

ORDINANCE NO. 1356-2022

AN ORDINANCE AMENDING CHAPTER 8 "OFFENSES AND NUISANCES" OF THE RIVER OAKS CODE OF ORDINANCES (2006) AS ADOPTED AND AS AMENDED BY INCORPORATING SECTION 8.11 "AGGRESSIVE PANHANDLING OR SOLICITATION" DEFINING UNLAWFUL AGGRESSIVE BEHAVIOR AND DECLARING PANHANDLING OR SOLICITATION TO BE UNLAWFUL WITHOUT PERMISSION OR CONSENT OF THE PROPERTY OR BUILDING OWNER; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; 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, Texas 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, there has been an influx of transient population brought on by the new Fort Worth Homeless Transition Housing Facility; and

WHEREAS, in addition, a large homeless population has set up camps in the wooded areas behind Walmart on Jacksboro Highway; and

WHEREAS, in response to repeated criminal trespass, theft, and intoxicated persons calls located specifically in these areas, our officers have requested assistance to help control the nuisances; and

WHEREAS, it is the consensus of the city council to do everything possible to protect the health, safety and general welfare of the public and do support the concerns of the police officers that additional enforcement action needs to be implemented to help control any possible nuisance that might be instrumental in the increase of criminal activity.

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

SECTION 1.

Chapter 8 "Offences and Nuisances" of the River Oaks Code of Ordinances as adopted and as amended be hereby revised by incorporating Article 8.11 "Aggressive Panhandling or Solicitation" into Chapter 8 to read as follows:

"Article 8.11 "Aggressive Panhandling or Solicitation"

Section 8.11.001 Definitions

Aggressive Manner, Aggressive Behavior or Aggressively. As related to soliciting, begging and panhandling means:

- a. Using violent or threatening gestures toward a person solicited;
- b. Continuing to solicit from a person after the person has given a negative response to such soliciting;
- c. Intentionally touching or causing physical contact with another person without that person's consent in the course of soliciting;

d. Intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including causing a pedestrian or vehicle operator to take evasive action to avoid physical contact;

e. Soliciting money from anyone who is waiting in line for tickets, for entry to a building or for any other purpose;

f. Approaching or following a person for solicitation individually or as part of a group of two or more persons, in a manner and with conduct, words, or gestures intended or likely to cause a reasonable person to fear imminent bodily harm or damage to or loss of property or otherwise to be harassed or intimidated into giving money or other thing of value; or

g. Soliciting, begging or panhandling of minors less than 16 years of age.

Automated Teller Machine. A device, linked to a bank or financial institution's account records, which is able to carry out transactions, including, but not limited to: account transfers, deposits, cash withdrawals, balance inquiries, and mortgage and loan payments which are made available to banking customers.

Bank. A bank, savings bank, savings and loan association, credit union, trust company, or similar financial institution.

Check Cashing Business. An entity in the business of cashing checks, drafts, or money orders for consideration.

Parking Meter or Parking Pay Station. A location on a street, parking lot or parking garage where persons pay, for parking by either cash or credit, to a person or at a machine or other device designed to accept payment for parking.

Private Building. Shall be deemed to include, but is not limited to, retail or service establishments, such as restaurants, convenience food stores, laundromats, service stations, hotels, offices, and similar privately owned establishments open to the public. This term does not include any building owned, leased or operated by the federal or state government, political subdivisions thereof, municipalities, special districts, any public administration board or authority of the state.

Public Area. An area to which the public has access and includes, but is not limited to, the common area of a hospital, apartment house, office building, transport facility, shop, basement, building entrance or doorway, lobby, hallway, stairway, mezzanine, elevator, foyer, public restroom or sitting room or any other place used in common by the public, tenants, occupants or guests situated in any private building.

Public Place. A place to which a governmental entity has title to which the public has access, including, but not limited to any street, highway, sidewalk, walkway, parking lot, plaza, transportation facility, school, place of amusement, park, or playground.

Solicit, Ask, Beg or Panhandle. To request, by the spoken, written, or printed word, or by other means of communication an immediate donation or transfer of money or another thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value, and regardless of whether consideration is offered.

