

**ORDINANCE NO. 1239-2019**

**AN ORDINANCE OF THE CITY OF RIVER OAKS AMENDING THE CODE OF ORDINANCES TO COMPORT WITH THE RIVER OAKS HOME RULE CHARTER BY MAKING REVISIONS THROUGHOUT THE CODE TO REFLECT THAT THE CITY OF RIVER OAKS NOW OPERATES UNDER A CITY MANAGER FORM OF GOVERNMENT AND BY CLEANING UP REDUNDANCIES BY DELETING DIVISION 8 OF ARTICLE 3.05 "PLUMBING" AND ARTICLE 11.02 "TAX ASSESSOR COLLECTOR"; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; 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**, on May 4, 2019 the City held an election to determine whether the voters desired to amend the charter; and

**WHEREAS**, the voters approved amending the charter to provide that the City shall henceforth operate under a city manager form of government; and

**WHEREAS**, the change necessitates amending the Code of Ordinances throughout to reflect the duties of the city manager and city secretary and the administrative operation of the City;

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

**SECTION 1.**

Section 1.01.004 "Definitions and Rules of Construction" of Article 1.01 "Code of Ordinances" is hereby revised by revising the definition of "City secretary, city engineer, chief of police, chief of the fire department or other city offices" is hereby revised to read as follows:

"City secretary, city engineer, city manager, chief of police, chief of the fire department or other city officers. The words "city secretary," "city manager," "city engineer," "chief of police," "chief of the fire department" or other city officers or departments shall be construed to mean the city secretary, city manager, city engineer, chief of police, chief of the fire department or such other municipal officers or departments, respectively, of the City of River Oaks."

## **SECTION 2.**

Article 1.03 "Administration" of Chapter 1 "General Provisions" is hereby revised in its entirety to read as follows:

"Reserved."

## **SECTION 3.**

Subsection (a) of Section 1.04.068 "Absence from Meetings" of Article 1.04 "Boards and Commissions" is hereby revised to read as follows:

"(a) Should any member of the board be absent from three meetings during any twelve month period beginning from the date of appointment, it shall be the responsibility of the chair, or in his absence the secretary of the board, to notify the city council, through the city manager, with a record of the absences and of any extenuating circumstances related to the absences."

## **SECTION 4.**

Section 1.04.069 "Assistance from City Departments" of Article 1.04 "Boards and Commissions" is hereby revised to read as follows:

### **"Sec. 1.04.069 Assistance from city departments**

The board may receive reports, advice, and available services from the various city departments as required and as directed by the city manager, or his designated representative.

## **SECTION 5.**

Section 1.05.002 "Appointment of Emergency Management Coordinator" of Article 1.05 "Emergency Management" is hereby revised to read as follows:

### **"Sec. 1.05.002 Appointment of emergency management coordinator**

The emergency management coordinator is hereby created as an office independent of other departments. The emergency management coordinator is appointed by the mayor with the consent of the city council, and the city manager shall have general supervision of the emergency management coordinator. In addition to the duties assigned to the emergency management coordinator by this article, the emergency management coordinator shall perform duties as outlined in the city's emergency management plan as amended."

## **SECTION 6.**

Subsection (f) of Section 1.06.004 "Prohibited Conduct" of Article 1.06 "Parks and Recreation" is hereby revised to read as follows:

“(f) Posting of signage indicating prohibitions. The city manager or designee shall cause conspicuous signs to be posted on each bleacher and on each concession stand containing the following prohibitions:

- (1) No smoking or other language that clearly prohibits smoking and includes the universal symbol for no smoking.
- (2) No alcoholic beverages.
- (3) No firearms as provided for in the Penal Code, section 30.06(c)(3)(B).
- (4) No tobacco products.
- (5) Designated area where pets are prohibited shall be posted with signage that states ‘pets prohibited.’”

#### **SECTION 7.**

Section 1.09 “Community Center” is amended by renaming the section to “Events Center” and amending it throughout to change the term “community center” to “events center.”

#### **SECTION 8.**

Section 1.09.005 “Posting of Signage Indicating Prohibitions” of Article 1.09 “Community Center” is hereby revised to read as follows:

##### **“Sec. 1.09.005        Posting of signage indicating prohibitions**

The city manager or designee shall cause conspicuous signs to be posted in the community center building and on events center real property containing the following prohibitions:

- (1) No smoking or other language that clearly prohibits smoking and includes the universal symbol for no smoking.
- (2) No alcoholic beverages.
- (3) No firearms as provided for in the Penal Code section 30.06(c)(3)(B).
- (4) No tobacco products.”

#### **SECTION 9.**

Subsection (a) of Section 1.09.006 “Location of Prohibition Signage” of Article 1.09 “Community Center” is hereby revised to read as follows:

“(a) Signage. Appropriate signs indicating such prohibition shall be posted in conspicuous locations within the events center and on events center real property as approved by the city manager or designee.”

## **SECTION 10.**

Subsection (b) of Section 1.09.008 “Hours of Operation” of Article 1.09 “Community Center” is hereby revised to read as follows:

“(b) Placement of signs. The director of public works shall post signs on the events center real property as approved by the city manager or designee containing notification of the hours that the events center outside real property inclusive of all recreational facilities is open to the public. The signs shall be placed in conspicuous places, and the lettering shall be at least two inches in height. Unless otherwise posted by the director of public works, the hours during which events center real property is open to the public are 7:00 a.m. to 11:30 p.m.

## **SECTION 11.**

Subsection (2) of Section 1.10.002 “Unauthorized Use of Corporate Seal or Other Insignia” of Article 1.10 “Corporate Seal” is hereby revised to read as follows:

“(2) To signify sponsorship or approval by a city agency or department without first obtaining express written authorization from the city manager.”

## **SECTION 12.**

Section 3.02.032 “Appointment and Removal” of Article 3.02 “Building Code” is hereby revised to read as follows:

### **“Sec. 3.02.032           Appointment and removal**

The building inspector shall be appointed by the city manager. His appointment shall continue during good behavior and satisfactory service. He shall be subject to removal only as and on the same conditions of other appointees of the city.”

## **SECTION 13.**

Division 8 “Standards for Gas Installation” of Article 3.05 “Plumbing” is hereby revised to read as follows:

**“Division 8. Reserved.”**

## **SECTION 14.**

Section 3.08.001 "Permit Required" of Article 3.08 "Moving of Buildings" is hereby revised to read as follows:

### **"Sec. 3.08.001            Permit required**

It shall be unlawful for any person to move or relocate a building, structure or portion thereof, except portable storage buildings not greater than ten (10) feet in width, twenty (20) feet in length, and twelve (12) feet in height, within the corporate limits of the city without first obtaining a permit from the building official. No permit will be required to move a building or structure being moved over any state or federal highway within the city provided it is being moved under a permit issued by the state department of transportation and when the moving route is confined to a state or federal highway. For one building or structure being moved in multiple sections, only one permit is required."

## **SECTION 15.**

Subsection (a) of Section 3.08.002 "Application for Permit" of Article 3.08 "Moving of Buildings" is hereby revised to read as follows:

"(a) Any person desiring to move or relocate any old or used house, building or structure within the corporate limits shall file an application with the city secretary or designee requesting that he be permitted to do so. Written application for such permit shall be filed with the city secretary or designee at least forty-eight (48) hours prior to the actual moving of the structure. Upon filing an application for a permit, the applicant shall pay a fee in accordance with the most recent fee schedule adopted by the city for the cost of processing the permit application."

## **SECTION 16.**

Section 3.08.003 "Investigation of Permit Application by Building Official" of Article 3.08 "Moving of Buildings" is hereby revised to read as follows:

### **"Sec. 3.08.003            Investigation of permit application by building official**

Upon filing of the application, the building official shall investigate the application by inspecting the house, building, or structure to be moved or relocated upon the lot or tract of land, and the lot or tract of land upon which the house, building, or structure is to be located. He shall then advise the public works director whether the house, building, or structure meets the requirements of the building code and other applicable ordinances of the city and whether the lot and house, building, or structure, if allowed to be moved onto the designated lot or tract of land, would meet all of the requirements of the building code and other applicable regulations of the city."

