

## **ORDINANCE # 1421-2024**

AN ORDINANCE AMENDING CHAPTER 4 "BUSINESS REGULATIONS OF THE RIVER OAKS CODE OF ORDINANCES (2020) AS ADOPTED AND AS AMENDED SPECIFICALLY IN ARTICLE 4.05 "YARD SALES" UNDER SECTION 4.05.002 "DEFINITIONS" ADDING A DEFINITION FOR "CONSIGNMENT" AND IN SECTION 4.05.006 "REQUIREMENTS AND CONDITIONS" SUBSECTION (c) IN THAT A YARD SALE PERMIT SHALL ONLY BE ISSUED TO A WATER UTILITY ACCOUNT HOLDER OR AUTHORIZED USER NAMED ON THE ACCOUNT IN GOOD STANDING WITHIN THE CITY; UNDER SECTION 4.05.006 "REQUIREMENTS AND CONDITIONS" SUBSECTION (c) REQUIRING THAT A PERMIT FOR AN ESTATE SALE SHALL BE ISSUED ONLY ONCE WITHIN A CALENDAR YEAR WITHOUT SPECIAL PERMITTING FROM THE CITY COUNCIL TO THE UTILITY ACCOUNT HOLDER, AUTHORIZED USER ON THE UTILITY ACCOUNT OR AUTHORIZED CONTRACTED CONSIGNOR ON BEHALF OF THE RECORD PROPERTY OWNER; 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**, currently a yard sale permit shall only be issued to a water utility account holder, restricting permitting to any other authorized person listed on the account who normally would have account access privileges except when it comes to yard sale permits; and

**WHEREAS**, Staff is recommending that Article 4.05 "Yard Sales" be amended regarding yard sale permit issuance by also permitting authorized users on the water account to be able to obtain a yard sale permit; and

**WHEREAS**, Staff is also recommending that Article 4.05 "Yard Sales" also be amended by providing a definition for "Consignment" when pertaining to Estate Sales that are limited to once annually unless authorized by special permitting from the City Council; and

**WHEREAS**, Staff is also recommending that Article 4.05 "Yard Sales" also be amended regarding permit issuance for Estate Sales to include issuance to the Consignor that has a contractual agreement with the property owner or property owner representative to sell or dispose of personal property or other such belongings owned by a person who is recently deceased or who must dispose of their personal property to facilitate a move; and

**WHEREAS**, the City Council has determined after due and careful consideration that based on Staff's presentation that it is necessary to make the changes as recommended that in their opinion would simplify the yard or estate sales permitting process within the city for the residents and city staff alike.

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

### **SECTION 1.**

That Article 4.05, "Yard Sales" in Chapter 4 "Business Regulations" of the River Oaks Code of Ordinances (2020) with the adoption of this ordinance, specifically in Section 4.05.002 "Definitions" by adding the definition for "Consignment" and with the addition of that definition Section 4.05.002 shall now read as follows:

### **ARTICLE 4.05 YARD SALES**

#### **"Sec. 4.05.002 Definitions**

For the purpose of this article the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Consignment: When pertaining to an Estate sale means contracting with a professional to sell or auction personal property owned by a person who is recently deceased or who must dispose of their personal property to facilitate a move, which was owned, used and maintained by an individual or members of his or her residence acquired in the normal course of living and in return for their services, the third-party seller receives a percentage of the selling price.

Estate sale. An estate sale is a sale or auction to dispose of a substantial portion of the materials owned by a person who is recently deceased or who must dispose of their personal property to facilitate a move. An estate sale is limited to only once within a calendar year without special permitting from the city council.

Nonprofit yard sale. Occasional or general sales open to the public conducted from or on any property located in any commercial zone, as defined by the zoning ordinance, for the purpose of disposing of donated personal property for sale, including but not limited to all sales entitled garage, lawn, yard, patio, rummage or estate sale at which items are sold to benefit a nonprofit cause. A nonprofit yard sale does not include a sale of ten or less specific items if all advertisements of such sale specifically name each of those items to be sold.

Personal property. That which is owned, used and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence but does not include merchandise which was purchased or acquired for resale or obtained on consignment.

Residential yard sale. Occasional or general sales, open to the public, conducted from or on any property located in any residential zone, as defined by the zoning ordinance, for the purpose of disposing of personal property, including but not limited to all sales entitled garage, lawn, yard, patio, occasional, rummage or estate sale, but a residential yard sale does not include a sale of ten or less specific items if all advertisements of such sale specifically name each of those items to be sold."

## **Section 2.**

That Article 4.05, "Yard Sales" in Chapter 4 "Business Regulations" of the River Oaks Code of Ordinances (2020) with the adoption of this ordinance, specifically in Section 4.05.006 "Requirements and Conditions" by amending subsection (c) to now read as follows:

### **Sec. 4.05.006 Requirements and conditions**

" (c) A yard sale permit shall only be issued to a water utility account holder or authorized user named on the utility account in good standing within the city. The property address of the sale must correspond to the valid government issued picture identification document of the utility account holder. A yard sale permit shall not be issued for vacant lots where no principal structure is located unless otherwise approved by the city manager or his or her designee. An estate sale may be permitted when applied for by the executor or other person proven to be the responsible party for that property. A permit for an estate sale may not be issued at the same residence or dwelling more than once in a calendar year without the issuance of a special permit from the city council and permit issuance may also be extended by consignment to the Consignor that has a contractual agreement with the property owner or property owner representative to auction, sell or dispose of personal property or other such belongings owned by a person who is recently deceased or who must dispose of their personal property to facilitate a move."

**SECTION 3.  
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 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.  
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 (2006) 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 6.  
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 (2020) 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). However, a fine or penalty for the violation of a rule, ordinance or police regulation that governs fire safety, zoning or public health and sanitation other than dumping of refuse may not exceed two thousand dollars (\$2,000.00); a fine or penalty for the violation of a rule, ordinance, or police regulation that governs the dumping of refuse may not exceed four thousand dollars (\$4,000.00). Each day any violation of this code or of any ordinance shall continue shall constitute a separate offense.

**SECTION 7.  
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 8.  
EFFECTIVE DATE**

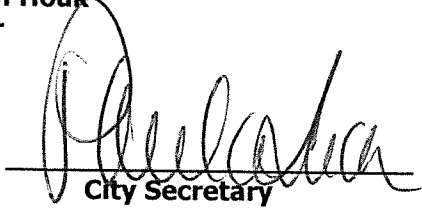
This Ordinance shall be in full force and effect after its passage and publication as required by law, and it is so ordained.

**PASSED AND APPROVED THIS THE 16th DAY OF APRIL 2024.**



**Darren Houk  
Mayor**

**ATTEST:**

  
**City Secretary**