

**ORDINANCE NO. 1313-2021**

**AN ORDINANCE DECLARING A 90-DAY MORATORIUM ON THE ACCEPTANCE OF APPLICATIONS FOR THE ISSUANCE OR RENEWAL OF PERMITS FOR NEW CONSTRUCTION OR REMODELING OF CERTAIN COMMERCIAL DEVELOPMENT IN THE CITY; DIRECTING CITY STAFF TO CONSIDER APPROPRIATE ZONING AND OTHER DEVELOPMENT REGULATIONS FOR SUCH DEVELOPMENT AND CONSTRUCTION; PROVIDING THAT THE CITY COUNCIL SHALL STUDY THE REPORT OF CITY STAFF CONCERNING THE NEED FOR ADOPTION OF NEW OR AMENDED REGULATIONS APPLICABLE TO SUCH DEVELOPMENT; PROVIDING A PROCEDURE FOR A VARIANCE FROM THIS MORATORIUM; AND PROVIDING THAT THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY UPON PASSAGE.**

**WHEREAS**, the City of River Oaks, Texas is a Home Rule municipality located in Tarrant County, created in accordance with the provisions of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

**WHEREAS**, the City Council believes that this corridor is a gateway to the City of River Oaks, and particular attention should be given to the quantity, quality, type, and aesthetics of any commercial development that occurs in the corridor; and

**WHEREAS**, the City Council has determined that applying existing development ordinances and regulations and other applicable laws are inadequate to prevent impending new development in the River Oaks Boulevard area from being detrimental to the public health, safety and welfare of the residents of River Oaks; and

**WHEREAS**, the City Council desires to allow reasonable development in the vicinity of River Oaks Boulevard, while temporarily maintaining the status quo with regard to new development or construction until such time as the City Council has had a reasonable opportunity to allow city staff to make recommendations concerning new development regulations and to take appropriate action on those recommendations as may be required to protect the public health, safety and welfare; and

**WHEREAS**, the City Council finds a 90-day moratorium placed on the issuance or renewal of permits for new development or construction for commercial property is a minimally intrusive method of maintaining the status quo until such review can be completed; and

**WHEREAS**, the City Council has directed staff to review current City regulations concerning development along River Oaks Drive Commercial zone and to make recommendations to the City Council on the possible adoption of new or amended regulations concerning such development; and

**WHEREAS**, the City Council desires to maintain the status quo within the commercial

zone along River Oaks Boulevard until such time as the City Council has had a reasonable opportunity to review the recommendations of staff concerning the adoption of new or amended regulations and to take appropriate action as may be required to protect the public health, safety and welfare; and

**WHEREAS**, the City Council finds a 90-day moratorium placed on the issuance or renewal of permits for new development or construction for commercial development is a minimally intrusive method of maintaining the status quo until such review can be completed; and

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIVER OAKS, TEXAS:**

### **SECTION 1.**

Effective immediately and for a period of Ninety (90) days, no application for re-zoning, or a new permit or renewal of a permit for development, new construction, alteration or re-modeling shall be accepted for commercial uses, and no permit shall be issued for development, new construction, alteration, or re-modeling of property for commercial uses that is located within the commercial zone abutting River Oaks Boulevard, more particularly described as all "C-2" Commercial zoned properties within the city limits of River Oaks, Texas, and being situated along the River Oaks Boulevard corridor, as more particularly defined and depicted in Exhibit "A[F1]," and no person or entity may engage in any development, new construction, alteration or re-modeling of real property for commercial uses in that area during such period. Provided, however, that this moratorium shall not apply to construction of roads, streets, sidewalks and other public facilities by the City, County, State or federal governments. The term "permit" as used in this ordinance shall mean a license, certificate, approval, registration, consent, permit or other form of authorization required by law, rule, regulation or ordinance that must be obtained by a person or entity in order to perform an action or development or initiate a project for which the permit is sought. The term "Commercial uses" as used in this ordinance shall mean the following uses listed in Sections 14, 15, and 16 of the Code of the City of River Oaks, Chapter 14, Exhibit A, Zoning Ordinance:

- (A) cigar or tobacco stores, Section 14(B)(8),
- (B) massage establishments, Section 14(B)(32).
- (C) public garages for care or repair of automobiles, Section 15(B)(14), which includes body and tire repair shops;
- (D) body piercing studios, Section 15(B)(32);
- (E) tattoo studios, Section 15(B)(33);and
- (F) pawn shops, Section 16(B)(6).