## **SECTION 17.**

Subsection (b)(6) of Section 3.12.063 "Assessment of Expenses; Lien" of Article 3.12 "Signs" is hereby revised to read as follows:

"(6) A statement that in the event the owner fails or refuses to pay the expense within 30 days after the first day of the month following the one in which the work was done, the public works director or city manager or his designee shall obtain a lien against the property by filing with the county clerk of the appropriate county a statement of the expenses so incurred."

## **SECTION 18.**

Section 3.13.032 "Work Permit Required" of Article 3.13 "Streets and Sidewalks" is hereby revised to read as follows:

### **"Sec. 3.13.032 Work permit required"**

Any person who is the holder of a license to construct sidewalks, curbs or gutters, etc., in the city shall obtain a work permit from the public works director before starting any construction."

## **SECTION 19.**

Subsection (a) of Section 3.13.035 "Inspection Certificate; Fee" of Article 3.13 "Streets and Sidewalks" is hereby revised to read as follows:

"(a) Upon completion of the construction of the sidewalks, curbs or gutters, etc., the permittee shall apply for and obtain from the public works director a certificate of inspection showing that the work has been completed according to plans and specifications."

## **SECTION 20.**

Section 3.13.064 "Issuance" of Article 3.13 "Streets and Sidewalks" is hereby revised to read as follows:

### **"Sec. 3.13.064 Issuance"**

If the application for a license to construct sidewalks, curbs, gutters, etc., in the city has been approved by the city council and a bond has been posted, as required in section 3.13.065, the public works director shall then issue the license."

## **SECTION 21.**

Section 4.04.005 "Appeal from Permit Denial or Revocation" of Article 4.04 "Alarms and Emergency Reporting Equipment and Procedures" is hereby revised to read as follows:

**“Sec. 4.04.005            Appeal from permit denial or revocation**

(a) If the chief refuses to issue or renew a permit, or revokes a permit, he shall send to the applicant or permit holder by certified mail, return receipt requested, written notice of his action and a statement of the right to an appeal. The applicant or permit holder may appeal the decision of the chief to the city council by filing with the city manager or designee a written request for a hearing, setting forth the reasons for the appeal, within 10 days after receipt of the notice from the chief. The filing of a request for an appeal hearing with the city manager or designee stays an action of the chief in revoking a permit until the city council makes a final decision. If a request for an appeal hearing is not made within the ten-day period, the action of the chief is final.

(b) The city manager or designee shall set a time and place for the hearing, which shall be served upon the applicant or permit holder by certified mail, return receipt requested. The city council shall hear any appeal and consider evidence by any interested person. The formal rules of evidence do not apply at an appeal hearing. All parties to the hearing shall have the right to present evidence and shall have the right to cross-examination. The city council shall make a decision on the basis of a preponderance of the evidence within 15 days after the request for an appeal hearing is filed. The time for hearing an appeal may be extended by agreement of the parties. The city council shall affirm, reverse or modify the action of the chief. The decision of the city council is final as to administrative remedies with the city.”

**SECTION 22.**

Subsection (c) of Section 4.04.013 “System Performance Review and Appeals” of Article 4.04 “Alarms and Emergency Reporting Equipment and Procedures” is hereby revised to read as follows:

“(c) If the chief determines that an alarm is the result of circumstances within the reasonable control of the permit holder, the permit holder or the permit holder's representative may request an appeal to the city council. The permit holder may appeal the decision of the chief to the city council by filing with the city manager or designee a written request for an appeal, within 10 days after the conference with the chief. The filing of a request for an appeal hearing with the city council stays an action of the chief until the city council makes a final decision. If a request for an appeal hearing is not made within the 10-day period, the action of the chief is final. An appeal hearing under this subsection shall be subject to the procedures provided by section 4.04.005(b).”

**SECTION 23.**

Subsection (c) of Section 4.05.006 “Requirements and Conditions” of Article 4.05 “Yard Sales” is hereby revised to read as follows:

“(c) A yard sale permit shall only be issued to an active utility account holder within the city. 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 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.”

## **SECTION 24.**

Subsection (1) of Section 4.05.007 “Revocation and Refusal of Permit” of Article 4.05 “Yard Sales” is hereby revised to read as follows:

“(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.”

## **SECTION 25.**

Subsection (b) of Section 4.06.012 “Appeal from Denial and Revocation of Permit” of Article 4.06 “Amusement Devices” is hereby revised to read as follows:

“(b) To contest the denial or revocation, the person listed on the application for the permit may file with the city secretary, within ten days after the city secretary mails notice of denial or revocation, a written appeal for a hearing before the city manager.

(1) A denial is final and effective on the day the city secretary denies the permit.

(2) A revocation is final and effective eleven days after the city manager mails the notice of the revocation, unless the person listed on the application appeals the revocation as prescribed by this section, in which case the revocation is stayed until the city council makes a final determination.”

## **SECTION 26.**

Subsection (a) of Section 4.07.003 “Wrecker Business Permit, Application and Fee—Required” of Article 4.07 “Wreckers and Wrecker Companies” is hereby revised to read as follows:

“(a) Every wrecker service desiring to engage in the wrecker business in the city shall file an application in writing with the police chief for a permit to engage in the wrecker business and for an inspection certificate for each wrecker proposed to be operated. Such application shall contain the name, address and telephone number of the applicant, and the number and types of wreckers proposed to be operated. Such application shall also contain the name, address and telephone number of each operator of the wrecker equipment, and the same information pertaining to the true owner of the company concerned, if he or she is different from the applicant.”



## **SECTION 27.**

Subsection (a) of Section 4.07.004 "Recognition of Permits form Other Cities" of Article 4.06 "Wreckers and Wrecker Companies" is hereby revised to read as follows:

"(a) The city shall, through its police chief , honor a current wrecker permit issued by another municipality, provided the standards for obtaining such permit from the other municipality are the same or more exacting than the standards required in this article, and further provided that the municipality issuing such permit honors and recognizes the same to be valid when issued by the city."

## **SECTION 28.**

Subsection (a) of Section 4.07.005 "Recognition of Permits form Other Cities" of Article 4.07 "Wreckers and Wrecker Companies" is hereby revised to read as follows:

"(a) When filing the application, or at any time subsequent thereto, a wrecker service may also make an application in writing to the police chief for its placement on the wrecker rotation list. Subject to the approval of the police chief of the city, or his designee, the applicant's name shall be added to the rotation list. The police chief, however, shall not withhold his approval of such an application unless the wrecker service has violated any of the provisions of this chapter or has had its business and wrecker permit previously revoked for any of the grounds specified in section 4.07.010 of this article."

## **SECTION 29.**

Section 4.09.002 "Definitions" of Article 4.09 "Secondary Metal Recyclers" is hereby revised by revising the definition of "City Secretary" and adding the definition of "City Manager" to read as follows:

"City secretary. The city official as appointed by the city council to be the city secretary as provided for in the city charter as adopted and as amended."

"City manager. The city official as appointed by the city council to be the city manager as provided for in the city charter as adopted and as amended."

## **SECTION 30.**

Subsection (4) of Section 4.09.014 "Suspension" of Article 4.09 "Secondary Metal Recyclers" is hereby revised to read as follows:

"(4) Only the city's building official or the police chief may suspend a license issued under this article."

## **SECTION 31.**

Subsection (d) of Section 4.09.015 "Revocation or Denial" of Article 4.09 "Secondary Metal Recyclers" is hereby revised to read as follows:

"(d) Only the city's building official or the police chief may revoke or deny a license under this article."

## **SECTION 32.**

Section 5.03.010 "Assistant Fire Marshal" of Article 5.03 "Fire Marshal" is hereby revised to read as follows:

### **"Sec. 5.03.010        Assistant fire marshal**

The city manager may appoint, upon the recommendation of the fire marshal, and the consent of city council, an assistant fire marshal to perform the fire marshal's duties in the fire marshal's absence. The assistant fire marshal shall have the same authority as the fire marshal with respect to inspections and fire investigations."

## **SECTION 33.**

Section 5.04.002 "Membership and Appointment" of Article 5.04 "Fire Department" is hereby revised to read as follows:

### **"Sec. 5.04.002        Membership and appointment**

The members of the fire department shall be a chief of the fire department, who shall be appointed by the city manager, and such other officers, firefighters and employees as the city manager may from time to time determine."

