

ORDINANCE NO. _____

ORDINANCE DESIGNATING AND APPROVING VARIOUS USES AND PURPOSES FOR THE CITY'S PARK, KNOWN AS OVERTON PARK PURSUANT TO SECTION 579.1 OF THE CHARTER AND TO RATIFY THE MARCH 1, 2016 MEMPHIS CITY COUNCIL RESOLUTION DESIGNATING AND APPROVING VARIOUS USES AND PURPOSES FOR THE CITY'S PARK, KNOWN AS OVERTON PARK AS MODIFIED BY THIS ORDINANCE NUNC PRO TUNC TO THE EFFECTIVE DATE OF SAID RESOLUTION

WHEREAS, the City's Charter grants the Memphis City Council the sole authority to acquire and dedicate lands for park purposes and to create a Park Commission or a separate division of City government to manage and maintain all parks, playgrounds, recreational areas or centers, park or recreational facilities, parkways, boulevards, devices, concessions or any properties, projects, budgets or operations now or at any time devoted to or designated for use or used for park purposes or as part of the park system within the City subject to the rules, regulations and limitations adopted by the Council from time to time.

WHEREAS, the Memphis City Council has by ordinance rescinded the authority, jurisdiction and control of the Memphis Park Commission over parks, playgrounds, recreational areas or centers, park or recreational facilities, parkways, boulevards, devices, concessions or any properties, projects, budgets or operations now or at any time devoted to or designated for use or used for park purposes and transferred such authority, jurisdiction and control to a newly created division of City government now known as the Division of Park Services;

WHEREAS, the City's Charter grants the Memphis City Council full power and authority at any time and from time to time to provide by ordinance or resolution the rules, regulations and provisions to govern the control, maintenance, management, conduct or operation by the City of any of the parks, playways, playgrounds, recreational centers or park or recreational facilities, devices, concessions or any properties, projects or operations now

or at any time devoted to or designated for use or used for park purposes or as part of the park system of the City of Memphis;

WHEREAS, the City's Charter expressly grants the Memphis City Council full power and authority from time to time by resolution or ordinance to limit, restrict and to change or entirely terminate the use or operation of any parks, playways, playgrounds, recreational centers or park or recreational facilities, devices, concessions or any properties, projects or operations now or at any time devoted to or designated for use or used for park purposes;

WHEREAS, Overton Park is a part of the Memphis Park System and is presently subject to multiple separate and distinct uses;

WHEREAS, the Memphis City Council does hereby desire to provide for the uses and operations authorized within the City's park, now known as Overton Park, to insure that the City's park is available for the peaceful use, pleasure and recreation of all citizens of the City and all visitors of the City;

WHEREAS, the Memphis City Council did by Resolution adopted March 1, 2016 designate and approve Various Uses And Purposes For The City's Park, Known As Overton Park (the "Resolution") and directed the Council's attorney to procure the necessary surveys and/or legal descriptions of the certain areas designated therein and make a record of such legal descriptions of those areas designated in the Resolution;

WHEREAS, the Memphis City Council does desire, by this Ordinance, to record more detailed legal descriptions of the areas designated and approved by the Council in the Resolution and to restate its designation and approval as hereinafter set forth.

NOW, THEREFORE, BE IT ORDAINED BY THE MEMPHIS CITY COUNCIL AS FOLLOWS:

1. **Findings.** The Council finds that

- a) Presently, Overton Park is used to house a zoo, a college of art, an outdoor entertainment complex, a museum of art, a golf course and City buildings and facilities and is also used for general recreation purposes.
- b) Unlike most neighborhood parks in the City, many of the uses in Overton Park are designed to attract usage by Memphians from all areas of the City and by visitors from the Memphis, TN-MS-AR Metropolitan Statistical Area and beyond.
- c) The Zoo, for example has the greatest usage by citizens and visitors of any of the other various activities in the Park;

2. **Allocation of Uses of Overton Park.** In order to guide the long-range planning for the development, preservation and protection of all the present uses of the City's Park, now known as Overton Park, the Council does hereby specifically delineate define and regulate the various areas of the City's Park and the uses and operations authorized in such delineated areas. The overview of the allocate uses is reflected on Exhibit "A" attached hereto and made a part hereof by reference. To extent the Council is not in possession of a legal description prepared by a licensed engineer for any parcel the areas delineated on Exhibit "A" shall control until a conforming legal description is prepared.