The term “Commercial uses” as used in this ordinance also includes:

- (G) laundromats and washeterias;
- (H) automated teller machines not associated with a primary use on the property;
- (I) predatory lending businesses, including check cashing businesses, payday advance/loan businesses, and car title loan businesses (excluding state or federally chartered banks, savings and loan associations or credit unions);
- (J) retail tire shops; and
- (K) retail establishments primarily selling vape or vaping devices

The term shall also include uses or businesses which, in the opinion of the zoning administrator, is substantial similar to any of the above-listed uses or businesses, even if the use or business does not expressly fall within the definition from the City’s zoning ordinance. If a use or business is new or unlisted in the City’s zoning ordinance it is presumed to be a commercial use under this ordinance until otherwise classified as provided in Chapter 14, Appendix A, Zoning Ordinance.

## **SECTION 2.**

The purpose of this moratorium is to maintain the status quo regarding development, construction, alteration and remodeling on real property located within the area referenced above until such time as the City has reviewed and, if necessary, amended its regulations applicable to development, construction, alteration and remodeling activities for commercial uses in the corridor.

## **SECTION 3.**

The City Council finds that application of the City’s existing commercial development regulations is inadequate to prevent the new development from being detrimental to the public health, safety or welfare of the residents of the City. The City Council finds that possible adverse effects of commercial development in the area referenced above could occur if such development is allowed to proceed prior to implementation of a long-range development plan to regulate land uses and construction standards. These adverse effects would include the expansion or creation of uses and structures that are incompatible with anticipated development within the area referenced above, which would lead to reduction in property values, impairment of economic development, urban blight, diminishment in the quality of residential life within the City, and other adverse effects. By studying and adopting development regulations and planning

standards for properties within the area referenced above, the City Council seeks to eliminate or minimize such potentially adverse effects on the public health, safety and welfare.

#### **SECTION 4.**

The city staff is hereby directed to continue the consideration of possible amendments to the development standards and regulations for the area referenced above and to make recommendations to the City Council as expeditiously as possible with regard to any such amendments.

#### **SECTION 5.**

Any person that believes that the imposition of this moratorium causes a unique and unreasonable hardship upon their business shall have the right to request a variance to the provisions of this moratorium. A person seeking a variance shall submit a written request to the City Council through the City Secretary's office. The request must provide the following information:

- (1) a description of the property to be covered by the variance; and
- (2) a detailed description of the proposed improvements to the property; and
- (3) an explanation as to why the application of the moratorium is unreasonable as applied to the applicant's property; and
- (4) a description of any negative impacts created by the moratorium provision.

The City Secretary's office shall place the request for a variance on the agenda of the City Council for consideration at a public meeting. The applicant shall receive written notice of the date of the proposed hearing on the variance request. The city staff shall not be required to provide written notice of the variance request to any other individual or entity. On the date that the item is set for hearing, the City Council shall conduct a public hearing on the variance request giving any individual who desires to present information or evidence to the City Council on the appropriateness or inappropriateness of the variance the opportunity to appear before the City Council and present such information. At the conclusion of the hearing, the City Council, by majority vote, may approve a variance to the provisions of this moratorium ordinance or may deny the request for a variance.

#### **SECTION 6.**

This ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of River Oaks, Texas, as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event the conflicting provisions of such ordinances and such Code are hereby repealed.

## **SECTION 7.**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

## **SECTION 8.**

All rights and remedies of the City are expressly saved as to any and all violations of the provisions of the City Code amended or revised herein, or any other ordinances affecting the matters regulated herein which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

## **SECTION 9.**

The City Secretary of the City of River Oaks is directed to publish the caption, penalty clause, publication clause and effective date of this Ordinance to the extent required by law.

## **SECTION 10.**

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be fined no more than Two Thousand Dollars and no cents (\$2,000.00) for each violation of this Ordinance. Each day that a violation is permitted to exist shall constitute a separate offense.

## **SECTION 11.**

This ordinance shall be in full force and effect from and after its passage, and the penalty provisions of this ordinance shall be in full force and effect from and after its publication as required by law, and it is so ordained.


## **SECTION 12.**

This moratorium shall remain in effect until such time as the City Council has had a reasonable opportunity to consider and act upon appropriate regulations governing commercial development within the commercial zone abutting River Oaks Boulevard. Upon final adoption of an ordinance or ordinances adopting appropriate development standards or regulations, or upon a determination by the City Council that such development standards or regulations are not

necessary, this moratorium shall expire. This moratorium shall automatically expire ninety (90) days from the date of its adoption, unless it is specifically extended by additional City Council action for an additional period of time not to exceed ninety (90) additional days.

**PASSED AND APPROVED ON this 15<sup>th</sup> day of JUNE 2021.**

BY:

  
\_\_\_\_\_  
Mayor Joe Ashton

ATTEST:

  
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City Secretary

# Exhibit A