## **SECTION 34.**

Section 5.04.009 "Destruction of Property in Extinguishing Fire" of Article 5.04 "Fire Department" is hereby revised to read as follows:

### **"Sec. 5.04.009        Destruction of property in extinguishing fire**

Whenever any building in the city is on fire, it shall be lawful for the chief, or his assistant or acting chief, with the concurrence of the city manager or fire marshal, to direct such building, or other building or fences, which they may deem hazardous or likely to catch fire and communicate to other buildings, to be torn down or blown up or otherwise destroyed for the purpose of checking or otherwise extinguishing such fire, and neither the city council or any individual member thereof, nor the chief of the department, assistant chief, or any member of the department, shall in anywise be held responsible for the damaging of property or the destruction thereof."

## **SECTION 35.**

Section 5.04.011 “Arrest of Disorderly Person at Fire” of Article 5.04 “Fire Department” is hereby revised to read as follows:

### **“Sec. 5.04.011            Arrest of disorderly persons at fire**

During the progress of a fire within the limits of the city and for twenty-four (24) hours after its extinguishment, it shall be lawful for the chief of police or any police officer of the city, or the chief or any other officer designated by the chief in command of any fire company, to arrest and keep in custody all suspected persons and persons who conduct themselves in a noisy or disorderly manner, or hinder, resist or refuse to obey any such officer while acting in the discharge of his duty.”

## **SECTION 36.**

Subsections (a)(7), (b) and (c) of Section 6.03.034 “Assessment of Expenses; Lien” of Article 6.03 “Property Maintenance” are hereby revised to read as follows:

“(7)    A statement that if the owner fails or refuses to pay the expense within 30 days after the first day of the month following the month in which the work was done, the city manager or his designee shall obtain a lien against the property by filing with the county clerk a notice of lien and statement of expenses incurred.

(b)    The city manager or his designee will conduct a hearing if the property owner submits a written request within 10 days of the property owner's receipt of the notice. The city manager or his designee may find, based on a preponderance of the evidence presented, that the charges are erroneous.

(c)    If no hearing is requested, or a hearing is held and the charge is determined to be valid, and the owner fails or refuses to pay the expense within 30 days after the first day of the month following the one in which the work was done, the city manager or his designee shall obtain a lien against the property by filing with the county clerk a notice of lien and statement of expenses incurred.”

## **SECTION 37.**

Subsections (c) and (d) of Section 6.04.001 “Use of Burning Tobacco Production in Municipal Buildings” of Article 6.04 “Tobacco Products” are hereby revised to read as follows:

“(c)    Exception for employee areas. The city manager, by written policy and in consultation with the department heads, shall:

(1)    Designate areas within municipal buildings in which employees may smoke; and

(2) Cause the posting of conspicuous signs in these designated areas, displaying the message, 'employee smoking area.'

(d) Posting of signs. The city manager shall cause a conspicuous sign to be posted at each entrance of a municipal building. The sign shall contain the words 'No Smoking, City of River Oaks Ordinance' or other language that clearly prohibits smoking."

#### **SECTION 38.**

Section 7.02.005 "Clerk, Deputy Clerk and Other Court Personnel" of Article 7.02 "Municipal Court of Record No. 1" is hereby revised to read as follows:

**"Sec. 7.02.005 Clerk, deputy clerk and other court personnel**

The city manager shall appoint a clerk, deputy clerks and other court personnel who shall perform duties to the municipal court in accordance with statutes, the city charter and city ordinances, whom have been selected by the city council as the governing body and qualified by the presiding judge, or municipal judge if there is no presiding judge."

#### **SECTION 39.**

Section 8.06.033 "Posting of Signs" of Article 8.06 "Municipal Court of Record No. 1" is hereby revised to read as follows:

**"Sec. 8.06.033 Posting of signs**

The city manager is directed to cause signs to be posted at the entrances of the locations specified in section 8.06.032, indicating that the carrying of a firearm is prohibited at the specific location."

#### **SECTION 40.**

Subsection (d) of Section 8.07.003 "Exceptions" of Article 8.07 "Pets Inside Municipal Buildings" is hereby revised to read as follows:

"(d) City manager authority. The city manager has the authority to consider requests and waive the provisions and prohibitions of this article for special community events."

#### **SECTION 41.**

Section 9.02.003 "Appointment of Members" of Article 9.02 "Police" is hereby revised to read as follows:

**“Sec. 9.02.003            Appointment of members**

The members of the police department, including the director, shall be appointed by the city manager and shall hold their respective offices at will.”

**SECTION 42.**

Section 9.02.004 “Supervision” of Article 9.02 “Police” is hereby revised to read as follows:

**“Sec. 9.02.004            Supervision**

The chief of police shall have supervision, subordinate to that of the city manager, over the other members of the police department.”

**SECTION 43.**

Section 9.02.006 “Acting Chief” of Article 9.02 “Police” is hereby revised to read as follows:

**“Sec. 9.02.006            Acting chief**

In case of absence, sickness or inability to act, on the part of the chief of police, the city manager shall designate some other member of the force, or other suitable person, as acting chief of police during the period of such absence, sickness or inability to act, and such person shall exercise all the rights, powers and duties of the chief during such period.”

**SECTION 44.**

Section 9.02.011 “Filling of Vacancies” of Article 9.02 “Police” is hereby revised to read as follows:

**“Sec. 9.02.011            Filling of vacancies**

In case of vacancy for any cause in the police department, the city manager or police chief shall appoint some person to fill such vacancy.”

**SECTION 45.**

Section 9.02.013 “Control and Management of City Jail” of Article 9.02 “Police” is hereby revised to read as follows:

**“Sec. 9.02.013           Control and management of city jail**

Subject to the direction of the city manager, the chief of police shall have control and management of the city jail.”

**SECTION 46.**

Section 5-100 of Article 5 “Definitions” of Exhibit A the “Subdivision Ordinance” of Chapter 10 “Subdivisions” is hereby revised by deleting the definition of “City Secretary” and by revising the definitions of “Administrative Officer,” “Sketch Plan,” and “Zoning Administrator” to read as follows:

*“Administrative Officer: Any office referred to in this Ordinance by title, i.e., City Manager, City Attorney, City Secretary, City Engineer, Director of Public Works, Zoning Administrator, etc., shall be the person so retained in this position by the City, or their duly authorized representatives.”*

*“Sketch Plan: A sketch drawing of initial development ideas superimposed on a topographic map to indicate generally the plan of development and to serve as a working base for noting and incorporating suggestions of the City Manager, Director of Public Works, City Engineer, Zoning Administrator or others who are consulted prior to the preparation of the preliminary plat.”*

*“Zoning Administrator: A position appointed by the City Manager, as specified by the Charter of the City of River Oaks to enforce and administer the terms of the municipal zoning ordinance; the individual whose decisions and interpretations are appealed to the board of adjustment.”*

**SECTION 47.**

Section 14-100 of Article 14 “Scope and Purpose” of Exhibit A the “Subdivision Ordinance” of Chapter 10 “Subdivisions” is hereby revised to read as follows:

**“14-100**

Prior to the official filing of a preliminary plat, the subdivider should avail himself of a copy of the Subdivision Ordinance and should prepare a sketch plan of the proposed subdivision. The subdivider should submit four (4) copies of the sketch plan to the Director of Public Works and or other administrative officer so designated by the City Manager. Preparation and presentation of the sketch plan is not mandatory and no approvals, either tentative or final, will be given on sketch plans; however, their preparation is recommended as an economy measure.

This phase does not require formal applications, payment of a fee, or the filing of a plat, but is rather an informal consultation with the City, in order that the subdivider may save himself time and money in the preparation of the preliminary and final plats by determining the rules, regulations and policies adopted by the City.

The aim and purpose of the pre-application procedure is to offer the developer or subdivider the background and experience of the City Staff in the preparation of the preliminary plat. It is not the

intent or policy of this Ordinance for City Staff to do the planning or engineering for the subdivider, but rather to steer his efforts into the most efficient and economical means of coordination with the Subdivision Ordinance.”

#### **SECTION 48.**

Section 22-100 of Article 22 “Processing of Preliminary Planning Information” of Exhibit A the “Subdivision Ordinance” of Chapter 10 “Subdivisions” is hereby revised to read as follows:

**“22-100** The City Secretary or his/her designated representative shall collect the prescribed fees for the City, and after issuance of a determination of completeness for the application by the Director of Public Works; the Director shall check the information and documents submitted for conformity with the master plan, Thoroughfare Plan, Land Use Plan, Zoning Ordinance and other requirements of this Ordinance and other applicable ordinances.”

