

ORDINANCE # 1445-2024

AN ORDINANCE AMENDING ARTICLE 4.02 "PEDDLERS, SOLICITORS & ITINERANT VENDORS" OF THE CODE OF ORDINANCES, RIVER OAKS, TEXAS (2020) AMENDING SECTION 4.02.004 TO ESTABLISH REASONABLE TIME LIMITATIONS FOR HANDBILL DISTRIBUTION ACTIVITIES; AMENDING SECTION 4.02.006 TO PROVIDE REGULATIONS FOR DISTRIBUTION OF HANDBILLS; PROVIDING A CUMULATIVE CLAUSE; 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 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, there have been numerous complaints about the delivery of unsolicited flyers, circulars, newspapers, and other commercial and noncommercial paper being thrown onto private property within the City; and

WHEREAS, the City Council finds that controls must be put in place regarding the distribution of unsolicited flyers, circulars, and other commercial handbills that create environmental and property blight and are litter; and

WHEREAS, the City Council further finds that these unsolicited flyers, circulars, and other commercial handbills when not picked up and properly discarded have the possibility of getting into the City's drainage system and creating obstructions restricting the natural flow of storm water runoff; and

WHEREAS, the City finds its restrictions on the distribution of flyers, circulars, and other commercial handbills are the most limited restrictions on commercial speech possible to advance its substantial state interest of reducing litter in its streets and protecting its drainage systems; and

WHEREAS, the City finds its restrictions on the distribution of flyers, circulars, and other commercial handbills are narrowly drawn to address the City's substantial governmental interest in preventing littering, environmental and property blight, and interference with drainage systems; and

WHEREAS, the City's restrictions on the distribution of flyers, circulars, and other commercial and handbills are not outright bans on distribution and are appropriate time, place, and manner restrictions that are narrowly drawn to accomplish the City's substantial governmental interest; and

WHEREAS, it should not be the responsibility of the property owners or tenants to clean up and discard such printed materials that they have not specifically ordered, subscribed to or requested; and

WHEREAS, the City Council after careful consideration deemed it necessary for the health, safety, and general welfare of the citizenry that the distribution of unsolicited flyers, circulars, and other commercial handbills shall be regulated within the City of River Oaks with the adoption of this Ordinance.

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

SECTION 1.

Section 4.02.004 "General regulations" of Article 4.02 "Peddlers, Solicitors, and Itinerant Vendors" of Division 1 "Generally" of Chapter 4 "Business Regulations" of the Code of Ordinances, City of River Oaks, Texas, is hereby amended by amending subsection (a) to read as follows:

"(a) A person commits an offense if the person engages in solicitation activities, canvassing activities, or handbill distribution at a residence:

- (1) Before 9:00 a.m.; or
- (2) After dark or 9:00 p.m., whichever is earlier on a given day."

SECTION 2.

Section 4.02.006 "Handbills" of Article 4.02 "Peddlers, Solicitors, and Itinerant Vendors" of Division 1 "Generally" of Chapter 4 "Business Regulations" of the Code of Ordinances, City of River Oaks, Texas, is hereby amended to read as follows:

"Section 4.02.006 Handbills.

(a) Throwing, distributing, etc., handbills in public places. No person shall throw or deposit any commercial or noncommercial handbill in or upon any sidewalk, street or other public place within the city; nor shall any person hand out or distribute or sell any commercial handbill in any public place. It shall not be unlawful on any sidewalk, street or other public place within the city for any person to hand out or distribute, without charge to the receiver thereof, any noncommercial handbill to any person willing to accept it.

(b) Placing handbills in or upon vehicles. No person shall throw or deposit any commercial or noncommercial handbill in or upon any vehicle. It shall not be unlawful in any public place for a person to hand out or distribute, without charge to the receiver thereof, a noncommercial handbill to any occupant of a vehicle who is willing to accept it.