Section 8.11.002 Offenses

A person commits an offense if the person solicits:

- (1) In an aggressive manner in a public area or public place; or
- (2) Within 20 feet of the following areas where the public is considered vulnerable or where solicitation would interfere with the flow of pedestrian or motor vehicle traffic:

- a. An automated teller machine;
 - b. The entrance or exit of a bank;
 - c. The entrance or exit of a check cashing business;
 - d. An authorized charitable contribution activity;
 - e. A parking meter or parking pay station on a street;
 - f. A public parking garage or parking lot pay station;
 - g. The entrance or exit of a restaurant or the service area of an outdoor eating establishment;
 - h. In a bus, at a bus station or stop, or at a facility operated by a transportation authority for passengers including but not limited to any school bus stop;
 - i. A marked crosswalk; or
 - j. An entrance of a commercial or government building.
- (3) Within five feet of a curb or edge of a street;
 - (4) Within 50 feet from any land owned by a public or private school and used in whole or in part for providing education services to elementary age children;
 - (5) Within ten feet of a gas station, liquor store, or convenience store property;
 - (6) In a public restroom; or
 - (7) At a public event that is operating by permit issued by the city at city parks as defined in the city Code.

Section 8.11.0003 Private Property.

(a) No person may solicit, ask, beg or panhandle on private property or residential property without permission from the owner or occupant.

(b) It shall be unlawful for any person to:

(1) Solicit, ask, beg or panhandle, as those terms are defined in this chapter, in any public room in any private building, without the written permission or consent of the building's owner or managing and authorizing agent. For the purpose of enforcement of this subsection, it is presumed that if the owner, lessee, managing agent or other person in charge of a building prominently displays a sign as provided in subsection (c), then the activities declared unlawful in this section are deemed to be without the permission or consent of the building's owner, lessee, managing agent or other person.

(2) Solicit, ask, beg or panhandle, as those terms are defined in this chapter, on any private property where the owner, lessee, managing agent or other person in charge of such property displays a sign as provided in subsection (c).

(c) *Conspicuous notice.* To invoke the protections afforded under this section, each owner, lessee, managing agent or person in charge of the operation of a private building or private property shall prominently display a sign on the premises, such as the lobby or entrance of the private building or private property, where it may be read by any person going in or out of the building or private developed property stating generally: "NO PANHANDLING PERMITTED SEC. 8.11 RIVER OAKS CODE OF ORDINANCES" "NO SOLICITORS" or "NO SOLICITATION."

(d) For purposes of subsection (b) in this Section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest point at which an unlawful act is conducted to the nearest portion to the items listed in subsection (b).

(e) The solicitation of contributions while standing on a traffic median, shoulder, improved shoulder, sidewalk, or the improved portion of the roadway from occupants of any vehicle on a roadway, street or thoroughfare shall only be permitted in compliance with the terms and conditions set out in Article 4.02

"Peddlers, Solicitors, and Itinerant Vendors" of the city code, provided they are not in an aggressive manner as defined in this section.

(f) Any person who engages in any activity specified in subsection (b), maybe subject to prosecution for a Class C misdemeanor and a fine not to exceed \$500."

SECTION 2.

CUMULATIVE CLAUSE

This Ordinance shall be Cumulative of all provisions of Ordinances and of the River Oaks Code of Ordinance, as amended, except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinances or Code, in which case the conflicting provisions of such Ordinances or Code are hereby repealed.

SECTION 3.

SEVERABILITY CLAUSE

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 (2020) or any other ordinances affecting Offenses and Nuisances 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 (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.

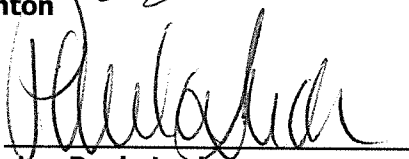
EFFECTIVE DATE

This Ordinance shall 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 23rd DAY OF AUGUST 2022.

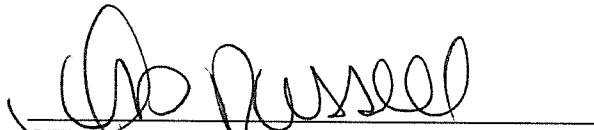


Mayor Joe Ashton

ATTEST: 

Paula Luck
City Secretary

APPROVED AS TO FORM AND LEGALITY:



CITY ATTORNEY