

Office of the City Manager

City of Richland Hills, Texas

Memorandum

To: Honorable Mayor Bill Agan and members of the Richland Hills City Council
From: Eric Strong, City Manager
Date: April 15, 2014
Subject: Code Enforcement Ordinance Update 1266-14

Council Action Requested:

Consideration of Ordinance 1266-14 amending the Code of Ordinances by prohibiting automobile sales in certain areas within the City.

Background Information:

As the City Council is aware, we have been working on updating various Ordinances that our Code Enforcement Division needs to more effectively enforce various issues we come across. This was discussed at the last meeting and referred back to Staff for a few clean-up items.

There are a few clarifications that are necessary regarding this item. There was a significant amount of discussion regarding enforcement of this item. While the intent of this ordinance is to regulate vehicle sales in residential areas or on commercial parking lots (other than on a designated car lot), there are some common sense accommodations that are made. The intent is not to prohibit a homeowner from selling their car. As such, this ordinance allows each residence to sell up to two vehicles per year from their property. However, we are trying to prevent someone from running a used car business out of their house.

There was a concern about an out of town visitor eating at one of our restaurants or shopping at one of our stores and being subject to a ticket for temporarily parking a vehicle they are using. To address this concern, I added a provision that allows for a car with a for sale sign to be parked in a public location or on a commercial lot for a maximum of two hours.

The other intent of this ordinance is to regulate that vehicles in residential areas must be parked on an appropriate hard surface and, in certain circumstances, be appropriately screened from view.

Board/Citizen Input: N/A

Financial Impact: N/A

Staff Contacts: Eric Strong
City Manager
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Attachments: Ordinance1266-14

ORDINANCE NO. 1266-14

AN ORDINANCE OF THE CITY OF RICHLAND HILLS, TEXAS AMENDING CHAPTER 34, "ENVIRONMENT"; PROHIBITING AUTOMOBILE SALES IN CERTAIN AREAS WITHIN THE CITY; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Richland Hills, 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 has previously adopted regulations related to the parking of certain vehicles and advertising the same for sale within the City; and

WHEREAS, the City Council of the City of Richland Hills, Texas, desires to amend and clarify these provisions; and

WHEREAS, the City Council of the City of Richland Hills, Texas, has determined that the adoption of the amendment herein is in the best interest of the public health, safety and general welfare and therefore deems it advisable to enact this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RICHLAND HILLS, TEXAS:

SECTION 1.

The Code of Ordinances, City of Richland Hills, is hereby revised by amending section 34-291 of Article VII "Parking on Unapproved Surfaces" of Chapter 34 to read as follows:

"Section 34-291. Parking restrictions generally.

- (a) No vehicles, trailers or recreational equipment shall be parked or stored on any lot within the city except in accordance with the following provisions:
 - (1) On nonresidential property when parked upon an approved surface;
 - (2) On residential property when parked on any side or front yard when such vehicle is parked on hard paved surface of concrete or asphalt not less than nine (9) feet by eighteen (18) feet, or at least of sufficient size to accommodate the horizontal area projected by the extreme limits of the vehicle. A vehicle may be parked or stored in the side yard, side yard adjacent to a street or rear yard provided it is screened from public view by not less than a six-foot tall solid fence. All parking

spaces constructed for the purpose of abating this nuisance shall be constructed with a driveway adjoining an existing on-site driveway and approach adjoining a public right of way;

- (3) On residential property when parked on any rear yard provided it is screened from public view by not less than a six-foot tall solid fence;
 - (4) Items parked or stored in or on a side yard shall maintain a minimum three foot clearance to the property lines; or
 - (5) No more than two vehicles shall at any one time be parked in the rear yard of a residential lot of less than one-half acre, and no more than three vehicles shall be parked in the rear yard of a residential lot of one-half acre or more in size. On residential lots greater than one acre in size, farm implements shall be exempted from the requirements of this subsection and shall not count as vehicles in calculating the maximum number allowed. Notwithstanding the foregoing, vehicles which are parked in an enclosed garage or carport shall not count as vehicles in calculating the maximum number allowed, and shall be permitted in unlimited numbers.
- (b) Any vehicle, trailer or recreational equipment that is parked or stored in violation of subsection (a) of this section, is hereby declared to be a nuisance.
- (c) A person commits an offense if the person, on property under that person's control, parks or stores or allows to be parked or stored, in violation of subsection (a) of this section, any vehicle, trailer or recreational equipment.”

SECTION 2.

The Code of Ordinances, City of Richland Hills, is hereby revised by adding section 34-293 of Article VII “Parking on Unapproved Surfaces” of Chapter 34 to read as follows:

“Section 34-293. Automobile Sales in Certain Areas.

- (a) A person commits an offense by parking or allowing the parking of an automobile, boat, trailer or any other type of vehicle on any public street, playground, park, athletic field, or schoolyard with any type of sign or writing on the vehicle, which offers the vehicle for sale if the vehicle has not moved for more than two hours.
- (b) A person commits an offense by parking or allowing the parking of an automobile, boat, trailer, or any other type of vehicle upon any private property, including parking lots or driveways of residential or commercial lots with any type of sign or writing upon the vehicle which offers the vehicle for sale.

- (c) It is a defense to prosecution under this section if the vehicle is offered for sale upon real property zoned for automobile sales or if the vehicle is offered for sale on private residential property and no more than two vehicles have been offered for sale from that property within any one calendar year.”

SECTION 3.

This Ordinance shall be cumulative of all provisions of ordinances of the City of Richland Hills, 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, phrase, clauses, sentences, paragraphs or sections of this Ordinance since the same would have been enacted by the City Council without incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 5.

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 no more than Two Thousand Dollars (\$2,000.00) for all violations involving zoning, fire safety or public health and sanitation, including dumping or refuse, and shall be fined not more than Five Hundred Dollars (\$500.00) for all other violations of this Ordinance. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 6.

All rights and remedies of the City of Richland Hills, Texas, are expressly saved as to any and all violations of the provisions of any ordinances of the City of Richland Hills 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 7.

The City Secretary of the City of Richland Hills is hereby authorized to publish this ordinance in book or pamphlet form for general distribution among the public, and the operative provisions of this ordinance as so published shall be admissible in evidence in all courts without further proof than the production thereof.

SECTION 8.

The City Secretary of the City of Richland Hills is directed to publish the caption and penalty clause of this Ordinance in the official newspaper of the City of Richland Hills, Texas, as required by Section 52.011 of the Texas Local Government Code.

SECTION 9.

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

PASSED AND APPROVED _____ DAY OF _____, 2014.

THE HONORABLE BILL AGAN, MAYOR

ATTEST:

LINDA CANTU, CITY SECRETARY

EFFECTIVE DATE: _____

APPROVED AS TO FORM AND LEGALITY:

BESTY ELAM, CITY ATTORNEY