

**CITY OF SANDY OAKS, TEXAS**

**ORDINANCE NO. 2016-50**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANDY OAKS, TEXAS REGULATING THE LOCATION OF SEXUALLY ORIENTED BUSINESSES; PROVIDING FOR EXEMPT BUSINESSES; PROVIDING FOR ENFORCEMENT AND A PENALTY; PROVIDING FOR INJUNCTION; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE AND FOR PUBLICATION.**

**WHEREAS**, the Texas Legislature has determined that the unrestricted operation of certain sexually oriented businesses may be detrimental to the public health, safety, and welfare by contributing to the decline of residential and business neighborhoods and the growth of criminal activity; and

**WHEREAS**, section 243.003 of the Local Government Code authorizes a municipality by ordinance to adopt regulations regarding sexually oriented businesses as the municipality considers necessary to promote the public health, safety, or welfare; and

**WHEREAS**, the City Council of the City of Sandy Oaks, Texas finds that the unrestricted operation of certain sexually oriented business may be detrimental to the public health, safety and welfare by contributing to the decline of residential and business neighborhoods and the growth of criminal activity;

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

**SECTION 1. DEFINITIONS.** For the purposes of this Ordinance, the following terms shall have the following meanings, unless the content clearly indicates that a different meaning is intended:

- (A) "City" shall mean the City of Sandy Oaks, Texas, a Type A General Law municipality incorporated and operating in Bexar County under the laws of the State of Texas.
- (B) "City Council" shall mean the governing body of the City.
- (C) "Person" means any individual, firm, organization, entity, business, partnership, unincorporated association or corporation.
- (D) "Sexually Oriented Business" means a sex parlor, nude studio, modeling studio, love parlor, adult bookstore, adult movie theater, adult video arcade, adult movie arcade, adult video store, adult motel, adult entertainment club, adult cabaret, gentlemen's club, or other commercial enterprise the primary business of which is the offering of a service or the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer.

## **SECTION 2. LOCATION OF SEXUALLY ORIENTED BUSINESS.**

- (A) It shall be unlawful for any sexually oriented business to be located, operated, or established, caused to be located, operated or established or permitted to be located, operated, or established within 2,000 feet of any public or private school, church or regular place of worship, public park, hospital, day care center, child care facility, school bus stop, public bus stop, or a residential area with three (3) or more houses. The measurement of the distance between the sexually oriented business and the above listed shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which one of the above listed and the sexually oriented business is located.
- (B) It shall be unlawful for a person to operate, establish or maintain or cause or permit the operation, establishment, or maintenance of a sexually oriented business within 2,000 feet of another sexually oriented business. The measurement of the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each sexually oriented business is located.
- (C) A person commits an offense if he operates, establishes or maintains or causes or permits the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion of a building or structure.

**SECTION 3. EXEMPT BUSINESSES.** The following are exempt from regulation under this Ordinance: (1) a bookstore, movie theater, or video store, unless that business is an adult bookstore, adult movie theater, or adult video store as defined in Section 1; (2) a business operated by or employing a licensed psychologist, licensed physical therapist, licensed athletic trainer, licensed cosmetologist, or licensed barber engaged in performing functions authorized under the license held; or (3) a business operated by or employing a licensed physician or licensed chiropractor engaged in practicing the healing arts.

**SECTION 4. ENFORCEMENT AND PENALTY.** Any person violating any of the provisions of this Ordinance shall be deemed guilty of a Class A misdemeanor and, upon conviction in the municipal court of the City, or any other Court of proper jurisdiction, shall be subject to a fine not to exceed the sum of Five Hundred Dollars (\$500.00) for each offense, except however, where a different penalty has been established by state law for such offense the penalty shall be that fixed by state law, and for any offense which is a violation of any provision of law that governs fire safety, zoning, or public health and sanitation, the penalty shall be a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense. Each and every day said violation is continued shall constitute a separate offense.

**SECTION 5. INJUNCTION.** The City may sue in district court for an injunction to prohibit the violation of a regulation adopted under this Ordinance.

**SECTION 6. SEVERABILITY.** Should any section, subsection, sentence clause or phrase of this Ordinance be declared unconstitutional and/or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall




remain in full force and effect. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause, or phrase thereof, regardless of whether any one or more sections, subsections, sentences, clauses, or phrases is declared unconstitutional and/or invalid.

**SECTION 7. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon its publication as required by section 52.011 of the Local Government Code.

**SECTION 8. PUBLICATION.** The City Clerk is hereby authorized and directed to publish the caption of this Ordinance together with the penalty provision contained therein in the manner and for the length of time prescribed by law.

**PASSED AND APPROVED** on this 13<sup>th</sup> day of April, 2016.

**CITY OF SANDY OAKS, TEXAS**

  
Micki L. Ball, Mayor

**ATTEST:**

  
Charlotte Rabe, City Clerk