Where there exists no sign or marking prohibiting the feeding of animals, it shall be unlawful for any person to feed such animals anything other than peanuts, popcorn or bread; or foodstuffs sold by the zoo concessionaire which are labeled specifically for the purpose of feeding the animals.~~

Sec. 32-156. ~~Park police~~ Police department.

~~The park police of the department shall have jurisdiction and authority to patrol upon the zoo grounds and enforce all ordinances pertaining to the zoo.~~

Secs. 32-157--32-170. Reserved.

ARTICLE VII. RESERVED MUNICIPAL TENNIS CENTERS

~~Sec. 32-171. Supervision.~~

~~—The city's municipal tennis centers shall be under the direction and supervision of the director, who shall have and exercise jurisdiction and control over the grounds and property of such tennis centers.~~

~~Sec. 32-172. Maintenance.~~

~~—The director shall be charged with the duty of maintaining and keeping in good repair all of the grounds of the city's tennis centers.~~

~~Secs. 32-173--32-175. Reserved.~~

~~32-176. Reserved.~~

~~Secs. 32-177, 32-178. Reserved.~~

~~Secs. 32-171-179--32-200. Reserved.~~

ARTICLE VIII. HOUSTON PARKS BOARD LGC, INC.

Sec. 32-201. Creation; composition; appointment of members.

There is hereby created the Houston Parks Board LGC, Inc., a local government corporation of the City of Houston, hereinafter called "the parks board," which shall consist of 20 members, who shall be appointed by the mayor, subject to confirmation by the city council. The director shall serve as a non-voting, ex-officio member of the parks board.

Sec. 32-202. Positions, term of members.

The members of the parks board shall be appointed to specific positions. The terms of office are as follows:

- (1) The terms of office for Positions 1, 2, 3, 10, 13, 16, and 19 shall expire on January 1, 2007, and on the same date in each third successive year thereafter.
- (2) The terms of office for Positions 4, 5, 6, 11, 14, 17, and 20 shall expire on January 1, 2006, and on the same date in each third ~~year~~-successive year thereafter.
- (3) The terms of office for Positions 7, 8, 9, 12, 15, and 18 shall expire on January 1, 2005, and on the same date in each third ~~year~~-successive year thereafter.
- (4) Any member serving in a position for which the term has expired shall continue to serve until the member's successor in that position is appointed and confirmed.

Sec. 32-203. Assistance by certain city departments.

The directors of the departments of planning and development, finance, administration and regulatory affairs, public works and engineering, general services, and parks and recreation and their staffs shall provide requested assistance to the parks board. The city attorney and his staff shall provide legal services and representation to the parks board.

Sec. 32-204. Compensation of members; conflicts of interest.

Members of the parks board shall serve without compensation from the city or any firm, trust, donation or legacy to or on behalf of the city; provided, however, that a member

of the board, or the firm, company or corporation with whom the member is associated shall not be precluded from receiving compensation from the city under any contract for services rendered ~~which~~ that have no relation to the member's duties as a member of the board. Members of the board shall abstain from voting upon matters in which they have or may have a conflict of interest, and officers and members of the board shall not participate in any activity of the corporation in which they have or may have a conflict of interest.

Sec. 32-205. Organization.

The parks board shall organize by electing from their membership a chairman, a vice-chairman, a president, a vice president, a secretary, and a treasurer, each of whom shall hold office for one year, or until ~~their~~ a successor shall have been elected and qualified. In addition, the board may appoint one of its employees to act as an executive director and may appoint one of its employees to act as an assistant secretary. The board may adopt such administrative procedures as are necessary or convenient to accomplish the purposes set out in this article.

Sec. 32-206. Purposes.

The purposes of the parks board shall be to:

- (1) Solicit funds, gifts, and bequests for park acquisitions, additions and improvements in the city.
- (2) Review and make advisory recommendations to the mayor and city council on proposed park acquisitions, additions and improvements to be paid for within city funds.
- (3) Review and make advisory recommendations on parks department matters submitted to it by the director or mayor and city council.
- (4) Manage and invest and ~~to~~ oversee the management and investment of solicited funds, gifts, and bequests donated for park purposes, including, but not limited to, the purchase or sale of real and personal property and of investments in bonds, notes, common stocks and securities of any kind whatsoever.
- (5) Formulate and submit to the mayor and city council proposals for acquisitions, additions and improvements to parks from funds and assets held by the board or for its benefit in trust accounts, or invested by the board.
- (6) Convey land to the city for park purposes upon conditions acceptable to the city.
- (7) Lease land and improvements, and related fixtures, equipment, facilities and amenities, to or from the city for a term of years for park purposes upon conditions acceptable to the city.

- (8) Acquire lands for new public parks and open spaces, and ~~to~~ develop, improve and install new and existing public parks, and open spaces and related fixtures, equipment, facilities and amenities within the city limits of the city and its extraterritorial jurisdiction.
- (9) Perform any duties authorized by the certificate of formation or by-laws of the parks board as approved by city council.

Sec. 32-207. Additional powers.

(a) The parks board may cooperate with any trust created for a purpose similar to that of the board as set out in ~~paragraph item~~ (1) of section 32-206 of this Code. In addition, the board may contract for financial management and investment services and may pay the reasonable fees therefor from solicited funds, gifts, bequests and income therefrom, provided, the board shall exclude therefrom any solicited funds, gifts or bequests when payment of a financial management and investment service fee would be contrary to the provisions of the grant.

(b) The board may exercise its sole discretion in the application for park purposes of funds received from any trust created specifically for the benefit of the parks board when such trust specifically grants such sole authority to the board and from funds donated directly to the parks board, provided, construction of public improvements on city-owned property shall be in compliance with the competitive bid laws of the state applicable to local government corporations.

(c) When using donated funds described in subsection (b) the parks board may negotiate the purchase of items for city parks, but any such item ~~which~~ that might otherwise become a fixture or part of the realty, shall be deemed to remain personalty and subject to removal at the discretion of the city council. The parks board shall have no authority to take any action ~~which~~ that will create a lien on city-owned land. Park land, no matter how modified under this provision, shall remain subject to the discretion of the city council in directing another or different park use, or in authorizing the construction of a permanent park improvement. The following list is illustrative of the types of items that the parks board may purchase, subject to the approval ~~by~~ of the director:

- (1) Playground equipment.
- (2) Trees.
- (3) Landscaping.
- (4) Water meters and sprinkler systems.
- (5) Shuffleboard courts.
- (6) Playpads.
- (7) Benches.

- (8) Water fountains.
- (9) Picnic benches.
- (10) Hike and bike trails.
- (11) Exer-trail with equipment.
- (12) Fencing.
- (13) Sidewalks.
- (14) Sculptures ~~(after Houston Arts Alliance approval)~~.
- (15) Fountains.
- (16) Equipment used in recreational programs.
- (17) Flower clock.
- (18) Flag pole.
- (19) Gazebo.

(d) Subject to the approval of the director, the board may seek removal of any trustee of a trust established to benefit the parks of the city, by instituting appropriate action in the district court upon at least 90 days written notice (unless waived by the trustee) to such trustee. Any removal notice must be actually received by the trustee being removed, and must contain the appointment of a successor trustee and the acceptance of the successor trustee endorsed on it. Any successor trustee appointed to act shall be a bank with trust powers or a trust company, either state or national, located in the city, with a combined capital and surplus of at least \$20,000,000.00.