(c) Depositing handbills on uninhabited or vacant premises. No person shall throw or deposit any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

(d) Distribution of handbills where posted or indicated as prohibited. No person shall throw, deposit or distribute any commercial or noncommercial handbill upon any private premises, if requested by anyone thereon not to do so, or if there is placed on such premises in a conspicuous position near the entrance thereof, a sign bearing the words "No Trespassing," "No Peddlers or Agents," "No Advertisement," or any similar notice indicating in any manner that the occupants of such premises do not desire to be molested or have their right of privacy disturbed, or to have any such handbills left upon such premises.

(e) Manner of distribution of handbills to inhabited premises.

- (1) *Unposted, private premises.* In case of inhabited private premises which are not posted, as provided in this article, such person, unless requested by anyone upon such premises not to do so, may place or deposit any such handbill in or upon such inhabited private premises if such handbill is:
 - a. in a plastic bag or so placed or deposited as to secure or prevent such handbill from being decomposed by the elements or blown or drifted about such premises or sidewalks, streets or other public places;
 - b. placed or deposited in a location that is within five (5) feet of the front door of the premises; and
 - c. distributed in accordance with all other requirements of this article applicable to handbills or handbill distribution.

- (2) *Requirements for commercial handbills distributed to inhabited premises.*
 - a. All commercial handbills shall have printed on page one of the handbill the following statement verbatim: "IF YOU DO NOT WISH TO RECEIVE THIS PUBLICATION, PLEASE CALL" followed by an area code plus the telephone number that an owner or occupant of the premises may use to notify the person distributing such handbills that handbills are not to be delivered to the owner or occupant's premises. The font for this statement and telephone number must be no smaller than 12 point, bold.
 - b. Persons distributing such commercial handbills will maintain a listing of all premises which have notified the handbill distributor that handbills are not to be delivered to the premises. This listing shall include the address of the premises, the owner or occupant making the notification, and the date the notification was first made. This information shall be provided to the city January 1 of each year and at such other times as the city may request it.

- (3) *Exemption for mail and newspapers.* The provisions of this section shall not apply to the distribution of mail by the United States, nor to newspapers (as defined herein) except, that newspapers shall be placed on private property in a plastic bag and so placed or deposited in such manner as to prevent their being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

(f) Responsibility for compliance with section. A person distributing handbills is responsible for distributing handbills in violation of this Article. The person whose address or telephone number is listed in the handbill or who is otherwise named, described, or identified in the handbill is presumed to be responsible, either personally or through an agent or employee, for any violation of this section."

**SECTION 3
CUMULATIVE**

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

**SECTION 4.
SEVERABILITY**

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.
SAVINGS**

All rights and remedies of the City are expressly saved as to any and all violations of the provisions of the Code of Ordinances, City of River Oaks, Texas (2020) or any other ordinances affecting regulations for the delivery or distribution of handbills and unsolicited circulars, newspapers, or any such unsolicited printed materials to the owner or tenant of private premises within the city limits that have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all 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 Ordinance an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor or whenever in this 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 Ordinance shall be punished by a fine 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). Each day any violation of this Ordinance shall continue shall constitute a separate offense. In addition to the penalty prescribed above, the City may pursue any other remedies provided by law or in equity for a violation of this Ordinance.

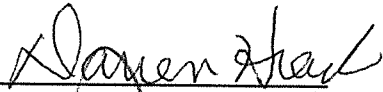
**SECTION 7.
PUBLICATION**

The City Secretary of the City is hereby directed to publish in the official newspaper the caption or title of this Ordinance and the penalty for violating this Ordinance one (1) time in the official newspaper of the City as required by Section 5.02(c) of the Charter of the City.

**SECTION 8.
EFFECTIVE DATE**

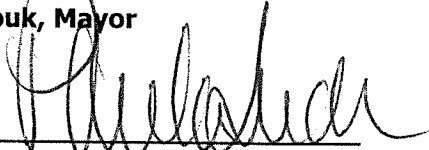
This Ordinance shall be in full force and effect after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED THIS THE 17th DAY OF DECEMBER 2024.



Darren Houk, Mayor

ATTEST:



**City Secretary
City of River Oaks**