

ORDINANCE # 1294-2020

AN ORDINANCE AMENDING ARTICLE 4.05 "YARD SALES" SPECIFICALLY UNDER SECTION 4.05.007 "REVOCATION AND REFUSAL OF PERMIT" REVISING SECTION 4.05.007(2) OF THE RIVER OAKS CODE OF ORDINANCES FROM BEING CONVICTED OF AN OFFENSE TO BEING FOUND IN VIOLATION OF AN OFFENSE; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of River Oaks is a home rule City acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, being convicted of an offense means that the violator has been summoned to court and the Municipal Court Judge found them guilty; and

WHEREAS, being found in violation means the code enforcement officer upon investigation has found that person or persons are in violation whether or not a citation was issued and has notified the person by proper notification that they are in violation and are subject to further enforcement action; and

WHEREAS, the City Council has determined after due and careful consideration that the words in Section 4.05.007(2) should be revised from conviction to violation based on Staff's recommendation.

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

SECTION 1.

That Article 4.05, "Yard Sales" of the City of River Oaks Code of Ordinances (2006) with the adoption of this ordinance, Section 4.05.007 "Revocation and refusal of permit" specifically under Section 4.05.007 (2) is amended by revising 4.05.007 number (2) to now read as follows:

Section 4.05.007 "Revocation and refusal of permit"

"A permit shall be issued if a proper application is submitted and the applicant has not already been issued two permits during the calendar year, except that:

- (1) The city manager or his designee may revoke any permit or refuse any application for the issuance of a permit if the application submitted by the applicant or permit holder contains any false, fraudulent or misleading information.
- (2) If any person is found to be in violation of an offense under this article, that person and any person residing in the same residence may not obtain a permit for a yard sale until the expiration of 12 consecutive months from the date of violation."

**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.
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 4.
SAVINGS**

All rights and remedies of the City of River Oaks are expressly saved as to any and all violations of the provisions of the City of River Oaks Code of Ordinances as adopted and as amended or any other ordinances affecting yard or garage sales 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 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 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.

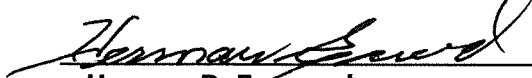
**SECTION 6.
PUBLICATION**

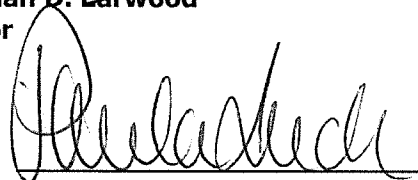
The City Secretary of the City of River Oaks is hereby directed to publish in the official newspaper the caption, savings clause, penalty clause, publication clause and effective date clause of this ordinance one (1) time after the adoption of this ordinance as authorized by Chapter 5, Section 5.02(c)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

**SECTION 7.
EFFECTIVE DATE**

This Ordinance shall be in full force and effect after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED THIS THE 27th DAY OF OCTOBER, 2020.


Herman D. Earwood
Mayor

ATTEST: 
City Secretary