(e) To more fully and efficiently carry out the purposes of the parks board, the city hereby grants the parks board a general right of entry on the city's public parks, open spaces and other lands of the city, subject to the prior approval by the director of the projects, and the design and construction thereof, for which such right of entry may be exercised, which right of entry is revocable by the director in the event actions taken under the right of entry are inconsistent with the limits of the approval, if any.

(f) To more fully and efficiently carry out the purposes of the parks board, the city hereby grants the parks board some of the same powers and functions as a park board of trustees established under Chapter 306 of the Texas Local Government Code, as follows:

- (1) Acquiring by gift, devise, or purchase, or improving or enlarging:
 - a. Land and buildings to be used for public parks, playgrounds, or historical museums; and

b. Land on which are located:

- [1] Historic buildings, or sites, or landmarks of statewide historical significance associated with historic events or personalities;
- [2] Prehistoric ruins, burial grounds, or archaeological, or paleontological sites; and
- [3] Sites including fossilized footprints, inscriptions made by human agency, or any other archaeological, paleontological, or historical buildings, markers, monuments, or other historical features.

c. Land described by the foregoing subitems a and b of this item (1) may be located inside or outside the boundaries of the city, but must be located inside the limits of the counties in which the city is located;

- (2) Accepting and receiving from any person or entity, and having authority to expend, gifts of money or other things of value for the purpose of performing any function or authority conferred on the board by this chapter;
- (3) Accepting and receiving from the city, and having authority to expend, funds appropriated by the city for the purpose of improving, equipping, and promoting recreational and other facilities under the board's development;
- (4) Advertising the city's recreational advantages for the purpose of attracting visitors, tourists, residents, and other users of the public facilities developed by the board; ~~and~~
- (5) Entering into a contract, lease, or other agreement connected with, incident to, or in any manner affecting the financing, construction, equipping, or promoting of facilities under its development. The board may execute and perform its powers and functions on land leased from others, subject to the approval of the director; and
- (6) Carrying out such other lawful purposes as the parks board may deem necessary or appropriate in connection with the foregoing powers and functions to the extent consistent with directions of the director.

(g) The parks board, as a local government corporation, shall have the power to enter into long-term contracts with the city, within the authority of the city, and other entities as relevant, for any length of term it deems necessary or appropriate to more fully and efficiently carry out the purposes of the parks board.

Sec. 32-208. Financial records.

The financial books and records of the parks board shall be open to inspection and audit during regular business hours by authorized representatives of the city, or by

independent certified public accountants employed by the city. Similarly, the financial books and records of any trust created for the benefit of or to cooperate with the parks board, shall be open to inspection and audit.

Sec. 32-209. Annual financial report.

The parks board shall make an annual financial report to the city council.

Sec. 32-210. Fidelity bond.

Each parks board member shall furnish to the city a fidelity bond in the amount of \$10,000.00, provided, the premium therefor shall be paid by the city, and provided further this requirement may be satisfied by amendment to the city's blanket fidelity bond for city employees by amendment thereto so as to authorize inclusion of the board members.

Sec. 32-211. Meetings.

~~Regular parks board meetings shall be held monthly.~~ The parks board shall hold regular meetings as established by the board's bylaws. In addition, special meetings may be held in accordance with such rules as the board may provide. A quorum of the directors of the board shall consist of such number of members, being not less than a majority thereof, as may be specified in the corporate bylaws of the board.

Sec. 32-212. Removal of members.

In addition to the removal provisions of the certificate of formation and the by-laws approved by city council, parks board members may be removed by the ~~city council~~ mayor for the following causes:

- (1) Four consecutive absences from regular monthly meetings of the park board.
- (2) Failure to abstain in any votes or activities of the parks board, where a direct or indirect conflicts of interest ~~are, is~~ or may be involved.
- (3) Failure to obtain or keep in force a fidelity bond.
- (4) For conduct, whether or not resulting in a conviction, ~~which~~ that impairs the ability of the member to carry out his parks board duties.

Sec. 32-213. Certificate of formation.

The city council hereby approves the form and substance of the proposed certificate of formation of the Houston Parks Board LGC, Inc. to be incorporated under the Texas Nonprofit Corporation Act. A copy of said certificate of formation is on file in the office of the city secretary. In the event of the dissolution of this corporation, the city shall succeed to the funds and assets of the corporation except to the extent that this may conflict with the conditions of a particular donation to the corporation.

Secs. 32-214--32-220. Reserved.

ARTICLE IX. PARK FOOD VENDORS

DIVISION 1. GENERALLY

Sec. 32-221. Purpose.

The purpose of this article is to establish procedures and standards by which persons may be licensed permitted to sell food from park food service establishments, ~~mobile food units~~ within certain city parks.

Sec. 32-222. Definitions.

As used in this article, the following terms and phrases shall have the following meanings:

Application means that form generally described in section 32-225 of this Code.

Central business district means the area included and bounded by Buffalo Bayou, Chartres Street, Texas Street, Dowling Street, Hadley Street, Hamilton Street, McGowen Street, Bagby Street and Heiner Street as projected and extended to Sabine Street. Parks abutting and fronting on the sections of streets which form the boundary of the area are included in the area.

Concession stand means a park food service establishment that operates in a fixed location and may include the use of any existing building or structure or the use of any temporary structure provided by the operator.

~~_____ *Fall/winter season* means the time period beginning on October 1 of each calendar year and ending on March 31 of the next calendar year.~~

~~*Food is defined* has the meaning ascribed in section 20-18(13) of this Code.~~

Food service establishment has the meaning set forth in section 20-18 of this Code.

Food truck means a food service establishment that is mounted on wheels, designed to be readily movable, and propelled by a motor.

~~_____ *License* means a license granted under authority of this article.~~

Mobile food unit means a park food service establishment, that is mounted on wheels, designed to be readily movable, and propelled solely by human power. A food truck shall not be considered a *mobile food unit*.

~~*Packaged*~~ is defined has the meaning set forth in section 20-18(24) of this Code.

~~*Park or parks*~~ is defined has the meaning set forth in section 32-1(3) of this Code.

Park food service establishment means a food service establishment operating within a park.

Permit means a permit granted under the authority of this article.

Roadway means that portion of a public street which is improved, designed, or ordinarily used for vehicular travel, exclusive of the curb, berm, esplanade, or shoulder. In the event that a public street includes two or more separate roadways, roadway means each such roadway separately.

Sidewalk means that portion of the public street which is between the curblines, or the lateral lines of a roadway, and the adjacent property lines and is improved and designed for or is ordinarily used for pedestrian travel.

~~*Spring/summer vending season* means the time period beginning on April 1 of each calendar year and ending on September 30 of the same calendar year.~~

~~*Unit* means a mobile food unit.~~

Vendor means a person ~~or entity~~ which who has been granted a license permit under this article, and shall include that person's ~~or entity's~~ officers and employees.

Sec. 32-223. ~~Prohibited activity.~~ Permits required for park food service establishments.

(a) The director is authorized to issue permits for the operation of park food service establishments within parks.

