

ORDINANCE NO. 1221-2019

AN ORDINANCE AMENDING ARTICLE 1.09 "COMMUNITY CENTER" SPECIFICALLY IN SECTION 1.09.001 "DEFINITIONS"; SECTION 1.09.003 "CONSUMPTION OR POSSESSION OF ALCOHOLIC BEVERAGES PROHIBITED". PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; 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, the City Council adopted **Resolution # 952-2019** on January 22, 2019 changing the name of the River Oaks Community Center to the River Oaks Event Center necessitating revising Section 1.09.001 "Definitions" in the River Oaks Code of Ordinances that the Community Center is actually the Event Center; and

WHEREAS, on February 26, 2019 the City Council approved updates to the Event Center Rental Policies that provided for rentals involving alcoholic beverages only when meeting specific criteria; and

WHEREAS, it is the council's desire to revise the current provision in Section 1.09.003 "Consumption or Possession of Alcoholic Beverages Prohibited" that a person commits an offense if the person consumes any alcoholic beverage, or possesses such alcoholic beverage, in the community center building or upon real property owned and operated by the city for the community center unless otherwise approved by the city council: and

WHEREAS, in order for the ordinance provision to be compatible with the Event Center Rental Policies when pertaining to alcoholic beverages, the City Council has concluded that it is necessary to amend Section 1.09.003 "Consumption or Possession of Alcoholic Beverages Prohibited" to include language in the Event Center Policy regarding Alcoholic Beverages; and

WHEREAS, with the name change of the Community Center as provided for in Section 1.09.001, the City Council has concluded that conceptually in the definitions, it would be beneficial to amend Article 1.09 "Community Center" that officially the Community Center is the Event Center and is one and the same building.

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

SECTION 1.

That Article 1.09 "Community Center" specifically in Section 1.09.001 "Definitions"; of the Code of Ordinances of the City of River Oaks, Texas is hereby amended to now read as follows:

"ARTICLE 1.09 EVENT CENTER

Sec. 1.09.001 Definitions

The following words and terms when used in this section shall have the meanings defined as follows:

Alcoholic beverage. Has the meaning assigned in section 1.04, Alcoholic Beverage Code as follows: Alcohol, or any beverage containing more than one-half of one percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted.

Burning. The lighting or combustion of a tobacco product.

* Event center. A public building owned and operator by the city, which may sell or serve to the public food or drink intended for human consumption and its use includes but is not limited to community programs, educational programs, benefits, entertainment, public meetings and recreational activities designed to promote the community.

Concealed handgun. A handgun, the presence of which is not openly discernible to the ordinary observation of a reasonable person.

Firearms. Any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use.

Handgun. Any firearm that is designed, made, or adapted to be fired with one hand.

Smoking. Emitting or exhaling the smoke of burning tobacco, weed, or other plant or tobacco product.

Tobacco product. Any tobacco, cigarette, cigar, pipe tobacco, smokeless tobacco, snuff or any other form of tobacco, which may be utilized for smoking, chewing, inhalation or other manner of ingestion or absorption.

Vendors stand. A canopy, awning, plastic, wood, vinyl or other type of protective covering whether enclosed or open used to sell, display or handle food products, drinks or miscellaneous articles whether for human consumption or not to the public during a city sponsored or private rental event outside on real property belonging to the event center.

* Whenever Community Center is written within this Article, pursuant to Resolution 952-2019 has been renamed to Event Center on January 22, 2019 and therefore for all purposes expressly provided herein are one and the same building."

SECTION 2.

That Article 1.09 "Community Center" specifically in Section 1.09.003 "Consumption or Possession of Alcoholic Beverages Prohibited"; of the Code of Ordinances of the City of River Oaks, Texas is hereby revised to now read as follows:

Section 1.09.003 "Consumption or Possession of Alcoholic Beverages Prohibited"

A person commits an offense if the person consumes any alcoholic beverage, or possesses such alcoholic beverage, in the event center building or upon real property owned and operated by the city for the event center unless otherwise approved for special events in accordance to this section:

A. In addition to the immediate suspension of the rental contract as well as the loss of the rental deposit, a violation of this ordinance may be punished by a fine of not to exceed five hundred dollars (\$500.00).

B. If the renter applies for and is approved for the use or possession of alcoholic beverages, the following additional provisions will apply:

1) *Pay a refundable deposit fee in advance of the event in the amount of \$600.*

- 2) *The hourly rental fee: nonresident fee of \$150 per hour and a resident fee of \$135 per hour and a civic group rate of per \$110 per hour for the first three hours (including setup and cleanup) and \$90 per hour for each additional hour.*
- 3) *The renter will be required to hire two uniformed police officers to monitor the event by contacting the River Oaks Police Chief. This will be an additional expense to the renter and not the responsibility of the Center. Each uniformed Police Officer must be paid \$40 per hour (minimum 4-hours - \$160 each for a total minimum of \$320) in cash prior to the event. In the event the uniformed police officers are not paid in advance, the event is cancelled."*

SECTION 3.

This ordinance shall be cumulative of all provisions of ordinances of the City of River Oaks, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 4.

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 5.

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 community center or event center provisions 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.

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 including the dumping of refuse may not exceed two thousand dollars (\$2,000.00); 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.

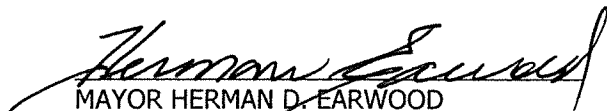
SECTION 7.

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

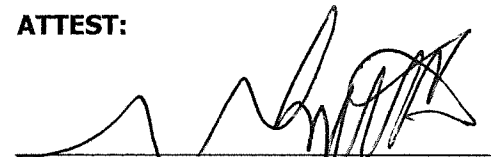
SECTION 8.

This Ordinance shall be in full force after its passage by a majority vote of the City Council of the City of River Oaks and the legal publication of this ordinance if any is required and it is so ordained.

PASSED AND APPROVED ON THIS THE 26TH DAY OF FEBRUARY 2019.


MAYOR HERMAN D. EARWOOD

ATTEST:


CITY SECRETARY