#### **SECTION 49.**

Section 32-100 of Article 32 “Acceptance By City” of Exhibit A the “Subdivision Ordinance” of Chapter 10 “Subdivisions” is hereby revised to read as follows:

**“32-100** Acceptance of improvements by the City shall be in the form of a letter from the City Manager or other authorized City Official to the Subdivider stating that inspections were conducted as the facilities were completed in accordance with specifications and standards provided for herein or approved by the City Council at the time the final plat was approved for said subdivision.”

#### **SECTION 50.**

Section 33-101 of Article 33 “Issuance of Building Permits” of Exhibit A the “Subdivision Ordinance” of Chapter 10 “Subdivisions” is hereby revised to read as follows:

**“33-101** The City Manager may authorize special exceptions to Article 33, subject to appropriate conditions and safeguards, in order to permit reasonable development and improvement of property.”

#### **SECTION 51.**

Subsection 1.e. of Section 40-103 of Article 40 “Streets” of Exhibit A the “Subdivision Ordinance” of Chapter 10 “Subdivisions” is hereby revised to read as follows:

“e. Where in his judgment the appropriate use of the neighboring property will not be substantially injured, the City Manager, may in specific cases, and subject to appropriate conditions and safeguards, authorize special exceptions to the Technical Design Criteria items in order to permit reasonable development and improvement of property where literal enforcement of these values would result in an unnecessary hardship.”

## **SECTION 52.**

Subsection 4 of Section 48-103 of Article 48 “Driveways, Parking, and Signs” of Exhibit A the “Subdivision Ordinance” of Chapter 10 “Subdivisions” is hereby revised to read as follows:

“4. When in his professional judgment the literal enforcement of any part of Article 48 would result in poor engineering design or in an unnecessary hardship, the City Manager may authorize special exceptions, subject to appropriate conditions and safeguards, in order to permit reasonable development and improvement of property.”

## **SECTION 53.**

Section 52-100 of Article 52 “Facilities Agreement” of Exhibit A the “Subdivision Ordinance” of Chapter 10 “Subdivisions” is hereby revised to read as follows:

“**52-100** The developer of any proposed subdivision within the City or its extraterritorial jurisdiction shall be required to enter into a Community Facilities Agreement as a condition of final plat approval if the subdivision requires the development of public infrastructure, amenities or facilities that will ultimately be the responsibility of the City. The purpose of the Community Facilities Agreement is to set forth the process and procedure under which public infrastructure facilities or amenities will be constructed, whether the City will be participating in the costs of any of these facilities, whether a vested right agreement to a noncurrent set of development regulations is applicable to the project, delineating responsibilities for engineering, design, review and approval of all infrastructure improvements, establishing inspection procedures and the costs sharing for all such inspections or testing as may be required for a public infrastructure improvement and providing for the procedure under which infrastructure developed by the subdivider is transferred to the control of the City.

1. The Director of Public Works, for the City of River Oaks, will provide each subdivider with a form copy of a standard Community Facilities Agreement for use in securing the information for incorporation into the final Agreement.

2. The Community Facilities Agreement shall identify the infrastructure and amenities that will be constructed, developed or installed as a part of the subdivision process. It will identify all roads, trails, sidewalks, utility systems and related facilities, storm drainage facilities, park and recreation amenities, public wayfinder signage or street furniture if it is to become the property of the City and any other amenities that will be transferred to the ownership and control of the City as a portion of the subdivision process.

3. If the development proposes to retain park, recreation or architectural/landscaping amenities that will be maintained as a private asset of a homeowners association or other comparable entity, those will be identified in a separate section and an explanation of the long-term maintenance and financing of these amenities will be included to ensure that the City and the Developer clearly can determine the maintenance and financing responsibilities of each entity for these special amenities.



4. The Community Facilities Agreement will establish a schedule and review plan for all engineering, design and construction documents that the City will be required to approve relating to infrastructure or amenities that will be transferred to City ownership and control following the completion of the subdivision construction process.

5. The Community Facilities Agreement shall establish the planned budget and cost allocation for inspection and material testing which the City will undertake during the construction of the public infrastructure to ensure that it is compliant with appropriate construction standards.

6. The Community Facilities Agreement will identify the type and amount of the various bonds required relating to the construction and maintenance of the public infrastructure to be developed as a portion of the subdivision process.

7. The Community Facilities Agreement shall delineate any unique or unusual construction or design considerations that the parties believe will be applicable to the development of this specific subdivision based upon its location, topography, soil and groundwater characteristics considered together with the developer's land use plan or intent for the development.

A final plat of a proposed subdivision will not be released for filing until the Community Facilities Agreement has been executed between the developer and the City. The City Manager shall be the representative of the City authorized to execute a Community Facilities Agreement on behalf of the City of River Oaks.”

#### **SECTION 54.**

Section 11.02.001 “Designated” of Article 11.02 “Tax Assessor and Collector” is hereby revised to read as follows:

**“Sec. 11.02.001       Reserved”**

#### **SECTION 55.**

Section 11.05.004 “Inspection of Records and Receipts” of Article 11.05 “Bingo” is hereby revised to read as follows:

**“Sec. 11.05.004      Inspection of records and receipts**

All licensees operating under the terms and provisions of the Bingo Enabling Act and of this article shall make available for examination all of their records pertaining to the conduct of bingo games and the receipt of money instant thereto for inspection by the city manager or his duly authorized representative, at any time when requested by the city manager or his representative.”

**SECTION 56.**

Section 11.06.001 “Definitions and Terms” of Article 11.06 “Hotel Occupancy Tax” is hereby revised by deleting the definition of “Mayor” and adding the definition of “City Manager” to read as follows:

“City Manager. The city manager of the city or his designated agent.”

**SECTION 57.**

Section 11.06.004 “Reports” of Article 11.06 “Hotel Occupancy Tax” is hereby revised to read as follows:

**“Sec. 11.06.004      Reports**

On or before the last day of the month following each quarterly period, every person required in section 11.06.003 hereof to collect the tax imposed herein shall file a report with the city manager or his designated agent showing the consideration paid for all room occupancies in the preceding quarter, the amount of the tax collected on such occupancies, and any other information the city manager or his designated agent may reasonably require. At the end of each quarter, each hotel shall provide a copy of the quarterly report filed with the state comptroller to the city. Such person shall pay the tax due on such occupancies at the time of filing such report.”

**SECTION 58.**

Section 11.06.005 “Access to Books and Records” of Article 11.06 “Hotel Occupancy Tax” is hereby revised to read as follows:

**“Sec. 11.06.005      Access to books and records**

After the city manager gives reasonable notice to a person controlling or managing a hotel, that the city manager intends to inspect the books or records of the hotel, the person shall give access to the city manager’s designated representative to the hotel’s books or records necessary for the mayor to determine the correctness of a report filed under this article or the amount of taxes due under this article.”

## **SECTION 59.**

Section 11.06.006 “Rules and Regulations” of Article 11.06 “Hotel Occupancy Tax” is hereby revised to read as follows:

### **“Sec. 11.06.006        Rules and regulations**

The city manager or his designated agent shall have the power to make such rules and regulations as are necessary to effectively collect the tax levied herein and shall, upon reasonable notice, have access to books and records necessary to enable him to determine the correctness of any report filed by this article and the amount of taxes due under the provisions thereof.”

## **SECTION 60.**

Section 12.02.009 “Truck Routes” of Article 12.02 “Operation of Vehicles” is hereby revised to read as follows:

### **“Sec. 12.02.009        Truck routes**

The police chief, as authorized and directed from time to time by the city council, shall designate routes in the city to be used by trucks of a gross weight of more than ten thousand (10,000) pounds, and when such routes are so designated and marked by appropriate signs, it shall be unlawful for any person to drive any such truck on any other street in the city except as designated in this section:

- (1)    Roberts Cut Off Road. Station 31+88 at the southwest city boundary line near the intersection of Blackstone Drive and Roberts Cut Off Road north on Roberts Cut Off Road to Station 0+00 at its intersection with River Oaks Blvd. and from station 0+00 north on Roberts Cut Off Road to the northwestern most boundary line of the city on Roberts Cut Off Road.
- (2)    River Oaks Blvd. At the city boundary line near the intersection of River Oaks Blvd (Highway 183) and Sam Calloway Road eastward through the city to its opposite city boundary line near Jacksboro Highway (Highway 199) in both directions unless otherwise regulated by the Texas Department of Transportation (TXDOT).”