~~(a)~~(b) It shall be unlawful for any person to erect, operate or maintain a ~~unit~~ park food service establishment in a park without first obtaining a license permit.

~~(b)~~(c) It is an affirmative defense to prosecution under this section that the person is maintaining or operating the ~~unit~~ park food service establishment under the authority of a concession contract approved by city council.

Sec. 32-224. Reserved. ~~Procedure for issuance of license.~~

~~The director as authorized to issue new licenses each vending season. The licensing procedure shall be as follows:~~

- ~~(a) In February and August of each year, the director shall publish a request for applications designating the city parks and the areas of those parks available for vending for the following vending season, the food that will be allowed to be sold in each area of each such park, and the number of potential vendors who will be allowed in each such park and soliciting applications from interested parties.~~
- ~~(b) Upon this designation and prior to March 1 and September 1 of each year, the director shall delineate the area of each of the parks which will be open and available for food vending purposes for the following vending season. Each such area shall be given a number and only one vendor per area will be licensed.~~

Sec. 32-225. Applications.

~~Between March 1 and March 15 and September 1 and September 15 of each year, the director will accept applications for the following vending season. Each interested person must file, at the office of the director, an application on forms prescribed by the director and must pay the nonrefundable filing fee established by city council. A separate application and filing fee will be required for each park area. As a part of the application and proposal the applicant shall provide:~~

- ~~(a) The name, home and business (street) addresses and phone number of the applicant and the name, home and business (street) addresses of the owner of the food vending business and the unit to be used in such business, if other than the applicant;~~
- ~~(b) A description of the applicant if other than a natural person, including its legal status (i.e., corporation, partnership, etc.), and a general description of the type(s) of business the applicant operates;~~
- ~~(c) The name and street address (and mailing address, if different) of the registered agent for the service of process, if the applicant represents a corporation; or the names and street addresses (and mailing addresses, if different) of the officers or partners, if the applicant represents an association, partnership or other entity;~~
- ~~(d1) The name and street address (and mailing address, if different) of the operator, manager or other person responsible for the operation or supervision of the unit park food service establishment;~~
- ~~(e2) The name under which the unit park food service establishment will be operated;~~
- ~~(f3) A letter or letters from the health officer, by which the director certifies that, under ~~C~~chapter 20 of this Code, the applicant meets the requirement for a food dealer's permit and, if applicable, the mobile food unit meets the requirements for a mobile food ~~service~~ unit medallion;~~

- ~~(g4)~~ A copy or copies of any certificate or certificates of insurance required to be provided;
- ~~(h5)~~ A general description and proposed prices of all foods to be sold and the proposed hours of operation;
- ~~(i)~~ A list and description of the type of preparation and storage equipment proposed to be used;
- ~~(j)~~ A description of the type or types of advertising proposed to be used;
- ~~(k)~~ A photograph or graphic representation accurately depicting the unit and a general written description of the unit;
- ~~(l6)~~ The park and numbered description of the area in that park in which the applicant desires to operate his unit park food service establishment;
- ~~(m)~~ The number of licenses currently held and the location of each;
- ~~(n)~~ The street address or other location selected for night storage of the unit;
- ~~(o)~~ A notarized statement that all statements and representations made as a part of the application are true and correct; and
- (7) A map showing the proposed location of the specific site desired;
- (8) The written permission of the director for the use of the site; and
- ~~(p9)~~ Such other documentation or information as the director may reasonably require.

Sec. 32-226. Determination of qualified applicants.

Upon receipt of each application, the director shall examine its contents and determine whether the applicant is qualified for issuance of a ~~license~~ permit based on the following factors:

- ~~(a1)~~ The application meets the requirements of this article;
- ~~(b2)~~ The unit park food service establishment is in compliance with the unit food service establishment specifications set out in ~~section 20-22~~ chapter 20 of this Code and with all other applicable city ordinances;
- ~~(c3)~~ Given the particular characteristics of the park in which the unit park food service establishment is to be operated, and of the pedestrian and vehicular traffic in the area, the operation of the proposed unit park food service establishment will not interfere with pedestrian or vehicular traffic in the park or with the public's use of the park;

- (d4) Operation of the unit park food service establishment is not expected to obstruct vehicular or pedestrian travel upon any sidewalk or public street;
- (e5) The products to be sold are not expected to cause or contribute to littering in the parks nor to annoy, through noxious odors or other means, the park's patrons; and
- (f6) The unit park food service establishment and the equipment proposed to be used will be appropriate, suitable and aesthetically pleasing in that area of the park.

Sec. 32-227. Evaluation of applications.

The vendors to be issued ~~licenses~~ permits shall be selected by a comparison of the applications submitted for each area and park. The director may request the assistance of the health officer to evaluate these applications. If more than one qualified applicant has applied for a license to serve the same area of a park, the director shall choose from among the applicants based upon the following criteria:

- (a1) Ability to contribute to the availability of a variety of foods for park patrons;
- (b2) Ability to address consumer preferences for particular foods in a particular park or in parks generally;
- (e3) Ability to engage in park vending activities for an optimum number of hours and days per week;
- (d4) Ability to successfully operate a mobile food vending business and comply with the applicable ordinances of the city governing his activities and his ~~unit~~ park food service establishment based on his ability as determined from his financial resources and history and any experience in similar types of ventures; and
- (e5) Ability to provide a reasonable and competitive price structure for the food proposed to be sold.

Based upon the information set out in the applications, the director shall rate each applicant's relative ability to meet the above criteria. The applicant receiving the highest overall rating shall be the applicant selected as the vendor for that area. The director may consider applicants who were not selected but were otherwise qualified, for areas of the same or other parks for which the city received no applications.

Sec. 32-228. Term of license permit.

(a) A ~~license~~ permit granted under this article shall be valid for ~~only one season~~ the time and day indicated on the permit. The ~~license~~ permit shall specify the foods permitted to be sold or distributed based on recommendations from the health officer.

(b) A ~~license permit~~ granted under this article is ~~a license for~~ constitutes a temporary and interruptible authorization for the use of a park or designated portion thereof in a manner consistent with the conditions upon which the permit has been granted. It is a privilege granted by the city not a right. It is not an exclusive ~~license permit~~ and does not and shall not be construed to convey any legal or equitable interest whatsoever to any part of the park.

(c) A ~~license permit~~ is issued in the vendor's name for a particular ~~unit park food service establishment and designated area of a park~~ and cannot be assigned, sold, lent, leased, or otherwise transferred even though the ownership of the ~~unit park food service establishment~~ may change.

Sec. 32-229. Reserved.

Sec. 32-230. Indemnification of city.

The vendor must agree, as a condition of his ~~license permit~~, to indemnify and hold harmless the city, its officers and employees against any loss, liability or damage, including expenses and costs for bodily injury and for property damage sustained by any person as a result of the vendor's operation of a ~~unit park food service establishment~~ on public property.

Sec. 32-231. License Permit conditions.

