

# **CITY OF SANDY OAKS, TEXAS**

## **ORDINANCE NO: 2018-118**

**AN ORDINANCE AMENDING ORDINANCE NO. 2015-35 KNOWN AS THE HEALTH AND SANITATION REGULATIONS, ESTABLISHING THE CONDITIONS RELATING TO THE MAINTENANCE OF LOTS AND FOOD AND FOOD ESTABLISHMENTS IN THE CITY OF SANDY OAKS, TEXAS AND PROMOTING THE HEALTH SAFETY AND WELFARE OF THE CITIZENS OF SANDY OAKS, TEXAS; SETTING FORTH THE PURPOSE; DEFINITIONS; ADMINISTRATIVE PROCEDURES FOR AMENDMENTS AND VARIATIONS; ESTABLISHING STANDARDS; PROVIDING FOR A PENALTY FOR VIOLATION; AND SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Sandy Oaks seeks to promote the health, safety, and general welfare of the community by preventing death, injuries and property damage within the city limits; and

**WHEREAS**, the City of Sandy Oaks finds the need to maintain the surrounding environment of the City and protect the citizens of Sandy Oaks in regard to sanitation of the food and food establishments by adopting these provisions; and

**WHEREAS**, under the authority of Chapter 342, subchapters A and B, Texas Health and Safety Code, the City may promote health, safety, morals and general welfare of the community; and

**WHEREAS**, the City of Sandy Oaks ("City") adopted Ordinance No. 2015-12 subsequently amended by Ordinance No. 2015-35 to promote health, safety and general welfare of the community by establishing Health and Sanitation Regulations; and

**WHEREAS**, the City Council desires to amend the Ordinance 2015-35 to include regulations for the placement of trash receptacles within the City's rights-of-way

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

**SECTION 1. FINDINGS.** The City Council finds the statements made in the preamble above are true and correct.

**SECTION 2: DECLARING AMENDMENT.** That from and after the passage and effective date of this Ordinance, Ordinance 2015-35 is hereby amended to read as follows:

**SECTION 3: TITLE.** These rules and regulations shall be known as the "Health and Sanitation Regulations" of the City of Sandy Oaks, Texas."

**SECTION 4. AUTHORITY.** This ordinance is prepared under the Authority of Chapter 342, Subchapters A and B, Texas Health and Safety Code, to promote health, safety, morals, and the general welfare of the community.

**SECTION 5. DETERMINATION.** The following rules, regulations and procedures are determined by the City Council as absolutely essential and necessary to promote the public health, welfare, safety, morals and general welfare of the City.

**SECTION 6. PURPOSE AND INTENT.** The purpose of this ordinance is to: Promote the health, safety, and general welfare of the community at large. The intent is to implement the purpose of these regulations it is the City's intent to provide in this ordinance reasonable means toward the end result that the citizens of Sandy Oaks will live in safe, healthy community.

**SECTION 7. PENALTY.**

- A. Each violation shall be punished by penalty of a fine of not less than \$50.00 nor more than \$1,000.00, with each day of offense being a separate offense.
- B. The fines contained in this ordinance shall be incorporated into the City's Master Fine Schedule. Any future adjustments to the fines contained in this ordinance shall be reflected solely in the City's Master Fine Schedule.

**SECTION 8. SANITARY CODE ADOPTED.**

- A. The City hereby adopts as its sanitary code, consisting of minimum standards of sanitation and health protection measures, V.T.C.A. Health and Safety Code, Chapter 341 et seq., as amended.
- B. The provisions of said V.T.C.A. Health and Safety Code, Chapter 341 *et. seq.* excluding the penalty therein are incorporated into this section and adopted as the sanitary code of the City.

**SECTION 9. DEFINITIONS.** For the purpose of this Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

"Brush" shall mean cuttings, trimmings, individual pieces and parts of trees or shrubs or all of a tree or shrub.

"Customer" shall mean any owner, occupant, tenant or person otherwise in control of premises in the City on which garbage and trash are accumulated and from which the same is removed or required to be removed pursuant to the terms of this Ordinance or other City ordinances related to trash collection and disposal.

"Dumpster" shall mean any container or storage box used for the storage, collection, or removal of garbage, recyclables, trash, hazardous waste, construction debris, demolition debris, or other discarded material.



"Garbage" shall mean rubbish, trash, kitchen and household waste, ashes, bottles, cans, rags, paper, food, food containers, lawn trimmings, tree trimmings, hedge trimmings, leaves, grass, weeds and refuse, and all decayable wastes, including solid waste that is putrescible animal and vegetable waste materials from the handling, preparation, cooking or consumption of food, including waste matters from markets, storage facilities and the handling and sale of produce and other food products.

"Hazardous waste" shall mean all fecal material, oil sludge and any radioactive pathological, toxic, explosive, flammable, combustible, acidic or volatile matters, or other hazardous or improper wastes, including solid wastes regulated as hazards under federal or state law or regulated as toxic under the federal or state law.