## **SECTION 61.**

Subsections (b)(6) and (e) of Section 12.07.035 “Assessment of Charges; Lien” of Article 12.07 “Obstructions” are hereby revised to read as follows:

“(6)    A statement that if the owner fails or refuses to pay the expense within thirty (30) days of the date of the letter, the city manager or his designee shall obtain a lien against the property by filing with the county clerk a notice of lien and statement of expenses incurred.”

“(e) If no hearing is required, or if a hearing is held and the charge is determined to be valid, and the owner of the property fails or refuses to pay such charges and expenses within thirty (30) days after written notification to pay, the city council may assess the charges and expenses incurred against the property, whereupon the city manager shall file a statement with the county clerk of the expenses incurred in the abatement of the above-described condition and the city shall have a privileged lien on the property, second only to tax liens and liens for street improvements. The lien statement shall state the name of the owner, if known, and the legal description of the property.”

## **SECTION 62.**

Subsection (4) of Section 12.08.002 “Permit Procedure” of Article 12.08 “Parades” is hereby revised to read as follows:

“(4) The city manager, public works director, police chief, and fire chief will review all applications and forward to the city council for final approval or denial.”

## **SECTION 63.**

Section 12.08.004 “Issuance of Permit Application Approval” of Article 12.08 “Parades” is hereby revised to read as follows:

### **“Sec. 12.08.004 Issuance of permit application approval**

(a) Upon receipt of the parade permit application and the parade permit fee, the city manager or designee shall normally furnish to the applicant, within fifteen (15) working days, excluding Saturdays, Sundays, and legal holidays, appropriate approval or denial of the application. Approval or denial of the application may be delayed if the applicant fails to give complete information, if the proposed route requires staff research, or if other aspects of the application require staff review that exceeds the normal process.

(b) In the event the application reveals that the parade staging, parade route, and parade disassembly requested will interfere with the orderly flow of vehicular or pedestrian traffic, the city manager or designee shall have the authority to establish a reasonable alternate route and to regulate the width and the duration of the parade.”

## **SECTION 64.**

Section 12.08.005 “Revocation of Permit Application” of Article 12.08 “Parades” is hereby revised to read as follows:

### **“Sec. 12.08.005 Revocation of permit application**

(a) The city manager or designee shall revoke an application or parade permit when the information contained in the application is found to be inaccurate in any material detail.

(b) The city manager or designee may revoke the application or parade permit if the parade fails to begin within thirty (30) minutes of the appointed time of commencement.

(c) The city manager or designee shall revoke an application or permit based on reasonable grounds to believe that the parade is being conducted in a manner constituting a danger to any person or property.

(d) Any failure to comply with this article.”

## **SECTION 65.**

Section 12.08.007 “Traffic Control and Security” of Article 12.08 “Parades” is hereby revised to read as follows:

### **“Sec. 12.08.007       Traffic control and security**

Applicants or parade sponsors shall pay the cost of police officers and police vehicles as contained in the city's fee ordinance for traffic control and security required for the parade. The city manager or designee shall determine the number of employees and equipment required and the estimated cost of such employees and equipment. Estimates for fees required for police officers and police vehicles, traffic control and security, or other cost associated with the parade shall be paid twenty-four (24) hours before the parade start. Additional cost not paid as part of the estimate or excess fees paid as part of the estimate shall be paid or refunded within three days of the parade.”

## **SECTION 66.**

Section 12.08.008 “Indemnification” of Article 12.08 “Parades” is hereby revised to read as follows:

### **“Sec. 12.08.008       Indemnification**

An applicant and/or the sponsors, and/or any other individual or entity reasonably required by the city must execute a written indemnity agreement, in the form and substance required by the city, indemnifying and holding harmless, the city and its officers and employees and parties in interest with the city against all claims, damages, or causes of action arising from the parade or application resulting in injury, damage or death to persons or property, whether public or private. The applicant shall take all reasonable measures necessary to protect the parade participants. Insurance shall be furnished prior to the parade and when required by the city manager or designee in the form, substance, and limits required by the city manager or designee.”

## **SECTION 67.**

Subsection (d) of Section 13.02.032 “Delinquent Charges” of Article 13.02 “Utility Policy” is hereby revised to read as follows:

“(d) If a customer's account is not paid by 6:00 a.m. on the twenty-sixth (26th) day following the billing date and has an account balance of \$20.00 or greater by this date or a written payment agreement with the city manager or designee has not been made on the twenty-fifth (25th) day at 5:00 p.m. following the billing date the customer will automatically be charged a \$25.00 administrative fee and the water service shall be disconnected on the following business day beginning at 8:00 a.m. Payments received in the mail drop box at city hall after 6:00 a.m. on the twenty-sixth (26th) day following the billing date and has an account balance of \$20.00 or greater shall be disconnected.”

## **SECTION 68.**

Subsections (c), (f), (h) and (i) of Section 13.02.033 “Payment Arrangements” of Article 13.02 “Utility Policy” are hereby revised to read as follows:

“(c) The city manager or designee is responsible for reviewing payment arrangement requests, and must approve the payment arrangements before such arrangements are accepted on behalf of the city.”

“(f) The city manager or designee can make payment arrangements exceeding thirty (30) days without city council authorization. Payment arrangements in excess of thirty (30) days are required to be made by written agreement signed by the account holder as the requestor and authorized by the city manager or or designee.”

“(h) Any appeal of the payment arrangement as determined by the city manager or designee is to be made in writing to the city council. The city council's decision is final.”

“(i) If a customer's account is not paid by 6:00 a.m. on the twenty-sixth (26th) day following the billing date and has an account balance of \$5.00 or greater by this date or a written payment agreement with the city manager or designee has not been made by 5:00 p.m. on the twenty-fifth (25th) day following the billing date, the customer will automatically be charged a \$25.00 administrative fee and the water service shall be disconnected on the following business day beginning at 8:00 a.m.”

## **SECTION 69.**

Section 13.02.035 “Authority to Discontinue Service” of Article 13.02 “Utility Policy” is hereby revised to read as follows:

### **“Sec. 13.02.035      Authority to discontinue service**

The city manager or designee may refuse application for utility service, discontinue utility service, or refuse to restore utility service to:

- (1) Any customer who fails to pay any charges due under the code or any ordinance of the city, or as set forth in this policy;

(2) Any person making application for utility service at an address, if the person has delinquent charges outstanding at another address; or

(3) Any customer at any premises if the water superintendent or plumbing inspector reports and confirms that a substantial waste of water or a health hazard is occurring as a result of leaking, damaged, open, or disconnected private laterals, pipes, or drains on the premises.”

## **SECTION 70.**

Subsections (a) and (f) of Section 13.02.037 “Disconnection of Utility Service” of Article 13.02 “Utility Policy” is hereby revised to read as follows:

“(a) All water accounts that are considered delinquent will be disconnected as of 8:00 a.m. on the following business day after the disconnection date unless a signed and approved payment arrangement authorized by the city manager or designee or city council in accordance with the provisions of this policy is on file in the utility billing office of the city prior to 5:00 p.m. on the twenty-fifth (25th) day following the billing date.

(1) Delinquent accounts are subject to be finaled 14 days following disconnection of utility service unless all delinquency is paid in full.

(2) Once finaled the delinquent amount owed will be deducted from the account deposit if there is sufficient amount from the deposit to cover the delinquent amount. Remaining overages, if any, from the water deposit after the delinquent amount is satisfied will be mailed to the customer at their last known mailing address. If the amount of the deposit does not cover the delinquency, the account holder will be responsible for the amount due.”

“(f) In order to delay disconnection of water service for any reason as provided for in this policy for an extended period up to 48 hours, the account holder must provide a written and signed affidavit from a physician. Extended time limits over 48 hours can only be approved by the or city manager or designee and may require additional written documentation of support from the attending physician in accordance to law in order to be approved. All such extended requests are also subject to ratification by the city council at the next regular council meeting following the date of notice of extension by the account holder.”