(a) A ~~license permit~~ shall be subject to the following conditions and may be suspended or revoked for failure to comply with any one of them:

- (a1) The vendor shall maintain the ~~unit park food service establishment~~ in good repair and keep it free from material defects that may present a hazard to life or property.
- (b2) The vendor shall make the ~~unit park food service establishment~~ available for an inspection by the director or his representatives at any time while the ~~unit park food service establishment~~ is on park property. No notice from the director prior to such an inspection shall be required.
- (c) ~~The vendor shall thoroughly clean the unit and drain and flush the liquid waste tanks each day the unit is operated.~~
- (d3) The vendor must comply with all other applicable state and city rules and regulations specifically including all food or health-related ordinances of the city and all state and federal food labelling laws. The ~~unit park food service establishment~~ itself and the vendor and all of his employees must meet applicable requirements for the operation of ~~mobile food units and food establishments as set out in sections chapter 20-22 and 20-37~~ of this Code at all times.

- (e4) In addition to the marking requirements of Chapter 20 of this Code, each unit park food service establishment shall be clearly marked with the name and phone number of the owner of the unit park food service establishment and the phone number of the city's department of health and human services.
- (f5) The vendor shall maintain adequate lighting in and around the unit park food service establishment to ensure that the unit park food service establishment may be easily seen at night. Such lighting shall be of such type and location and shall have such shading as will prevent the source of the light from being seen from any property contiguous or adjacent to the park. It shall not cause illumination beyond the boundaries of the park on which it is located so as to be obtrusive to adjacent property owners and shall not cause illumination beyond the boundaries of the park in excess of 0.5 foot candles. The illumination of any street from the unit park food service establishment shall be no brighter than the illumination provided by ornamental street lights nor shall it have an adverse impact on the flow of vehicular traffic. In addition, its design and color shall not be such that is could be mistaken for a traffic signal.
- ~~(g) The vendor shall not park or stop a unit within 20 feet of an entrance or exit to any building, or a hydrant, street light, curb, crosswalk, telephone booth, driveway, mailbox, transit stop, or any other public service facility even temporarily. In addition, a vendor shall not park or stop a unit within 20 feet of another unit.~~
- ~~(h6) A vendor may not obstruct ingress or egress to any other building, roadway, or pathway. The vendor shall not load or unload the unit or any food items while the unit or a vehicle transporting the unit is parked on a roadway. In no case shall a unit be positioned on a sidewalk so as to occupy more than 40 percent of the width of that sidewalk. In addition, all units shall comply with clearances required from structures to utility lines as provided in a nationally recognized building code.~~
- (i7) The vendor shall not install, erect or maintain any signs on park property except those permitted on the unit park food service establishment itself.
- (j8) The vendor shall not install any permanent improvement in a park.
- (k9) During hours of operation under a permit, the ~~The~~ vendor shall serve, store and display his food on or in the unit park food service establishment itself and shall not use, set up or attach any crate, carton, rack, table or other device to increase the selling or display capacity of his unit park food service establishment.
- (10) Outside hours of operation under a permit, the vendor shall not store any items, including food and/or equipment, within a park facility or upon park property.

- (~~f~~11) The vendor shall not leave the ~~unit~~ park food service establishment open (unlocked) and unattended. If ~~the~~ a park food service establishment is left unattended, it may be shut down and towed, if applicable. The vendor shall then be liable for all reasonable removal, towing, and storage charges.
- (~~m~~12) The vendor shall not operate the ~~unit~~ park food service establishment in the park between the hours of ~~2:00 a.m. and 5:00 a.m.~~ 11:00 p.m. and 7 a.m. ~~During this time, the unit shall be removed from park property.~~ or outside hours of operation under a permit.
- (~~n~~13) The vendor shall not permit any electrical or mechanical sound to emanate beyond 20 feet from the ~~unit~~ park food service establishment.
- (~~o~~) ~~The vendor shall operate only within his assigned area of the park. The vendor shall avoid positioning the unit so as to damage or destroy any park property and shall not allow the unit to touch, lean against or be affixed temporarily or permanently to any building, structure, tree, or shrubbery.~~
- (~~p~~14) The vendor shall not operate the ~~unit~~ park food service establishment in a fashion that creates a traffic hazard or increases traffic congestion or delay.
- (~~q~~15) Where exigent circumstances exist and a police officer or other authorized officer or employee of the city gives notice to a vendor to temporarily move from a location, such vendor shall not operate from or remain at such location. For the purpose of this subdivision, exigent circumstances shall include, but shall not be limited to, unusually heavy pedestrian or vehicular traffic, existence of any obstructions in the public space at or near such location, an accident, fire or other emergency situation at or near such location, or a parade, demonstration, or other such event or occurrence at or near such location.
- (~~r~~16) The vendor shall update and supplement the information provided as a part of his application to ensure that it remains true and correct at all times.
- (~~s~~17) The vendor shall have his ~~license~~ permit ~~available on the unit~~ at all times while the ~~unit~~ park food service establishment is in operation and shall present the ~~license~~ permit upon request. In addition, the vendor shall have in his possession satisfactory proof or documentation detailing the origin or source of all foods being held, stored, offered for sale, sold, distributed or given away. Those records shall be ~~stored on the unit at all times and~~ available for review upon request.
- (~~t~~) ~~The vendor shall operate the unit in the park at least two days each calendar week.~~
- (~~u~~18) The vendor shall comply with all rules promulgated by the director and shall refrain from operating the ~~unit~~ park food service establishment during certain days or in certain areas if so requested by the director.

- (v19) The vendor shall not use the ~~unit~~ park food service establishment or permit anyone else to use the ~~unit~~ park food service establishment to sell distribute or give away any foods other than those specifically approved by the director, in writing, at the time the ~~license~~ permit is issued. The vendor is not authorized to and shall not sell any non-food items without the written consent of the director.
- (w20) The vendor shall maintain records of daily gross sales, purchases, and expenses of or from the ~~unit~~ park food service establishment and those records shall be available for inspection by the director upon request. ~~These records need not be available on the unit itself.~~
- (x21) The vendor shall be responsible for supervising the conduct of its patrons and employees.
- (y22) The vendor and his employees shall wear clean outer garments and shall refrain from smoking on park property and eating during working hours.
- (z23) The vendor shall furnish good, prompt, courteous, and efficient service to its patrons. At no time shall a vendor hawk his merchandise or shout at or otherwise annoy park patrons in an effort to encourage them to purchase his merchandise.
- (aa24) The vendor shall keep the area within 25 feet of the ~~unit~~ park food service establishment clean and free of litter at all times. The vendor's litter receptacle ~~on the unit~~ shall be emptied regularly in other than a public receptacle. The litter receptacle shall be kept covered with a tight fitting lid when not in continuous use.
- (bb25) The vendor shall not use any park facilities including utility outlets, for operating or cleaning the ~~unit~~ park food service establishment or its appurtenances with the exception of electrical service which may be approved in advance at the option of the director. The vendor and his employees may use available restroom facilities for their personal use.
- ~~(cc) The vendor shall not make any structural alteration of the unit without giving 30 days' advance written notice to the city.~~
- (dd26) The vendor shall provide a cash bond or a bond with the vendor as principal and a corporate bonding company licensed to do business in the state as surety in the amount of \$2,500.00 to cover the costs of repair or replacement of any city property, the damage or destruction of which was caused directly or indirectly by the vendor. This bond shall be duly executed by the vendor and a corporate surety company licensed to do business in the State of Texas and shown on the most recent edition of the United States Treasury Circular 570 as having an "underwriting limitation" at least as great as the penal sum of the bond. The vendor may substitute a cash deposit or comprehensive public liability insurance for property damage in the amount

of \$2,500.00. The city shall be named as an additional insured on the policy and the policy shall include a provision to the effect that the city will be notified in writing by the insurance company ten days prior to a cancellation, nonrenewal, or material change in the policy. In the case of nonrenewal or cancellation, the vendor shall then have five days to replace the coverage or the vendor's license permit shall be deemed revoked without further action on the part of the city.

