

ORDINANCE NO. 1179-2018

AN ORDINANCE OF THE CITY OF RIVER OAKS, TEXAS AMENDING ARTICLE 6.03 “PROPERTY MAINTENANCE” OF THE RIVER OAKS CODE OF ORDINANCES (2006) THAT INCORPORATED DIVISION 3 “OUTSIDE STORAGE OF PERSONAL PROPERTY” WHICH PROHIBITS THE OUTSIDE STORAGE OF PERSONAL PROPERTY ON RESIDENTIAL PROPERTY IN THE CITY AS ADOPTED BY ORDINANCE 1161-2017; REVISING ARTICLE 6.03 “PROPERTY MAINTENANCE” DIVISION 3 “OUTSIDE STORAGE OF PERSONAL PROPERTY” CHANGING THE TITLE OF DIVISION 3 TO “OUTSIDE ACCUMULATION OF PERSONAL PROPERTY” AND INCORPORATING THE DEFINITION OF ACCUMULATION AND PROHIBITING THE ACCUMULATION OF PERSONAL PROPERTY; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS; PROVIDING A SAVINGS CLAUSE; 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 of Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City has authority under Section 217.042 of the Texas Local Government Code to define and prohibit any nuisance within the limits of the City and to enforce all ordinances necessary to prevent and summarily abate and remove a nuisance; and

WHEREAS, there appears to be inconsistencies with the ordinance as originally adopted involving whether the violation is for storage or for accumulation; and

WHEREAS, the City Council has determined that the accumulation of personal property stored outside in the view of the public is a public nuisance; and

WHEREAS, the City Council of the City of River Oaks has determined that it is in the best interest of the City to prohibit the outside storage of personal property in the view

of the public in the City.

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

SECTION 1.

Article 6.03 "Property Maintenance" of Chapter 6 of the River Oaks Code of Ordinances (2006) is hereby amended by changing the title of Division 3 "Outside Storage of Personal Property" to "Outside Accumulation of Personal Property" incorporating the definition of accumulation and prohibiting accumulation of personal property to now read as follows:

"Sec. 6.03.060 Outside Accumulation prohibited

(a) Outside accumulation of the personal property designated in subsection (b) is prohibited in the front or side yard on property within all residentially zoned districts and on property used primarily for residential purposes, including multifamily property. For the purpose of this section **Accumulation** is defined as being "a mass or quantity of something that has gradually gathered or been acquired.

(b) Outside Accumulation of the following items is prohibited:

- (1) Merchandise for sale;
- (2) Building materials (*except with a valid building permit with the City*);
- (3) Trash cans, trash containers, including trash bags, and recycling containers (*except when placed at street curb on collection days*);
- (4) Chemicals and supplies;
- (5) Inventory or supplies for a business;
- (6) Indoor Furniture, barbecue grills, including smokers, ice chests, and pet kennels;
- (7) Lawnmowers and other lawn care equipment;
- (8) Tools;
- (9) Boxes, bins, barrels and buckets;
- (10) Motor vehicle parts and accessories; including, but not limited to, engines, transmissions, electrical equipment, suspension parts, tires, hubcaps, camper shells, and other motor vehicle parts. For purposes of this section, a camper shell,

also sometimes referred to as a canopy, topper, cap, bed cap, box cap, or simply shell, is a small housing or rigid canopy used as a pickup truck or coupe utility accessory, including but not limited to tonneau/truck bed covers; and

(11) Unattended motor vehicles stored on jack stands or otherwise lifted from the ground or surface.

Sec. 6.03.061 Preclusion

Nothing in this article shall preclude the city from enforcing any nuisance, health and safety, or fire code violations that are screened from public view or exist anywhere on a property.

Sec. 6.03.062 Offense

It shall be an offense for a person to violate any provision of section 6.03.060. An offense under this section shall be a Class C misdemeanor punishable by a fine of up to \$500.00. Each day that a violation is committed or allowed to continue shall be a separate offense.

Sec. 6.03.063 Affirmative defenses

It is an affirmative defense to prosecution for an offense under section 6.03.062 that any of the following conditions apply:

- (1) For purposes of subsection 6.03.060(b)(1), that a valid garage sale permit was obtained prior to the sale of merchandise.
- (2) For the purposes of subsection 6.03.060(b)(2), that the building materials are used in active construction or demolition work performed on the property for which a permit has been issued by the city. Where materials are stored for work not requiring a permit, that the materials are stored no longer than single period of ten consecutive days within any six-month period.
- (3) For purposes of subsection 6.03.060(b)(6), that the barbecue grill or smoker is actively being used or is mounted to an attached trailer that is licensed and is capable of being operated on the public roadway."

Secs. 6.03.064-6.03.069 RESERVED"

SECTION 2.

This Ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinance 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 ordinance or such Code,

in which event the conflicting provisions of the other ordinances are hereby repealed.

SECTION 3.

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 4.

All rights and remedies of the City of River Oaks, Texas, are expressly saved as to any and all violations of the provisions of the Code of Ordinances of the City of River Oaks, Texas or any other ordinances affecting public 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.

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 not more than Two Thousand Dollars (\$2000.00) or the maximum amount allowed by law for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 6.

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

SECTION 7.

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

PASSED AND APPROVED ON THIS 13th DAY OF MARCH, 2018.



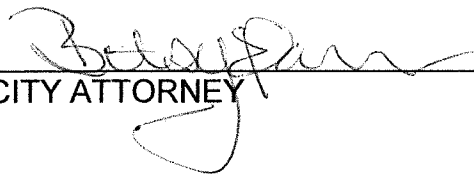
MAYOR PRO-TEM

ATTEST:



CITY SECRETARY

APPROVED AS TO FORM AND LEGALITY:



CITY ATTORNEY