

ORDINANCE NO. 1384-2023

AN ORDINANCE AMENDING CHAPTER 4 "BUSINESS REGULATIONS" OF THE RIVER OAKS CODE OF ORDINANCES (2020) AS ADOPTED AND AS AMENDED BY AMENDING ARTICLE 4.02 "PEDDLERS, SOLICITORS, AND ITINERANT VENDORS" SPECIFICALLY IN DIVISION 2 "REGISTRATION", SECTION 4.02.032 "APPLICATION" AND BY AMENDING APPENDIX A "FEE SCHEDULE" OF THE RIVER OAKS CODE OF ORDINANCES (2020) AS ADOPTED AND AS AMENDED SPECIFICALLY IN ARTICLE A.02 "SCHEDULE OF FEES AND CHARGES", SECTION A.02.005 "SOLICITATION FEES" REVISING SOLICITATION FEES; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, Aa person desiring to conduct solicitation activities within the city shall make a written application on a form provided by the administrator for a registration certificate; and; and

WHEREAS, recently there has be an incident involving a business wanting to have permits issued for over 50 people; and

WHEREAS, there is a lot of staff time involved into processing solicitors permits involving background checks, Police Chief approval, lamination and entering of permits into the city's Permit System; and

WHEREAS, the fees charged currently and not enough to cover all the costs associated with processing solicitor permits especially when involving multiple permits processed; and

WHEREAS, it is the consensus of the city council to do everything possible to control unpermitted solicitation within the city that is not otherwise exempted by law and to insure that the fees are adequate to offset the administration costs associated with issuing any permit and do support the concerns of the city staff when involving the processing of soliciting permits within the city and therefore, deems it necessary to amend application submittals and to establish fees comparable to other adjacent cities.

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

SECTION 1.

Chapter 4 "Business Regulations" of the River Oaks Code of Ordinances as adopted and as amended be hereby revised by amending Article 4.02 "Peddlers, Solicitors and Itinerant Vendors" specifically in Division 2 "Registration", Section 4.02.032 "Application" to now read as follows:

"Section 4.02.032 "Application"

A person desiring to conduct solicitation activities within the city shall make a written application on a form provided by the administrator for a registration certificate. Applications must be submitted in person; no online submittals will be accepted. The application shall contain or be submitted with the following information:

- (1) The full name, date of birth, phone number and address of the applicant;

- (2) A valid United States issued government photo identification card or state driver's license (the administrator will make a photocopy and attach to the application) of the applicant;
- (3) Except as provided by section **4.02.033(c)**, two photographs of the applicant, measuring 1.5" x 1.5" and showing the head and shoulders of the applicant in a clear and distinguishing manner, which shall have been taken within the preceding 60 days before filing the application;
- (4) If a vehicle or vehicles are used to conduct the solicitation activity, a description of each vehicle, its license plate number and vehicle identification number, the name and license number of the driver who will operate each vehicle, and adequate proof under state law that each driver maintains financial responsibility for the vehicle they will operate shall be attached to the application;
- (5) If the applicant is acting as an employee, agent or volunteer, the name and physical street address (not a post office box) and telephone number of the employer, principal or organization with credentials in written form establishing the relationship and authority of the employee, agent or volunteer to act for the employer, principal or organization;
- (6) If applicable, the merchandise to be sold or offered for sale, the nature of the services to be furnished;
- (7) The approximate time period within which the solicitation is to be made, stating the date of the beginning of the solicitation activity, its projected conclusion and the proposed dates and times of solicitation;
- (8) Whether the applicant, upon any order obtained, will demand, accept or receive payment or the deposit of money in advance of final delivery, and if so, a copy of the bond required by section **4.02.034**;
- (9) If the applicant, or the applicant's employer or principal has pled guilty, or nolo contendere to, or has been convicted of a felony or misdemeanor involving fraud, deceit, theft, embezzlement, burglary, larceny, fraudulent conversion, misrepresentation, or misappropriation of property within ten (10) years preceding the date of application, a description of each such conviction or plea, the name of the court and jurisdiction in which the complaint or indictment was filed and the date of the offense;
- (10) If the applicant, or the applicant's employer or principal is a person against whom a civil judgment or administrative decision based upon fraud, deceit, theft, embezzlement, burglary, larceny, fraudulent conversion, misrepresentation, or misappropriation of property has been entered or ordered within ten (10) years preceding the date of application, a description of judgment or action, the case or cause number, if any, and the court or administrative agency that rendered the judgment or decision;
- (11) If the solicitation activity is to be conducted on behalf of a nonprofit organization, proof of such status shall be attached to the application."

SECTION 2.

Appendix A "Fee Schedule" specifically in Article A.02 "Schedule of Fees and Charges", Section A.02.005 "Solicitation Fees" of the River Oaks Code of Ordinances as adopted and as amended be hereby revised to now read as follows:

"A.02.005 Solicitation fees.

- (1) **Annual Application fee:** \$50.00 per business, \$50.00 per individual both are non-refundable.
- (2) **Permit Fee:**
 - (a) Annual permit fee for person, firm, corporation or organization and a single agent, employee or volunteer: \$100.00
 - (b) Annual permit for each additional agent, employee or volunteer: \$100.00.
 - (c) Annual permit fee for person, corporation, firm or organization that sponsors or employs one or more minors as solicitors: \$125.00"

**SECTION 3
CUMULATIVE CLAUSE**

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

**SECTION 4.
SEVERABILITY CLAUSE**

It is hereby declared to be the intentions of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section..

**SECTION 5.
SAVINGS**

All rights and remedies of the City of River Oaks are expressly saved as to any and all violations of the provisions of the City of River Oaks Code of Ordinances (2020) or any other ordinances affecting the conduct of Solicitation Activities and permitting fees which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

**SECTION 6.
PENALTY**

Whenever in this code or in any ordinance of the city an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, the violation of any such provision of this code or any such ordinance shall be punished by a fine of not exceeding five hundred dollars (\$500.00). However, a fine or penalty for the violation of a rule, ordinance or police regulation that governs fire safety, zoning or public health and sanitation other than dumping of refuse may not exceed two thousand dollars (\$2,000.00); a fine or penalty for the violation of a rule, ordinance, or police regulation that governs the dumping of refuse may not exceed four thousand dollars (\$4,000.00). Provided, however, that no penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of the state. Each day any violation of this code or of any ordinance

shall continue shall constitute a separate offense. In the event that any such violation is designated as a nuisance under the provisions of this code, such nuisance may be summarily abated by the city. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

SECTION 7. PUBLICATION

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

SECTION 8. EFFECTIVE DATE

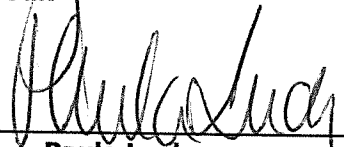
This Ordinance shall be in full force and effect after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED THIS THE 25th DAY OF JULY 2023.



Mayor Darren Houk

ATTEST:



**Paula Luck
City Secretary**

APPROVED AS TO FORM AND LEGALITY:



CITY ATTORNEY