~~(ee) The director is hereby authorized to promulgate such additional rules as he deems necessary or appropriate from time to time based on circumstances peculiar to an individual park or to ensure safe and efficient operation of a unit. This authorization includes the authority to impose additional insurance requirements in such amounts as the director may deem necessary. All such rules shall be in writing, shall be on file in the city secretary's office and shall be available to the public upon request from the office of the director. This authorization also includes the authority to temporarily suspend a vendor's license during a major event scheduled for a park during a vending season.~~

(b) A permit for a mobile food unit shall be subject to the following additional conditions and may be suspended or revoked for failure to comply with any one of them:

- (1) The vendor shall thoroughly clean the mobile food unit and drain and flush the liquid waste tanks each day the mobile food unit is operated.
- (2) The mobile food unit itself and the vendor and all of his employees must meet requirements for the operation of mobile food units and food establishments as set out in sections 20-22 and 20-37 of this Code at all times.
- (3) The vendor shall maintain adequate lighting in and around the mobile food unit to ensure that the mobile food unit may be easily seen at night. Such lighting shall be of such type and location and shall have such shading as will prevent the source of the light from being seen from any property contiguous or adjacent to the park. It shall not cause illumination beyond the boundaries of the park on which it is located so as to be obtrusive to adjacent property owners and shall not cause illumination beyond the boundaries of the park in excess of 0.5 footcandles. The illumination of any street from the mobile food unit shall be no brighter than the illumination provided by ornamental street lights nor shall it have an adverse impact on the flow of vehicular traffic. In addition, its design and color shall not be such that is could be mistaken for a traffic signal.
- (4) The vendor shall not park or stop a mobile food unit within 20 feet of an entrance or exit to any building, or a hydrant, street light, curb, crosswalk, telephone booth, driveway, mailbox, transit stop, or any other public service facility even temporarily. In addition, a vendor shall not park or stop a mobile food unit within 20 feet of another mobile food unit.

- (5) The vendor shall not load or unload the mobile food unit or any food items while the mobile food unit or a vehicle transporting the mobile food unit is parked on a roadway. In no case shall a mobile food unit be positioned on a sidewalk so as to occupy more than 40 percent of the width of that sidewalk. In addition, all mobile food units shall comply with clearances required from structures to utility lines as provided in a nationally recognized building code.
- (6) The vendor shall remove the mobile food unit from park property between the hours of 11:00 p.m. and 7:00 a.m. and during any time not covered by the permit.
- (7) The vendor shall operate only within his assigned area of the park. The vendor shall avoid positioning the mobile food unit so as to damage or destroy any park property and shall not allow the mobile food unit to touch, lean against or be affixed temporarily or permanently to any building, structure, tree, or shrubbery.
- (8) The director is hereby authorized to promulgate such additional rules as he deems necessary or appropriate from time to time based on circumstances unique to an individual park or to ensure safe and efficient operation of a unit. This authorization includes the authority to impose additional insurance requirements in such amounts as the director may deem necessary. All such rules shall be in writing, shall be on file in the city secretary's office and shall be available to the public upon request from the office of the director. This authorization also includes the authority to temporarily suspend a vendor's permit.

Sec. 32-232. Enforcement.

(a) Notwithstanding the other provisions of this article, whenever the director or the health officer finds an unsanitary or other unhealthful or unsafe condition in the operation of a unit, he may issue a written notice to the vendor citing such condition, specifying the corrective action to be taken, and specifying the time period within which such action shall be taken; and, if deemed necessary, such order shall state that the ~~license~~ permit is immediately suspended, and all food service operations are to be immediately discontinued. Any person to whom such an order is issued shall comply immediately therewith, but upon written petition to the director, shall be afforded a hearing within ten days after the issuance of that order.

(b) The director may suspend or revoke a ~~license~~ permit for failure to observe any of the conditions listed in section 32-231. Prior to such suspension or revocation the director shall give ten days' written notice to the vendor of his violation of or his failure to observe a general condition as set out above. If the vendor requests a hearing prior to the expiration of that ten-day notice period, the director shall hold a hearing to determine if the ~~license~~ permit should be suspended or revoked. The vendor may present evidence in his own behalf if he so desires. The director's decision in regard to suspension or revocation shall be final. If the vendor fails to request such a hearing, the suspension or revocation

shall become effective upon the expiration of the ten-day notice period. If a ~~license~~ permit granted under this article is suspended or revoked, the vendor shall not operate the unit on park property thereafter. A vendor whose ~~license~~ permit has been suspended or revoked may apply for a ~~license~~ permit the following vending season.

(c) All notices required or permitted under this article shall be in writing and shall be deemed delivered upon email notification, personal delivery or three days after deposit in a United States Postal Service post office or receptacle with proper postage affixed and addressed to the vendor at the address provided by the vendor (the applicant's name and street address) in his application for a ~~license~~ permit.

(d) In the event that the health officer issues a notice of violation of any law or ordinance to a vendor in connection with the operation of or any condition related to the unit or the vendor's operation, including a violation of this article, the health officer shall immediately notify the director. Conversely, if the director is notified of or becomes aware of any condition or occurrence which may constitute a violation of this article or of any food or health-related statute or ordinance, the director shall immediately notify the health officer. Copies of all inspection reports, prepared by the health officer, on units ~~licensed~~ permitted hereunder shall be promptly forwarded to the director.

(e) Suspension, revocation, or expiration of a vendor's good dealer's permit or mobile food service unit medallion shall result in the immediate suspension of the ~~license~~ permit granted hereunder without further action on the part of the city. Such suspension shall remain in effect until the vendor's food dealer's permit and mobile food service unit medallion are restored. The notice provisions of section 32-232(c) shall not be applicable to suspension of a ~~license~~ permit under this subsection.

(f) In addition, a ~~license~~ permit shall be revocable without liability therefor if the director finds that a public necessity or emergency exists requiring an immediate revocation of the ~~license~~ permit and termination of operation of the unit for the remainder of a vending season. In that case the director shall provide written notice to the vendor as promptly as possible. This notice shall state the reason or reasons emergency revocation is or was required. Notice under this clause shall constitute an exception to the notice provisions of section 32-232(c).

Sec. 32-233. Fees.

License Permit fees for mobile food units shall be established by the city council. The schedule of fees approved under this provision shall be included in the city fee schedule.

Secs. 32-234--32-239. Reserved.

ARTICLE X. MOTORIZED MOBILE VENDORS

DIVISION 2. FOOD TRUCKS

Sec. 32-240. License—Required Operation.