## **SECTION 71.**

Subsection (c) of Section 13.02.038 “Waiver of Charges; Adjustments to Bill” of Article 13.02 “Utility Policy” is hereby revised to read as follows:

“(c) Misreads of meter. If the customer establishes that the meter has been over read, then the utility manager will make an adjustment to the customer's account based on the actual meter reading differences.”

## **SECTION 72.**

Subsection (d) of Section 13.02.039 "Reconnection" of Article 13.02 "Utility Policy" is hereby revised to read as follows:

"(d) All applicable fees pursuant to section 13.03.009 of this code when applicable, including but not limited to a pull meter charge, upon approval by the city manager or his/her designee may be included on the next monthly bill."

## **SECTION 73.**

Subsection (f) of Section 13.02.040 "Requirements for New Applications for Utility Service" of Article 13.02 "Utility Policy" is hereby revised to read as follows:

"(f) Transfer of service. Active water customers will not be able to transfer service until the currently adopted deposit fee is paid in full regardless of the deposit amount previously showing on the account. In such cases, the previous deposit amount may be refunded and require the new deposit fee to be paid in advance of connecting service."

## **SECTION 74.**

Subsection (a)(2) of Section 13.02.041 "New Application for Premises with Delinquent Charges" of Article 13.02 "Utility Policy" is hereby revised to read as follows:

"(2) Arrangements for payment satisfactory to the city manager or designee are made;  
or"

## **SECTION 75.**

Subsections (a), (b), (f) and (j) of Section 13.02.042 "Water Lien Procedure" of Article 13.02 "Utility Policy" is hereby revised to read as follows:

"(a) Authority; exception for certain rental property. The city is authorized, in accordance with the provisions of section 402.0025, Texas Local Government Code, to perfect a lien upon property for the purpose of securing the payment of delinquent charges incurred as a result of water service to the property. This section does not apply to delinquent charges for service incurred by a tenant who is the customer of record, if the charges are incurred after the utility manager has received written notice from the owner of the property served that the property is rental property. The property owner may deliver the notice personally to the utility manager or by certified mail, return receipt requested."

"(b) Notice of lien. Before recording of a water lien, the city secretary or designee shall send notice by certified mail, return receipt requested, that a lien will be filed on the property in accordance with law. The notice must provide a time, place, and means by which the charges causing the lien may be paid or disputed. The notice must be sent to the customer in whose name



the account for service to the property exists and to the last known record owner of the property according to the tax rolls of the city, if the customer is not the owner.”

“(f) Execution and recording. The lien must be executed by the city manager, acknowledged by a notary public of the state, and filed in the deed or lien records of the county in which the property is located. The filing fees will be paid by the city and included as part of the lien charges.”

(j) Release of lien. Upon certification by the city secretary that all delinquent charges, which existed against the property, have been fully paid, the mayor is authorized to execute a release of the lien. The release shall be filed in the deed or lien records of the county in which the property is located.”

## SECTION 76.

Subsection (d)(2) of Section 13.02.044 “Utility Customers Who Become Deceased” of Article 13.02 “Utility Policy” is hereby revised to read as follows:

“(2) The city manager or designee may consider such factors including probating wills and time involved in appointing administrators of an estate and in such cases where that time limit would exceed the 45 days to be authorized without council approval to extend those time limits accordingly up to a maximum of 180 days.”

## SECTION 77.

Subsection (a) of Section 13.03.001 “Superintendent” of Article 13.03 “Water System” is hereby revised to read as follows:

“(a) There shall be appointed by the city manager or designee, a superintendent of the waterworks, who shall be the administrative officer of the waterworks system, including all engine houses, engines, pumps, reservoirs, standpipes, elevated tanks, pipelines, hydrants, meters, whences, stopcocks, gate valves, fireplugs, testing equipment, and all other property and machinery used in or connected with the waterworks system. He shall have general supervision over all employees of the waterworks system and shall make frequent trips of inspection over all pipelines and all other property used in or connected with the waterworks system, and shall make all repairs deemed necessary and consistent with his duties.”

## SECTION 78.

Section 13.06.010 “Appeal from Denial or Revocation of Registration” of Article 13.06 “Utility Facilities in Right-of-Way” is hereby revised to read as follows:

### **“Sec. 13.06.010      Appeal from denial or revocation of registration**

If the director of public works denies or revokes a right-of-way registration, the city shall give notice by personal service or by certified mail, return receipt requested, to the applicant or registration holder. The applicant or registration holder may appeal the decision to deny or revoke

by filing written notice with the city manager, within five days after receipt of notice. The city secretary shall mail or cause to be personally delivered written notice of the time and place of the hearing to the person appealing. The notice shall be mailed to the address specified in the notice of appeal form. The city manager shall conduct a hearing and shall make a decision on the basis of a preponderance of the evidence presented at the hearing. The decision of the mayor shall be final.”

## **SECTION 79.**

Subsection (b) of Section 13.06.018 “Appeal from Denial or Revocation of Excavation Permit” of Article 13.06 “Utility Facilities in Right-of-Way” is hereby revised to read as follows:

### **“Sec. 13.06.018        Appeal from denial or revocation of excavation permit**

If the director denies or revokes an excavation permit, the city shall give notice by personal service or by certified mail, return receipt requested, to the applicant or permit holder. The applicant or registration holder may appeal the decision to deny or revoke by filing written notice with the city manager, within five days after receipt of notice. The city manager shall mail or cause to be personally delivered written notice of the time and place of the hearing to the person appealing. The notice shall be mailed to the address specified in the notice of appeal form. The city manager shall conduct a hearing and shall make a decision on the basis of a preponderance of the evidence presented at the hearing. The decision of the city manager shall be final.”

## **SECTION 80.**

Section 13.06.025 “Removal of Utility Facilities” of Article 13.06 “Utility Facilities in Right-of-Way” is hereby revised to read as follows:

“(b) When required by the city for reasons of public safety, street vacation, widening, reconstruction, relocation or regrading, or installation, repair or maintenance of streets, drainageways, sewer mains, water pipes, power lines, signal lights, or any other type of structures or improvements installed by the city on behalf of the public, the registration holder shall, at its own expense, disconnect, remove, and relocate from the right-of-way, any lines, facilities, or other improvements within 60 days of the date when ordered in writing by the city manager, and the registration holder shall have no claim for reimbursement of costs or damages against the city, unless otherwise provided by state law. The 60-day limit shall not apply if the director of public works has approved a different schedule. Facilities not moved after 60 days shall be deemed abandoned after the city gives the registration holder 30 days' notice. In such event, the city shall cause the facilities to be removed and the registration holder shall pay the costs for such removal, together with any other costs the city incurs by reason of the registration holder's failure to remove the facilities, including liquidated damages the city is required to pay or any other costs that arise from the delay in the relocation of the facilities. The registration holder shall pay such costs within 30 days of the date of the invoice from the city. Failure to pay such fees shall be cause for revocation of registration and/or an excavation permit.”

## **SECTION 81.**

Section 13.07.034 “Authorization” of Article 13.07 “Water Conservation and Drought Contingency Plans” is hereby revised to read as follows:

**“Sec. 13.07.034        Authorization**

The city manager or his/her designee is hereby authorized and directed to implement the applicable provisions of this plan upon determination that such implementation is necessary to protect public health, safety, and welfare. The city manager or his/her designee shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this plan.”

**SECTION 82.**

Section 13.07.036 “Definitions” of Article 13.07 “Water Conservation and Drought Contingency Plans” is hereby revised to add the definition of “City Manager” to read as follows:

“City Manager. The city manager of the city.”

**SECTION 83.**

Subsections (b) and (c) of Section 13.07.037 “Initiation and Termination of Drought Response Stage” of Article 13.07 “Water Conservation and Drought Contingency Plans” is hereby revised to read as follows:

“(b)    Initiation of drought response. When emergency or trigger conditions occur, the director of the water department or his/her designee shall make recommendations to the city manager or designee of the appropriate stage of the plan to order. The city manager or designee shall have the authority to initiate or terminate the appropriate drought response stage. Notification of the public will occur as set forth in section 13.07.032(b).