3. **The City's Zoo.** The area described on collective Exhibit "B" attached hereto and incorporated herein by reference, but specifically excluding Rainbow Lake, shall be devoted for zoo purposes only and may house and be used for zoo operations, parking and appurtenant buildings and facilities, except that no capital additions, removal of trees or shrubs, permanent improvements, paving, plantings or permanent structures to that portion of the Greensward identified on Exhibit "B" shall be made by the City or any other person or

entity without the prior consent and approval of the Memphis City Council.

4. **The Brooks Museum of Art.** The area defined on Exhibit "C" attached hereto and incorporated herein by reference shall be devoted for use as an art museum only and may house and be used for museum operations, ancillary activities, parking and appurtenant buildings and facilities. The parking area described, identified and/or shown on Exhibit "C" may be used by the museum as and when needed on a priority basis to the exclusion of all other uses and without interference from any other person or entity.

5. **The Memphis College of Art.** The area defined on Exhibit "D" attached hereto and incorporated herein by reference shall be devoted for use by the Memphis College of Art only and may house and be used for its operations, parking and appurtenant buildings and facilities.

6. **The Levitt Shell.** The area defined on Exhibit "E" attached hereto and incorporated herein by reference shall be devoted for use as an outdoor entertainment facility and for general recreational usage when it is not being used for outdoor entertainment purposes and may house and be used for outdoor entertainment operations, parking and appurtenant buildings and facilities.

7. **The Overton Park Golf Course.** The area described on Exhibit "A" presently used by the City as a nine (9) hole municipal golf course, but excluding the forest areas shall continue to be devoted for use by the City for that purpose and may house its operations, parking and appurtenant buildings and facilities.

8. **City Buildings and Fire Station.** The area defined on Exhibits "A" and "F" attached hereto and incorporated herein by reference shall be devoted exclusively for City purposes and operations as the City administration shall determine from time to time.

9. **General Recreation Areas.** All areas not heretofore dedicated in this Ordinance for uses by the

City's zoo, art museum, education facilities, outdoor entertainment, golf and municipal operations shall be devoted exclusively for general recreation uses and purposes, including parking and appurtenant buildings and facilities.

10. **Zoo Operations.** The Council does hereby ratify, affirm and approve in all respects the right and authority of the operators and patrons of the City's Zoo to use the portion of the Greensward described, identified and/or shown on Exhibit "B" for parking as and when needed on a priority basis to the exclusion of all other uses and without interference from any other person or entity.

11. **Prior Agreements and Directives.** Except as set forth in paragraph 12 hereof, any contracts, agreements, understandings, orders, regulations, pronouncements, and resolutions now in existence, relating to Overton Park shall not be affected by this Ordinance.

12. **Conflicting Provisions.** This Ordinance establishes prescribed uses and regulations for designated areas of the park. Notwithstanding paragraph 11 hereof to the contrary, any and all contracts, agreements, understandings, orders, regulations, pronouncements, and resolutions that prescribe uses for the park or any portions thereof that are inconsistent with or in conflict with the uses of the park prescribed by this Ordinance are hereby declared rescinded, revoked and ineffective to the extent of such conflict or inconsistency. As modified by this Ordinance, the Resolution is hereby superceded and replaced.

13. **Effective Date.** This Ordinance shall take effect from and after the date it shall have been passed by the Council, signed by the Chairman of the Council, certified and delivered to the Office of Mayor in writing by the comptroller and become effective as otherwise provided by law. From and after the effective date of this Ordinance, the Division of Park Services shall see that the provisions of this Ordinance are observed and enforced to

insure the peaceful use and enjoyment of the City's Park, now known as Overton Park, by all of the City's citizens and by all of its visitors for the use and purposes herein delineated.

14. **Modification.** The uses prescribed by this Ordinance may be amended or modified only by resolution or ordinance of the Council that expressly identifies the portion or portions of this Ordinance that are being modified or changed.

15. **Headings.** Any headings preceding the text of the several paragraphs and sections hereof shall be solely for convenience of reference and shall not constitute a part of this Ordinance, nor shall such headings affect the meaning, construction or effect of the text of this Ordinance.

16. **Future Park Developments.** Nothing in this Ordinance precludes all the various managers of portions of the Park or the City Administration from discussing and jointly presenting to the Council for approval potential enhancements to the park as a whole. In fact, the Council encourages such discussions and interactions.

16. **Severability.** The provisions of this Ordinance are hereby severable. If any of the sections, provisions, sentences, clauses, phrases, or parts are held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

Sponsor:
Kemp Conrad

KEMP CONRAD
CHAIRMAN

MAPS AND LEGAL DESCRIPTIONS TO BE PROVIDED BEFORE
ADOPTION OF ORDINANCE