~~(a) It shall be unlawful for any person to operate a motorized mobile vending unit food truck in any city park, without obtaining a motorized mobile vendor's license in accordance with the provisions of this article. For purposes of this article, "city park" includes all land and roadways in any park of the city as defined in subsection 32-1(3) of the Code.~~

(b) It shall be an affirmative defense to prosecution under this section that the actor is:

- ~~(1) Operating under a special event permit issued pursuant to chapter 25 of this Code;~~
- ~~(2) Operating under a contract awarded pursuant to the city's procurement procedures set forth in chapter 15 of this Code; or~~
- ~~(3) Operating under the authority of a concession contract authorized pursuant to section 32-8(b) of this Code.~~

Sec. 32-241. Same—Application; contents; issuance; term.

~~(a) A person desiring to obtain a motorized mobile vendor's license for a vehicle must apply in writing to the director upon the form promulgated by the director. The director shall issue a license to the applicant upon:~~

- ~~(1) Filing by the applicant of the completed application form;~~
- ~~(2) Payment to the city of the required license fee for the initial term of the license; and~~
- ~~(3) Satisfactory proof by the applicant that he has obtained all other necessary licenses or permits required by the city under chapter 20 (Food and Drugs) of the Code.~~

~~(b) Each license issued pursuant to this division shall be valid for six months after date of issuance. Any person wishing to renew his license must re-apply in accordance with subsection (a) above.~~

Sec. 32-242. Authority of the director to promulgate rules

The director is authorized to promulgate additional rules and regulations regarding the permitting and operation of motorized food vending units food trucks in city parks. The

promulgation of such rules and regulations shall conform to the provisions of subsection 32-5(a) of the Code.

ARTICLE X. RESERVED

Sec. 32-242. Reserved.

ARTICLE XI. MILLER THEATRE ADVISORY BOARD

Sec. 32-243. Creation of advisory board.

There is hereby created the Miller Theatre Advisory Board, whose members shall be appointed by the mayor, subject to confirmation by the city council. The director of the department of parks and recreation shall serve as executive secretary to the board but shall not be a member of the board and shall not have a vote. ~~A representative of the Cultural Arts Council of Houston (CACH)~~ The Houston Arts Alliance (HAA) shall selected by CACH, a representative shall be an ex officio member of the board ~~and shall not have a vote nor be considered a member for purposes of establishing a quorum.~~ Additionally, ~~a representative to be selected~~ from time to time, the Hermann Park Conservancy shall select a representative to ~~by the Houston Parks Board shall~~ be an ex officio member of the board; ~~who~~ neither of these representative ex officio members shall have a vote or be considered a member for the purpose of establishing a quorum.

Sec. 32-244. Positions and terms of board.

(a) There shall be 21 voting members of the Miller Theatre Advisory Board, each of whom must reside within the limits of the city and shall be appointed by the mayor and approved by city council. The term of each member shall be for four years and shall continue until a successor has been appointed and confirmed. Terms shall be staggered. An appointment made to fill a vacancy caused by the death or resignation of a board member shall be for the balance of the term of the position.

~~————(b) Five of the positions shall be filled by mayoral appointment of persons employed by or otherwise representing Rice University, Texas Southern University, the University of Houston, the Houston Independent School District, and the South Main Center Association.~~

(~~b~~) The initial appointments shall be made for staggered terms, with seven members being appointed for four-year terms, seven members being appointed for three-year terms, and seven members being appointed for two-year terms, with consideration being given to the number of years, if any, an individual served on the Miller Theatre Advisory Council.

Sec. 32-245. Assistance of city departments.

Through the director, the directors of other city departments shall provide requested assistance to the board. The city attorney shall provide requested legal representation and services to the board.

Sec. 32-246. Members to serve without pay.

Members of the board shall serve without compensation from the city or any firm, trust, donation or legacy to or on behalf of the city; provided, however, that a member of the board, or the firm, company or corporation with whom the member is associated shall not be precluded from receiving compensation from the city under any contract for services rendered ~~which~~ that have no relation to the member's duties as a member of the board. Members of the board shall abstain from voting upon matters in which they have or may have a conflict of interest.

Sec. 32-247. Organization of the board.

The board shall elect from their membership a chairman, a vice-chairman, a secretary and a treasurer to serve for one year commencing on January 1 and ending on December 31, or until a successor shall have been elected and installed. The board must adopt such administrative procedures as are necessary to accomplish the purposes set out in this article.

Sec. 32-248. Purposes.

The purposes of the Miller Theatre Advisory Board shall be:

- (1) ~~To receive~~ Receipt and management of an annual allocation from the ~~cultural arts council of Houston city~~ in support of performances at the Miller Outdoor Theatre. Applicants for such support will be reviewed and auditioned as necessary.
- (2) Management and distribution of funds for Miller Outdoor Theatre performances in accordance with an approved schedule of performances.
- (3) Solicitation of funds, gifts, and bequests for Miller Outdoor Theatre performances, programs, and facilities.
- (4) Management, investment, and oversight of funds, gifts, and bequests donated to Miller Outdoor Theatre.
- (5) ~~Organization and management of a volunteer group for the operations of Miller Outdoor Theatre and its performances and operations.~~
- (6) ~~Operation and maintenance of Miller Outdoor Theatre Concession facility, remitting to the city five percent of the gross proceeds from such operations. The balance of net proceeds from such operation shall be spent solely for the benefit of the theatre and/or its programs.~~

Sec. 32-249. Additional powers of board.

(a) The board may cooperate with any trust created for similar purpose or purposes. However, the board has no authority to commit city funds, property, personnel, or services.

(b) The board may contract for financial management and investment services, paying reasonable fees therefor from solicited funds, gifts, bequests, ~~and/or~~ income therefrom, provided the board shall exclude from provision of such payment those solicited funds, gifts, bequests ~~and/or~~ income the donor of which made provisions contrary to such use.

(c) The board may exercise its sole discretion in the application, for Miller Outdoor Theatre purposes, of those funds donated directly to the board, provided purchases and improvements to the Miller Outdoor Theatre shall be in compliance with the competitive bid laws of the state and the Charter of the city and shall be approved by the city.

(d) The board may exercise its sole discretion in the application, for Miller Outdoor Theatre purposes, of those funds received from any trust created specifically for the benefit of the board when such trust specifically grants such sole authority to the board, provided purchases and improvements to the Miller Outdoor Theatre shall be in compliance with the competitive bid laws of the state and the Charter of the city and shall be approved by the city.

Sec. 32-250. Financial records of board.

The financial books and records of the board shall be open to inspection and audit during regular business hours by authorized representatives of the city, or by independent certified public accountants employed or engaged by the city. Further, as a condition of the acceptance of funds or the cooperation described in sections 32-248 and 32-249 of this Code, the board must provide annual audited financial statements.

Sec. 32-251. Annual report.

The board shall make an annual report to the mayor, ~~and city council,~~ and the director.

Sec. 32-252. Removal of board members.

Board members may be removed by the ~~city council~~ mayor for the following causes:

- (1) Four consecutive absences from regular monthly meetings of the board.
- (2) Failure to abstain in votes or activities of the board, where a direct or indirect conflicts of interest ~~are~~ is or may be involved.
- (3) ~~For~~ Conduct, whether within or without board activities, which impairs the ability of the member to discharge his board duties.

Secs. 32-253--32-260. Reserved.