(c)    Meeting or exceeding one or more trigger conditions will be sufficient cause to initiate a corresponding plan stage. The director of the water department or his designee may recommend that a stage not be initiated under these circumstances. Factors which may influence the recommendation and the city manager’s or designee’s decision include, but are not limited to, the time of the year, weather conditions, anticipation of replenished water supplies, or anticipation that facilities will be placed online to serve demand.”

**SECTION 84.**

Subsections (d)(2) and (d)(3) of Section 13.07.038 “Water Management Stages” of Article 13.07 “Water Conservation and Drought Contingency Plans” is hereby revised to read as follows:

“(2)    Procedure for granting variances to the plan. The city manager or designee may grant temporary variances for existing water uses otherwise prohibited under this drought contingency plan to a customer if one or more of the following conditions are met:

(A) Failure to grant such a variance would cause an emergency condition adversely affecting health, sanitation, or fire safety for the public or the person requesting the variance.

(B) Compliance with this plan cannot be accomplished due to technical or other limitations.

(3) Alternative methods. Alternative methods that achieve the same level of reduction in water use can be implemented. Variances shall be granted or denied at the discretion of the city manager or designee. All petitions for variances should be in writing and should include the following information:

- (A) Name and address of petitioner(s).
- (B) Purpose of water use.
- (C) Specific provisions from which relief is requested.
- (D) Detailed statement of the adverse effect of the provision from which relief is requested.
- (E) Description of the relief requested.
- (F) Period of time for which the variance is sought.
- (G) Alternative measures that will be taken to reduce water use.
- (H) Other pertinent information.”

## **SECTION 85.**

Subsections (a), (b) and (d) of Section 13.07.039 “Enforcement” of Article 13.07 “Water Conservation and Drought Contingency Plans” is hereby revised to read as follows:

“(a) No person shall knowingly or intentionally allow the use of water from the city for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provisions of this plan, or an amount in excess of that permitted by the drought response stage in effect at the time pursuant to action taken by the city manager or his/her designee, in accordance with provisions of this plan.

(b) Any person who violates this plan is guilty of a misdemeanor. Each day that one or more of the provisions in this plan is violated shall constitute a separate offense. If a person is convicted of three or more distinct violations of this plan, the city manager or his/her designee shall, upon due notice to the customer, be authorized to discontinue water service to the premises where the violations occur. Services discontinued under such circumstances shall be restored only upon payment of reconnection charge, and any other costs incurred by the city in discontinuing service. In addition, suitable assurance must be given to the city manager or his/her designee that the same action will not be repeated while the plan is in effect. Compliance with this plan may also be sought through injunctive relief in the district court.”

“(d) Any employee of the city, police officer, or other employee designated by the city manager or his/her designee, may issue a citation to a person he/she reasonably believes to be in violation

of this plan. The citation shall be prepared in duplicate and shall contain the name and address of the alleged violator, if known, the offense charged and shall direct him/her to appear in the municipal court, on the date shown on the citation.”

#### **SECTION 86.**

Section 13.08.044 “Approval of Permit with Individual Private Collectors” of Article 13.08 “Solid Waste” is hereby revised to read as follows:

##### **“Sec. 13.08.044        Approval of permit with individual private collectors**

All applications for an individual collector shall be reviewed by the city manager and the chief of police. Once approved, a permit shall be issued to the applicant signed by the city manager or designee. Unless otherwise determined to be necessary, the individual collector is not required to be bonded or furnish a certificate of insurance. There is no permit fee required for issuance of this permit. Permits for private collections for an individual collector is valid for one-year from the date of issuance.

#### **SECTION 87.**

Section 13.12.002 “Duty of City Administrator” of Article 13.12 “Stormwater Utility System” is hereby revised to read as follows:

##### **“Sec. 13.12.002        Duty of city manager**

It shall be the duty of the city manager to administer the stormwater utility system. The city engineer shall keep an accurate record of all properties benefited or served by the stormwater utility system and the stormwater utility fee charged for each parcel or portion of a parcel. The record may be maintained within the city's utility billing system or in other recordkeeping systems that may be developed.”

#### **SECTION 88.**

Section 13.12.005 “Definitions” of Article 13.12 “Stormwater Utility System” is hereby revised to delete the definition of “City Administrator” and add the definition of “City Manager” read as follows:

“City manager. The city manager as designated pursuant to the city charter as adopted and as amended.”

#### **SECTION 89.**

Subsection (b)(4) of Section 13.12.006 “Establishment of a Stormwater Utility Fee and Billing” of Article 13.12 “Stormwater Utility System” is hereby revised to read as follows:

“(4) Where an improved parcel is not billed for water, wastewater, solid waste or other service to an owner or customer of the city, the city is hereby authorized to establish a “stormwater only account” and to bill the stormwater utility fee to either the owner or customer, as the city manager determines is appropriate.”

## **SECTION 90.**

Section 13.12.008 “Appeal” of Article 13.12 “Stormwater Utility System” is hereby revised to read as follows:

### **“Sec. 13.12.008        Appeal**

(a) Appeal of stormwater utility fees to the city manager. An owner or customer who has been charged a stormwater utility fee for a nonresidential parcel, and believes that the calculation of the stormwater utility fee is incorrect or inapplicable, may appeal the fee to the city manager by filing a notice of appeal and paying a \$100.00 application fee.

(b) Process.

(1) An appeal can be filed by completing a form created by the city manager that describes the basis for the claimant appealing the data, including the provision of independent engineering reports supporting a more accurate impervious area calculation.

(2) The appeal shall set forth in detail the grounds upon which relief is sought. The city manager shall decide on the appeal based upon a preponderance of the evidence.

(3) The information submitted to the city must be complete in order to conduct an evaluation of the appeal. A response regarding receipt and completeness by the city manager will be provided within ten (10) days of the receipt of the completed appeal form and supporting material. Any billing adjustments made after April 1, 2012 shall be applied only to the next billing cycle following a decision made by the city.

(4) Properties classified as residential shall not have an individual appeals process separate from that offered in the public hearing prior to the initial implementation of the utility system fee.

(5) The utility billing office shall refer questions of impervious fee calculations to the city manager.

(6) The city manager, based from the review and data supported by the city engineer, shall make determinations of impervious area appeals.

(7) Billing and payment disputes for administrative issues shall be subject to appeals procedures used by the city for other billing disputes.

(8) Appeals for the following reasons shall be directed to the city manager or his/her designee for evaluation and determination.

- (A) The applicability of a stormwater utility fee for a parcel;
- (B) The calculation of applicable stormwater runoff potential for a parcel;
- (C) The calculation of the stormwater utility fee for a parcel; or
- (D) The discontinuance of utility service, or other legal actions for nonpayment of stormwater utility fees.

(9) The city manager or his/her designee shall render a written decision on such appeals within thirty (30) days after receiving a complete written notice of appeal from the landowner.

(c) Supporting information for appeal. The person filing the appeal may be required, at the person's cost, to provide supplemental information to the city engineer, including but not limited to survey data sealed by a state-licensed professional land surveyor, engineering reports sealed by a state-licensed professional engineer qualified in civil engineering, or other documentation that the city engineer deems necessary to properly evaluate the appeal. Failure to provide requested information in a timely manner may result in denial of the appeal.

(d) Appeal of stormwater utility fees to the city council.

(1) An owner or customer may appeal the decisions of the city manager to the city council.

(2) The owner or customer shall file a written appeal to the city council within thirty (30) days following receipt of the city manager's decision. The city council shall hear the appeal within sixty (60) days of receipt of the appeal by the city manager. Notice of the hearing shall be mailed to the address given in the appeal form or, if no address is given, to the address on the utility billing statement at least fourteen (14) days prior to the hearing.

(3) The burden of proof shall be on the owner or customer to demonstrate that the fee is not applicable or that the determination of the value of the fee was not calculated according to the applicable stormwater fee schedule or the methodologies established in section 13.12.012, stormwater utility fee and this chapter "utilities" of this code. If applicable, and if not previously submitted to the city manager, the owner or customer shall submit, with the appeal, a report describing the basis for the appeal. The report shall be prepared by a state-licensed professional engineer qualified in civil engineering. The failure to submit such a report shall be considered in determining whether the applicant has met the burden of proof.

(4) If the appeal is accompanied by a bond or other sufficient security satisfactory to the city attorney in an amount equal to the original determination of the stormwater utility fee due, any discontinued utility services may be reinstated while the appeal is pending.

