

**ORDINANCE NO. 1432-2024**

AN ORDINANCE AMENDING ARTICLE 4.06 "AMUSEMENT DEVICES"; SPECIFICALLY, UNDER SECTION 4.06.004 "PERMIT REQUIRED" AND IN SECTION 4.06.005 "PERMIT FEES" OF THE RIVER OAKS CODE OF ORDINANCES (2020) BY ESTABLISHING THE NUMBER OF AMUSEMENT MACHINES REQUIRING PERMITS AND ESTABLISHING A FEE FOR EACH; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATION THEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND PROVIDING AN EFFECTIVE DATE.

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

**WHEREAS**, an "amusement machine" by definition is the same as a "skill or pleasure coin-operated machine" pursuant to the V.T.C.A., Occupations Code, chapter 2153, as amended; and

**WHEREAS**, an "amusement machine" is a machine or device of any kind or character, that is operated by or with coins, metal slugs, tokens, or checks, when such machine dispenses or is used or is capable of being used or operated for amusement or pleasure or when such machine is operated for the purpose of dispensing or affording skill or pleasure, or for any other purpose other than the dispensing or vending of "merchandise or music" or "service" exclusively, as those terms are defined in the V.T.C.A., Occupations Code, chapter 2153, as amended; and

**WHEREAS**, no "amusement machine" will be operated in a way that constitutes an illegal gambling device as defined by Section 47.01(4) of the Texas Penal Code, as amended; and

**WHEREAS**, the Police Chief finds that based on the number of investigations where the amusement machines were being operating in a way that constituted illegal gambling, his recommendation is to continue permitting control with all amusement machines even when they wouldn't constitute being an amusement device establishment; and

**WHEREAS**, when applicable a person desiring a permit to operate an amusement machine shall file a written application with the city secretary as provided for in "Exhibit A" of this Ordinance; and

**WHEREAS**, the City Council has determined after due and careful consideration to concur with the recommendation of the Police Chief since it is a violation of the Texas Penal Code when such amusement machines are used illegally for gambling and especially when such illegal use is already punishable by law.

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

**SECTION 1.**

That Article 4.06, "Amusement Devices" of the City of River Oaks Code of Ordinances (2020) with the adoption of this ordinance, Section 4.06.004 "Permit Required" shall be revised to now read as follows:

**"Section 4.06.004 Permit Required**

(a) Except as provided in subsection (b), below, it shall be unlawful for any person, individually or in association with others, to operate an amusement machine without having a valid, current annual permit issued by the city and without having a valid, current decal issued by the city for each amusement machine being displayed or operated in the establishment.

(b) The permitting and regulating provisions of this article do not apply to:

(1) Amusement machines kept in private residences or apartments and used without charge by members of the family or bona fide guests;

(2) Amusement machines provided on the premises of religious, charitable, educational, or fraternal organizations for the use of members or their guests, and not for private profit, although a charge is made for playing;

(3) Amusement machines provided on the premises of bona fide clubs or social organizations, not operated for private profit although a charge is made for playing, which provide other membership privileges and activities usual in bona fide private clubs organized for the promotion of some common object and whose members must be individually passed upon and elected as members by a committee or board made up of members of the club and its affairs and management shall be conducted by a board of directors, executive committee or similar body chosen by the members at their annual meetings;

(4) Amusement machines provided on the premises of publicly owned facilities.”

## **SECTION 2.**

That Article 4.06, “Amusement Devices” of the City of River Oaks Code of Ordinances (2020) with the adoption of this ordinance, Section 4.06.005 “Permit Fees” shall be amended by revising Section 4.06.005 “Permit Fees” to now read as follows:

### **“Sec. 4.06.005 Permit Fees**

(a) The annual permit fee for each business that displays four or fewer amusement machines shall be Seventy-Five dollars (\$75.00) for each amusement machine.

(b) The annual permit fee for each business that displays five or more amusement machines shall be a flat fee of four hundred dollars (\$400.00).

(c) No permit shall be issued until the applicant has paid the required permit fee.”

## **SECTION 3. CUMULATIVE**

This Ordinance shall be cumulative of all provisions of Ordinances of the city, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

## **SECTION 4. SEVERABILITY**

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

## **SECTION 5. SAVINGS**

All rights and remedies of the City of River Oaks are expressly saved as to any and all violations of the provisions of the City of River Oaks Code of Ordinances (2020) or any other ordinances affecting Amusement Devices 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**

(a) In case of any willful violation of any of the terms and provisions of this article, the city may institute any appropriate action or proceedings in any court of appropriate jurisdiction to restrain, correct, or abate such violation. For violations of this article, the city may also invoke civil remedies provided by the laws of the state, which shall be cumulative and subject to prosecutions prescribed for such violations.

(b) A fine not to exceed an amount as provided in section 1.01.009 shall be levied against any permittee upon conviction of any violation of any provision of this article. Each day shall constitute a separate offense.

(c) In addition, the city is authorized to seal any coin-operated machine (as that term is defined in V.T.C.A., Occupations Code, chapter 2153, as amended) for which the city's occupation tax has not been paid, and shall charge a fee of \$5.00 for the release of any machine so sealed for nonpayment of tax (as authorized by V.T.C.A., Occupations Code, chapter 2153, as amended).

(d) Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this article shall be fined as provided in section 1.01.009 for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

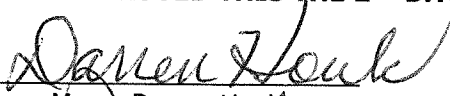
**SECTION 7.  
PUBLICATION**

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

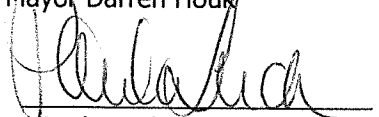
**SECTION 8.  
EFFECTIVE DATE**

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

**PASSED AND APPROVED THIS THE 2<sup>ND</sup> DAY OF JULY 2024.**

  
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Mayor Darren Houk

**ATTEST:**

  
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Paula Luck, City Secretary