ARTICLE XII. HOUSTON YOUTH RECREATION PROGRAMS STANDARDS OF CARE

DIVISION 1. GENERALLY

Sec. 32-261. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ~~ascribed~~ assigned to them in this section, except where the context clearly indicates a different meaning:

Assistant director means ~~a~~ an assistant director of the parks and recreation department of the city, or the assistant director's designee.

Parent means a parent or guardian who has legal custody and authority to enroll a child in a youth recreation program.

Participant means a youth (ages ~~five~~ 5-13) whose parent or guardian has completed all required registration procedures and has been determined to be eligible for a youth recreation program.

Program manual means the notebook of policies, procedures, forms, and organizational and programming information relevant to a youth recreation program.

Program site means the area or facilities where a youth recreation program is held.

Program staff means the person or persons who have been hired or have volunteered to work for the city and have been assigned responsibility for managing, administering, or implementing some or all portions of a youth recreation program. This definition includes recreation facility managers, program managers, recreation supervisors, recreation specialists, and recreation assistants.

Site manager means a recreation facility manager, program manager, or recreation supervisor.

Youth recreation programs mean the department programs consisting of the after school enrichment program, the summer enrichment program, the holiday enrichment program, and other non-school day programs.

Sec. 32-262. Organization.

(a) The governing body of the youth recreation programs is the city council.

(b) Implementation of the youth recreation program standards of care is the responsibility of the assistant director and program staff.

(c) The standards of care, as provided in this division, shall apply to the department's ~~after school enrichment program, the summer enrichment program, the holiday enrichment program, and other non-school day~~ youth recreation programs.

(d) Each program site will have a current copy of the standards of care available for the public and the staff.

(e) Parents of participants will be provided a copy of the standards of care prior to the start of a youth recreation program, preferably during the registration process. Parents will be informed that a youth recreation program is not licensed by the state and that the youth recreation program is not a child-care facility.

(f) Criminal background checks will be conducted on prospective program staff. If results of a criminal check indicate that an applicant has been convicted of any of the following offenses, the applicant will not be considered for employment in a youth recreation program:

- (1) A felony or a misdemeanor classified as an offense against a person or family;
- (2) A felony or a misdemeanor classified as public indecency;
- (3) A felony or a misdemeanor violation of any law intended to control the possession or distribution of any controlled substance;
- (4) Any offense involving moral turpitude; or
- (5) Any offense that would potentially put the city at risk.

Sec. 32-263. Inspection, monitoring, and enforcement.

(a) A site manager of a program site will ensure compliance with the standards of care and will prepare a monthly inspection report.

(b) Inspection reports will be sent to the assistant director for review.

(c) The assistant director will review the report and establish deadlines and criteria for compliance with the standards of care.

(d) The assistant director will make visual inspections of youth recreation programs based on the following schedule:

- (1) An after school enrichment program site will be inspected monthly. This may be scheduled or unscheduled.
- (2) The summer enrichment program will be inspected twice during its summer schedule.

(e) A complaint regarding enforcement of the standards of care will be directed to the site manager. The site manager will be responsible for taking the necessary steps to resolve the complaint. The site manager will record complaints regarding enforcement of the standards of care and their resolution. Serious complaints regarding enforcement of the standards of care will be forwarded to the assistant director for review and resolution.

(f) The assistant director will make an annual report to the director on the overall status of the youth recreation programs and their operation relative to compliance with the adopted standards of care.

Sec. 32-264. Enrollment.

Before a child can become a youth recreation program participant, a parent must sign a registration form that contains:

- (1) The child's name, age, address, and home telephone number;
- (2) Emergency contact names and telephone numbers;
- (3) The child's doctor's name and telephone number; and
- (4) A liability waiver.

Sec. 32-265. Suspected child abuse.

(a) Program staff will report suspected child abuse in accordance with the Texas Family Code.

(b) Program staff will receive basic training related to child abuse prevention and reporting.

Secs. 32-266--32-270. Reserved.

DIVISION 2. STAFFING QUALIFICATIONS AND TRAINING

Sec. 32-271. Recreation facility manager qualifications.

(a) Recreation facility managers will be employees of the department and will be required to have the minimum qualifications outlined in this section.

(b) Recreation facility managers should possess the following combination of experience and training:

- (1) Two years of experience in recreation facility operations.
- (2) An associate's degree in physical education, art or a related field.

Sec. 32-272. Program manager qualifications.

(a) Program managers will be employees of the department and will be required to have the minimum qualifications outlined in this section.

(b) Program managers should possess the following combination of experience and training:

- (1) Two years of experience coordinating and managing community programs and activities.
- (2) An associate's degree in business administration, management, physical education, art or a related field.

Sec. 32-273. Recreation supervisor qualifications.

(a) Recreation supervisors will be employees of the department and will be required to have the minimum qualifications outlined in this section.

(b) Recreation supervisors should possess the following combination of experience and training:

- (1) An associate's degree in education, recreation, physical education, art or a related field.
- (2) Two years of experience in recreation or education.

Sec. 32-274. Reserved.

Sec. 32-275. Recreation specialist qualifications.

(a) Recreation specialists will be employees of the department and will be required to have the minimum qualifications outlined in this section.

(b) Recreation specialists should possess the following combination of experience and training:

- (1) Three months of experience in recreation, ~~or~~ education or a related field.
- (2) An associate's degree in physical education, art or a related field.

Sec. 32-276. Recreation assistant qualifications.

(a) Recreation assistants will be employees of the department and will be required to have the minimum qualifications outlined in this section.

(b) Recreation assistants should possess the following combination of experience and training:

- (1) Three months of experience in recreation, education or a related field.
- (2) A high school diploma or GED certificate.

Sec. 32-277. Training and orientation.

(a) The department is responsible to provide training and orientation to program staff in working with participants and for specific job responsibilities. The assistant director will provide each program site with a program manual.

(b) Program staff should be familiar with the standards of care for youth recreation programs as adopted by city council.

(c) Program staff should be familiar with a youth recreation program's policies including discipline, guidance, and release of participants.

(d) Program staff will be trained in appropriate procedures to handle emergencies.

(e) Program staff will be trained in areas including city, department, and youth recreation program policies and procedures, recreation activities organization, safety issues, program organization, and other areas as required by an assigned youth recreation program.

(f) Program staff will be required to sign an acknowledgment that they have received the required training.

Secs. 32-278--32-280. Reserved.

DIVISION 3. OPERATIONS

Sec. 32-281. Staff-participant ratio.

In a youth recreation program, the standard ratio of participants to staff is 25 to 1, based on average daily attendance. For a field trip, the standard ratio of participants to staff is 10 to 1, based on average daily attendance.

Sec. 32-282. Discipline.

(a) Program staff will implement discipline and guidance in a consistent manner based on the best interests of participants.

(b) There will be no cruel treatment or harsh punishment.

(c) Program staff will use brief, supervised, separation (time out) from the group if necessary.

(d) As necessary, program staff will initiate discipline reports to the parent(s) of participants. A parent will be asked to sign a participant discipline reports to indicate they have that the parent has been advised about specific problems or incidents.

(e) A sufficient number and/or severe nature of discipline reports may result in a participant being suspended from a youth recreation program.