(5) At the hearing, the city council shall allow testimony from the applicant, city employees and other interested persons relevant to the appeal. The hearing may be continued from time to time.

(6) Following the hearing, the city council shall consider all evidence and determine whether the appeal should be granted (in whole or in part) or denied.

(7) The city council shall complete its review and make a decision about the appeal within thirty (30) days of the hearing. The city council shall apply the standards and review criteria contained in this section.

(8) The city council's decision shall be final.

(e) Imposition and appeal of lien.

(1) Before imposing a lien for delinquent stormwater utility charges, the city shall send notice to the owner of the amount of the charges owed and any penalties or interest accrued, and of the owner's right to appeal the imposition of the lien. The notice must provide a time, place and means by which the charges causing the lien may be paid or disputed. The notice shall be sent to the address shown on the tax rolls if the owner has not notified the city of a different address.

(2) Within ten (10) working days of the postmark of the notice sent by certified mail, return receipt to the owner, the owner may appeal the decision to impose the lien on the property to the city manager.

(3) The owner shall present evidence at a meeting with the city manager. Within five (5) working days after the date of the meeting, the city manager shall direct that the lien not be filed if he finds the customer or the owner does not owe a fee, and shall give the owner written notice of the decision.

(4) If warranted, the city manager may modify the lien to reflect the true amount of delinquency in payment for services to the property.

(5) When a person pays all principal, interest and all other charges allowed by law that are secured by a lien filed pursuant to this article, the city manager shall execute a release of that lien.”

## **SECTION 91.**

Subsection (5) of Section 13.12.011 “Exemptions” of Article 13.12 “Stormwater Utility System” is hereby revised to read as follows:

“(5) Proof of exemption. If the owner of property asserts that such property is exempt pursuant to this section or any other applicable law, such property owner has the burden to assert such exemption by filing notice of eligibility for such exemption and sufficient



evidence of entitlement to such exemption with the city manager. If the exemption is not granted, the owner may appeal using the procedures for appeal provided in section 13.12.008 "Appeal" above."

## **SECTION 92.**

Section 4 "Definitions" of Exhibit A "Zoning Ordinance" of Chapter 14 "Zoning" is hereby revised by revising the definition of "Zoning Administrator" to read as follows:

**"ZONING ADMINISTRATOR** - A position appointed by the city manager, as specified by the Charter of the City of River Oaks to enforce and administer the terms of this Ordinance; the individual whose decisions and interpretations are appealed to the board of adjustment."

## **SECTION 93.**

Subsection A of Section 6 "Administration and Enforcement; Building Permits and Certificates of Occupancy" of Exhibit A "Zoning Ordinance" of Chapter 14 "Zoning" is hereby revised to read as follows:

"A. ADMINISTRATION AND ENFORCEMENT. The zoning administrator shall administer and enforce this Ordinance. The city manager or the city council may provide the zoning administrator with the assistance of other persons or consultants. If the zoning administrator finds that any of the provisions of this Ordinance are being violated, he or she shall notify in writing the landowner or person responsible for the violation indicating the nature of the violation and ordering the action necessary to correct it. The zoning administrator shall order discontinuance of any illegal use of land, buildings, or structures; removal of illegal structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions."

## **SECTION 94.**

Subsections E and W.3. of Section 23 "Oil and Gas Well Drilling and Production" of Exhibit A "Zoning Ordinance" of Chapter 14 "Zoning" is hereby revised to read as follows:

"E. **ROAD REPAIR AGREEMENT**. A Road Repair Agreement shall be filed with the Department of Public Works of the City. A Road Repair Agreement must obligate the operator to repair damage to public streets, including but not limited to bridges, caused by the operator (or by the operator's employees, agents, contractors or representatives) in the performance of any activity authorized by or contemplated by the approved Oil or Gas Well Permit. The City Manager shall have the authority to execute the Road Repair Agreement upon approval by the City Council."

"W.3. If the operator does not cure the alleged failure within the time specified by the City, the City Manager may:

- a. Suspend the Oil and Gas Well Permit until the alleged failure is cured; or,

- b. Revoke the Oil and Gas Well Permit if the operator fails to initiate and diligently pursue a cure.”

## **SECTION 95.**

Subsection C of Section 23A “Specific Use Permits” of Exhibit A “Zoning Ordinance” of Chapter 14 “Zoning” is hereby revised to read as follows:

“C. APPLICATION PROCEDURE. A person shall file an application for a specific use permit with the city manager on a form prepared by the city. The application shall be accompanied by a site plan meeting the requirements of Section 25, which along with the application, will become a part of the specific use permit, if approved.”

## **SECTION 96.**

Subsections E and F of Section 24 “Telecommunications Antenna and Tower Siting” of Exhibit A “Zoning Ordinance” of Chapter 14 “Zoning” is hereby revised to read as follows:

“E. ANTENNAS REQUIRING ADMINISTRATIVE APPROVAL. The city manager may approve following antennas after an administrative review:

1. Installation of an antenna on an existing structure other than a tower (such as a building, sign, light pole, water tower, or other freestanding nonresidential structure) that is less than 50 feet in height, so long as the addition does not add more than 20 feet to the height of the existing structure.
2. Installation of an antenna on an existing tower of any height, including a preexisting tower and further including the placement of additional buildings or other supporting equipment used in connection with the antenna, so long as the addition of the antenna adds no more than 20 feet to the height of the existing tower.

### **F. ADMINISTRATIVE REVIEW.**

1. The city manager may administratively approve the installation of an antenna in accordance with this Section.
2. Each applicant for administrative approval shall apply to the mayor, providing the information set forth in Subsection 24.H.
3. The city manager shall respond to each application within 30 days after receiving it by either approving or denying the application. If the city manager fails to respond to the applicant within 30 days, then the application shall be deemed approved.
4. If an administrative approval is denied, the applicant may appeal the denial to the city council using the procedures for the city council's consideration of a specific use permit under this section.”

## **SECTION 97.**

Subsection A of Section 30 "Board of Adjustment" of Exhibit A "Zoning Ordinance" of Chapter 14 "Zoning" is hereby revised to read as follows:

"A. ORGANIZATION. A board of adjustment shall be established and have all the powers and authority in accordance with the Charter of the City of River Oaks and Section 211.008, Local Government Code, as amended. The board of adjustment shall consist of five voting members. The City Council shall appoint the original members to Places 1, 3, and 5 on the board to serve until May 2003, and members to Places 2 and 4 to serve until May, 2003, or until their successors are appointed and qualified. Members to Places 1, 3, and 5 shall be appointed in odd-numbered years and members to Places 2 and 4 shall be appointed in even-numbered years. Board members shall serve two-year terms, with a member to serve until his or her successor is duly appointed and qualified. In addition, the city council may appoint up to four alternates to serve in the absence of any board member. The city council shall appoint the chair and vice-chair. Any member or alternate of the board of adjustment may be removed for just cause by the city council by a majority vote. "Just Cause" as that term is used herein shall include three unexcused absences from meetings, regular or special, of the board of adjustment within 12 months, or misconduct. Vacancies shall be filled by appointment of the city council of a suitable person to serve out the unexpired term of any person whose place on the board of adjustment, either as a member or as an alternate, has become vacant for any cause."

## **SECTION 98.**

Subsection (i) of Section 15.01.005 "Prohibited Conduct" of Article 15.01 "Code of Ethics and Conduct for Elected Officials and Board and Committee Members" is hereby revised to read as follows:

"(i) The city charter shall govern the appointment to and removal of persons from employment with the city. The city manager is responsible for the appointment and removal of employees. Except for the purpose of inquiry the city council and its members shall deal with the city departments and city employees for which the city manager is responsible solely through the city manager, and neither the council or any member thereof shall give orders to any of the subordinates of the city except during the administration of their duties at the council meetings."

## **SECTION 99.**

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.

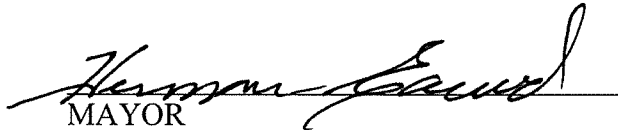
#### **SECTION 100.**

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 animal control 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 shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

#### **SECTION 101.**

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 13<sup>th</sup> DAY OF AUGUST 2019.**

  
MAYOR

ATTEST:  
  
CITY SECRETARY