

ORDINANCE NO. 452

AN ORDINANCE AMENDING CHAPTER 11 OF THE CODE OF ORDINANCES OF THE CITY OF RIVER OAKS, TEXAS BY ADDING ARTICLE IIA; PROVIDING REQUIREMENTS FOR CUTTING GRASS, WEEDS, AND PLANTS AND REMOVAL OF RUBBISH, BRUSH, AND OTHER UNSANITARY MATTER FROM LAND; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; REPEALING ORDINANCE NO. 310; PROVIDING A PENALTY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; 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, the City of River Oaks has previously adopted regulations prohibiting the growth of grass, weeds, and other plants and the accumulation of rubbish, brush and other unsanitary matter; and

WHEREAS, the city council has determined that it is necessary to amend the regulations to clarify the requirements and provide additional methods of enforcement;

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

SECTION 1. That Chapter 11, "Health and Sanitation," of the code of ordinances of the City of River Oaks, as amended, is amended by adding article IIa to read as follows:

"ARTICLE IIA. WEEDS, GRASS, BRUSH, RUBBISH, ETC."

Sec. 11-24. Maximum Height of Grass and Weeds; Removal of Rubbish, etc.

It is unlawful for a person, firm, or corporation owning or having control of land within the city, occupied or unoccupied, to permit:

- (1) grass, weeds, or any plant that is not cultivated to grow to a height greater than 10 inches on the land or between the property line of the land and the curb of an adjacent street or

if there is no curb, then between the property line of the land and 10 feet outside the property line adjacent to public right-of-way; or

- (2) rubbish, brush, or other unsanitary or unsightly matter, including, but not limited to junk, trash, garbage, refuse, appliances, or machinery to accumulate or be present upon the property.

Sec. 11-25. Responsibility for Cutting; Clearing.

It is the responsibility of a person, firm, or corporation owning or having control of land within the city, to cut or cause to be cut, grass, weeds, or plants, and to remove or cause to be removed, rubbish, brush, and other unsanitary or unsightly matter as often as necessary to comply with the requirements of Section 11-24.

Sec. 11-26. Abatement of Prohibited Conditions.

- (a) If the owner of land fails to comply with the requirements of Sections 11-24 and 11-25, a city official may cause the property owner to be notified to cut the grass, weeds, or other plants or to remove the rubbish, brush, or other unsanitary or unsightly matter within 10 days of the date of the notice.
- (b) The notice must be given:
 - (1) personally to the owner in writing;
 - (2) by letter addressed to the owner at the owner's post office address; or
 - (3) if personal service cannot be obtained or the owner's post office address is unknown:
 - (A) by publication in the city's official newspaper at least twice within 10 days;
 - (B) by posting the notice on or near the front door of each building on the property to which the violation relates; or
 - (C) if the property contains no buildings, by posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates.

- (c) If the owner does not cut the weeds, grass, or plant or remove the rubbish within 10 days of the notice, the city may do the work and charge the expenses to the owner of the property and assess the expenses against the real estate on which the work is done.
- (d) To obtain the lien, the mayor or other city official designated by the mayor must file a statement of expenses with the county clerk.
- (e) The city may then bring a suit for foreclosure to recover the expenditures and interest that accrues at the rate of 10 percent.
- (f) Although it is not required, if the notice is given by certified mail, return receipt requested, then the city may:
 - (1) inform the owner in the notice if the owner commits another violation of the same kind (failure to mow weeds) on or before one year from the date of the notice, the city without further notice may correct the violation at the owner's expense and assess the expense against the property; and
 - (2) if a violation occurs within the one-year period, and the city has not been informed in writing of an ownership change, by the owner then the city without notice may take corrective action and assess the expenses against the owner and the property.

SECTION 3. Repealing Clause. Ordinance no. 310, pertaining to weeds and unsanitary matter, is repealed.

SECTION 4. Penalty. 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 ordinance shall be fined not more than \$2000 for each offense.

SECTION 5. Cumulative Clause. 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 6. Severability Clause. 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 7. Savings Clause. All rights and remedies of the City of River Oaks are expressly saved as to any and all violations of the provisions of any other ordinances affecting mobile food vendors 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 8. Publication. The city secretary is directed to publish this ordinance, or its caption and penalty clause, in one issue of the official city newspaper as required by Chapter 7, Section 4 of the Charter of the city.

SECTION 9. Effective Date. 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 19 DAY OF JULY, 1994.

/s/ JAMES M. WALKER
MAYOR

ATTEST:

/s/ R. W. VanTil
CITY SECRETARY