(f) A participant will be removed from the program site as soon as possible in instances of danger to other participants or program staff.

Sec. 32-283. Programming.

(a) Program staff will provide cultural, educational, and recreational programs for participants according to their ages, interests, and abilities. The activities will be appropriate to the health, safety, and well-being of participants. The activities also will be flexible and promote the emotional, social, and mental growth of participants.

(b) Program staff will attempt to provide indoor and outdoor time periods to include:

- (1) Alternating active and passive activities;
- (2) Opportunity for individual, small, and large group activities; and
- (3) Outdoor time each day, as weather permits, based upon room availability and weather conditions.

(c) Program staff will be attentive and considerate of the participant's safety on field trips and during any transportation provided by a youth recreation program.

(d) During field trips, program staff will have emergency contact information for each participant.

(e) Program staff will have a written list of the participants in the group and should check the roll before departure to and from the destination.

(f) Program staff will have first aid supplies available on field trips.

Sec. 32-284. Communication.

A program site will have a telephone to allow a program site to be contacted by program staff. A program site will have access to a telephone for use in contacting program staff or making emergency telephone calls. At a program site, the site manager will post the following telephone numbers adjacent to a telephone accessible to program staff:

- (1) City ambulance or emergency medical services;
- (2) Houston Police Department;
- (3) Houston Fire Department;
- (4) Department administrative office; and
- (5) Telephone numbers and address of the program site.

Sec. 32-285. Transportation.

(a) Before a participant can be transported to and from city sponsored activities, a registration/waiver form, completed and signed by a parent of the participant, will be filed with the department.

(b) First aid supplies will be available in a youth recreation program vehicle used to transport participants.

(c) Seatbelts will be worn, if provided.

(d) Participants will be oriented to expected behavior and safety rules.

Secs. 32-286--32-290. Reserved.

DIVISION 4. FACILITY STANDARDS

Sec. 32-291. Safety.

(a) Program staff will inspect program sites weekly checking for sanitation and safety concerns that might affect the health and safety of participants.

(b) Buildings, grounds and equipment on a program site will be inspected, cleaned, repaired and maintained to protect the health and safety of participants.

(c) Program site equipment and supplies will be safe for use of participants

(d) Program staff will have first aid supplies available at a program site in a designated location, during transportation, and for the duration of any off-site activity.

Sec. 32-292. Fire.

(a) In case of fire, danger of fire, explosion or other emergency, program staff's first priority is to evacuate participants to a pre-designated safe area.

(b) A program site will have an annual fire inspection, and the resulting report will detail any safety concerns observed and recommend deadlines and criterion for compliance.

(c) A program site will have at least one fire extinguisher readily available to all program staff. The fire extinguisher will be inspected monthly by the site manager. Program staff will be trained in the proper use of a fire extinguisher.

(d) Fire drills will be initiated at program sites based on the following schedule:

(1) *After school enrichment program*—Once every three months; and

(2) *Summer enrichment program*—Once during each program.

Sec. 32-293. Health.

(a) *Illness or injury.*

- (1) A participant who is considered to be a health or safety concern to other participants or program staff will not be admitted to a youth recreation program.
- (2) Illnesses and injuries will be handled in a manner to protect the health of all participants and program staff.
- (3) Program staff will follow emergency procedures for injured participants or for participants with symptoms of an acute illness.

(b) *Toilet facilities.*

- (1) A program site will have toilets located and equipped so participants can use them independently and program staff can monitor as needed.
- (2) An adequate number of lavatories will be provided.

(c) *Sanitation.*

- (1) An indoor program site will have adequate light, ventilation, air conditioning, and heat.
- (2) A program site will have an adequate supply of water, and water will be supplied to the participants in a safe and sanitary manner.

Secs. 32-294--32-299. Reserved.

ARTICLE XIII. BUFFALO BAYOU PARK

Sec. 32-300. Definitions.

The following words, terms and phrases, when used in this article, shall have the meaning ~~ascribed~~ assigned to them in this section.

BBP means the Buffalo Bayou Partnership, a Texas non-profit corporation, or its permitted successor under that certain Construction, Operation and Maintenance Agreement approved by City of Houston, Texas, Ordinance No. 2011-1166 (Dec. 14, 2011).

Buffalo Bayou Park means a publicly dedicated park adjacent to Buffalo Bayou and generally between Memorial Drive and Glenwood Cemetery on the north, Sabine Street on the east, Allen Parkway on the south, and Shepherd Drive on the west.

Sec. 32-301. Buffalo Bayou Park.

(a) The director delegates authority to BBP to permit special uses, including exhibits of art, in Buffalo Bayou Park. Such delegation of authority shall end upon BBP's written notice of rejection of such authority to the director.

(b) BBP shall have the right to grant consents for offering anything for sale or barter, or to exhibit anything, or to conduct any amusement, recreational activity, sports event, or other business for which any participation or admission fee is charged or revenue is otherwise derived, within Buffalo Bayou Park.

(c) Notwithstanding section 32-7(a) of this Code, revenues derived from Buffalo Bayou Park, including user fee revenues related to special events but excluding other revenues related to special events as defined in section 25-2 of the Code, shall be deposited in accounts managed by the BBP for the sole benefit of Buffalo Bayou Park.

(d) BBP shall have the authority of the director under section 32-8 of the Code to grant written consent for concessions in Buffalo Bayou Park.

(e) BBP shall have the authority of the director under section 32-10 of the Code with respect to the approving applications for and permitting the maintenance or adoption of natural areas in Buffalo Bayou Park.

(f) ~~Skateboarding and scooters, rollerblading and skating~~ are prohibited in Buffalo Bayou Park with the exception of the Lee and Joe Jamail Skateboard Park and adjacent Skater's Alley.

(g) Swimming is prohibited in Buffalo Bayou Park.

(h) BBP shall have the authority of the director under article IX of this chapter with respect to mobile food units ~~and under article X of this chapter with respect to motorized mobile vendors~~ food trucks in Buffalo Bayou Park.

(i) BBP shall have the authority to designate (i) areas in Buffalo Bayou Park where a permit shall be required to conduct a special event, ~~and~~ (ii) restricted use areas in Buffalo Bayou Park where certain types of special events shall not be permitted, and (iii) the allowable frequency of special events. BBP shall cause maps of such areas to be prepared ~~of such areas~~ and made available in the offices of the director and the director of the mayor's office of special events.

(j) Solely with respect to Buffalo Bayou Park, BBP shall have the concurrent authority with the director of the mayor's office of special events to deny a permit pursuant to section 25-7 of the Code.

(k) Solely with respect to Buffalo Bayou Park and in addition to any deposit levied by the city, BBP may levy a security deposit to protect Buffalo Bayou Park from damage and BBP from unpaid services BBP may be required to provide to protect the park and public safety, with such security deposit paid to BBP.

(l) Solely with respect to Buffalo Bayou Park, BBP and the director of the mayor's office of special events shall establish insurance requirements and indemnification requirements for special uses, special events and other activities.

(m) Solely with respect to Buffalo Bayou Park, BBP and director of the mayor's office of special events shall be required to coordinate the schedules of special uses, special events and other activities.

(n) The provisions of this article XIII shall terminate when BBP is no longer under contract with the city for the operation of Buffalo Bayou Park.