

ORDINANCE NO. 1277-2020

AN ORDINANCE AMENDING CHAPTER 8 "OFFENSES AND NUISANCES" OF THE RIVER OAKS CODE OF ORDINANCES AS AMENDED INCORPORATING ARTICLE 8.08 "UNAUTHORIZED CAMPING PROHIBITED" ABATING NUISANCES RELATED TO UNAUTHORIZED CAMPING ON PRIVATE PROPERTIES; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL PRIOR ORDINANCES AND REPEAL CONFLICTING ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER OF THE CITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of River Oaks ("City") seeks to provide for the health, safety and welfare of its citizens; and

WHEREAS, the City has authority pursuant to its police powers as a home-rule municipal corporation to adopt and enforce ordinances and regulations to protect the health, welfare, and safety of the public; and

WHEREAS, unauthorized camping frequently results in the deposit, storage, discharge, and improper disposal of human excreta, wastewater, garbage, and other organic wastes; and

WHEREAS, as reflected in section 341.011 of the Texas Health and Safety Code, the Texas Legislature has declared sewage, human excreta, wastewater, garbage, or other organic wastes deposited, stored, discharged, or exposed in such a way as to be a potential instrument or medium in disease transmission to a person or between persons to be a public health nuisance; and

WHEREAS, the debris and paraphernalia associated with unauthorized camping may provide harborage to rodents and other vectors that carry and transmit disease and may be innately harmful to people and property; and

WHEREAS, unauthorized camping is associated with both the presence of flammable debris and the making of campfires in unsuitable vessels or in areas that are not properly cleared, all of which pose hazards for wildfires and structural fires that endanger nearby properties; and

WHEREAS, unauthorized camping is a source of visual blight that diminishes the appeal and perceived value of both the subject property and those around it, diminishing incentives for owners and occupants of adjacent properties to maintain their own property, and exacerbating challenges to impacted areas; and

WHEREAS, unauthorized camping most frequently occurs on unattended or vacant properties; and

WHEREAS, it is in the legitimate interest of the City of River Oaks to protect the health, safety, and welfare of its citizens by setting reasonable standards for the maintenance of private properties and by abating the nuisances related to unauthorized camping on private properties; and

WHEREAS, staff proposes furthering the protection of public health and safety by adding a prohibition on unauthorized camping to Chapter 8, "Offenses and Nuisances," of the River Oaks Code of Ordinances (2006), as amended, to reduce the incidents of unauthorized camping; and

WHEREAS, the proposed prohibitions are intended to provide law enforcement the necessary tools to remove unauthorized persons from commercial and residential property where camping is not allowed, regardless of whether the owner cannot be located or is unavailable; and

WHEREAS, in instances involving authorizing camping, law enforcement officers intend to make reasonable efforts to obtain compliance by informal means, including directing individuals to leave the property and, where appropriate, making referrals to social service providers such as emergency medical treatment, mental health treatment, and other social services, including temporary shelter, drug or alcohol rehabilitation; and

WHEREAS, the River Oaks City Council finds it advisable to adopt the Police Chief's recommendations.

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

SECTION 1.

Chapter 8, "Offenses and Nuisances" of the River Oaks Code of Ordinances (2006), as amended, is hereby revised incorporating Article 8.08 "Unauthorized Camping Prohibited" to read as follows:

"ARTICLE 8.08 "UNAUTHORIZED CAMPING PROHIBITED.

§ 8.08.001 *Terms defined. In this section:*

AUTHORIZATION. Express written permission given by the property owner or the owner's agent.

EDUCATIONAL INSTITUTION Any private school, including a parochial school that offers a course of instruction for students in one or more grades from kindergarten through grade 12, or a private college or university.

CAMP. To reside, dwell, or otherwise remain temporarily in a place, using Transitory Shelter.

GOVERNMENTAL ENTITY. Any federal, state or local government, including, but not limited to, a municipality, county, unit of state government, public school district, junior college district or special purpose district.

NON-RESIDENTIAL. Any property or area within the territorial limits of the City that is not included in a Residential District as defined in the Zoning Ordinance or that is used for a commercial use.

PRIVATE PROPERTY. Property or an area that is owned by an entity or individual that is not a Governmental Entity or Educational Institution.

RESIDENTIAL. Any property or area within the territorial limits of the City that is located in a Residential District as defined in the Zoning Ordinance including vacant residentially-zoned lots.

TRANSITORY SHELTER. Without limitation, any vehicle or motor vehicle, including recreational vehicles and truck-tractors, any tent, tarpaulin, lean-to, sleeping bag, bedroll, blankets, or any form of cover or protection from the elements other than clothing. A recreational vehicle, semi-truck, or tractor trailer lawfully parked at a truck stop with fuel and accessory services shall not be considered Transitory Shelter for the purpose of this Section.

8.08.002 *Prohibition.* It shall be unlawful for any person to camp upon any:

ⓐ non-residential private property without possessing authorization of the property owner or the owner's agent;

ⓑ residential private property that has no permanent dwelling, or that is lacking a potable water source and toilet facilities, without possessing authorization of the property owner or the owner's agent; or

ⓒ residential private property that has a permanent dwelling and both potable water source and toilet facilities, without possessing authorization of the property owner or the owner's agent.

8.08.003 *Defenses.* It is an affirmative defense to prosecution that a person charged with violation of this section owns the property.

8.08.004 *Penalty.* Any person violating the provisions of this section shall be guilty of a misdemeanor and shall be punished by a fine not to exceed \$500.

8.08.005 Subject to City Codes and Ordinances: Any property on which camping occurs shall be subject to all other ordinances of the City of River Oaks, including those related to zoning and health and safety.

SECTION 2.

CUMULATIVE

This Ordinance shall be cumulative of all provisions of Ordinances of the city, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 3.

SAVINGS

That all rights or remedies of the City of River Oaks, Texas, are expressly saved as to any and all violations of the City Code, or any amendments thereto that 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, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 4.

SEVERABILITY

It is hereby declared to be the intentions 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 5.

PENALTY

In accordance to Section 1.01.009, "General penalty for violations of code; continuing violations", of the City of River Oaks Code of Ordinances (2006) as adopted and as amended; whenever in this code or in any ordinance of the city an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, the violation of any such provision of this code or any such ordinance shall be punished by a fine of not exceeding five hundred dollars (\$500.00). Each day any violation of this code or of any ordinance shall continue shall constitute a separate offense.

SECTION 6.

PUBLICATION

The City Secretary of the City of River Oaks is hereby directed to publish in the official newspaper the caption, savings clause, penalty clause, publication clause and effective date clause of this ordinance one (1) time after the adoption of this ordinance as authorized by Chapter 5, Section 5.02(c) of the Charter of the City of River Oaks.

SECTION 7.

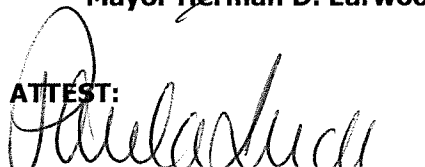
EFFECTIVE DATE

This ordinance shall take effect after adoption and publication as required by law.

PASSED AND APPROVED THIS THE 12th DAY OF MAY 2020.


Mayor Herman D. Earwood

ATTEST:


Paula Luck
City Secretary
City of River Oaks