"Recyclables" shall mean a material that has been recovered or diverted from the nonhazardous waste stream for the purposes of reuse, recycling or reclamation, a substantial portion of which is consistently used in the manufacture of products that may otherwise be produced using raw or virgin materials. Recycled materials consist of, but are not limited to the following:

- (1) Newspapers, magazines and catalogs, excluding other paper items, such as mail, paper bags or other paper.
- (2) Clear and colored glass bottles and jars, excluding mirrors, windows, ceramics, light bulbs and other glass products.
- (3) Metal cans composed of tin, steel or aluminum (excluding, scrap metals).
- (4) Plastic containers of polyethylene terephthalate and high-density polyethylene varieties, also designated as #1, #2 #3, #4, #5 and #7 clear plastics.
- (5) Other items identified as recyclable by the city and any person having a franchise or license with the city, or as a result of changes in local, state, or federal laws, ordinances, or regulation.

"Trash" shall have the same meaning as "Garbage" herein, but does not include lawn trimmings, tree trimmings, hedge trimmings, leaves, grass, weeds, and shrubs.

**SECTION 10. RODENT CONTROL.** The provisions of the San Antonio Code, 1986 edition, chapter 15, Health and Sanitation, Article V, Rodent Control, are hereby adopted verbatim by this City as if written out fully herein, except insofar as the same should be inconsistent with other sections of this code. Where the term "director of public health" is used in said article, it shall be meant to refer to the equivalent health and sanitation officer of this City.

## **SECTION 11. DUMPING.**

- A. It shall be unlawful for any person to dump any trash or refuse of any type on any vacant property or along any street or road within the City limits.

- B. It shall be unlawful for any person to dump any trash or refuse of any kind in any public street, alley or way of the City. (Illegal Dumping V.T.C.A., Health and Safety Code Sec. 365.012)

**SECTION 12. DUTY OF ABUTTING OCCUPANTS TO KEEP ALLEYS CLEAN.** It shall be unlawful for both owner and for the tenant of any property in the City abutting upon a public alley or way to license the accumulation of any trash or refuse of any kind therein upon that part thereof from his property line to the center thereof, or to license any shrubbery, brush, weeds, grasses or other vegetation whatsoever to grow therein to said centerline to a height of greater than five inches. Every such tenant and owner is required to keep such alley cleaned up and in a passable, sightly and sanitary condition, or cause same to be done, at all times.

**SECTION 13. PLACING OF GARBAGE, RECYCLING AND TRASH.** It shall be unlawful for any person to deposit any garbage, trash, brush or recyclable material upon or along any alley, sidewalk, street or other public or private premises except in containers as authorized by the City within the corporate limits of the City.

**SECTION 14. PLACEMENT OF CONTAINERS FOR COLLECTION.**

- A. The pickup schedule for collection of garbage, trash and recyclables utilizing 96 gallon or smaller containers is 7:00 a.m. to 7:00 p.m. on designated collection days or alternative days for residential customers. To ensure collection of garbage, trash and recyclables, a customer occupying a residence may place the garbage, trash or recyclable containers at the curb prior to 7:00 a.m. on their scheduled collection day, but shall not place the garbage, trash or recyclable container earlier than 7:00 a.m. the day before the scheduled collection day or alternative day if the scheduled collection day falls on a holiday, and shall remove the garbage, trash or recyclable container from the curb not later than 7:00 p.m. the day after the scheduled collection day or alternative day if the scheduled collection day falls on a holiday.
- B. No dumpster may be placed in the City's right-of-way at any time. Customers requesting dumpster service will place their dumpster on their property.

**SECTION 15. BURNING OF TRASH AND HAZARDOUS WASTE PROHIBITED.** The starting, causing or allowing of the burning of any trash, recyclables, or hazardous waste within the city limits of the City is expressly prohibited. This does not include the burning of brush, which is permitted within the City limits.

## **FOOD AND FOOD ESTABLISHMENTS**

**SECTION 16. TEXAS FOOD ESTABLISHMENT RULES ADOPTED.** The definitions, the inspection of food service establishments, the issuance, suspension and revocation of licenses (licenses) to operate food service establishments, the prohibiting of the sale of unsound or mislabeled food or drink, and the enforcement of this section shall be regulated in accordance



with the department of state health services, division of food and drugs, State Rules found at 25 Texas Administrative Code, Chapter 229, Sections 161 through 171 and Sections 173 through 175, and provided that the words "regulatory authority" shall be understood refer to health and sanitation officer.

**SECTION 17. DEFINITIONS OF FOOD ESTABLISHMENTS.** Definitions of food establishments shall be as listed in the Texas Food Establishment Rules, adopted in Section 10 and the City Clerk shall have a copy of said rules available for copies and inspection.

## **SECTION 18. LICENSES**

- A. The annual license fees to cover the cost of inspection of such food service establishments shall be paid upon issuance of such licenses as set forth below.
- B. Application for Licenses

1. Any person desiring to operate a food establishment must make a written application for a license on forms provided by the regulatory authority. The application must contain the name and address of each applicant, the location and type of the proposed food establishment and the applicable fee. An incomplete application will not be accepted. Failure to provide all required information, or falsifying information required may result in denial or revocation of the license. Renewals of licenses are required on an annual basis and the same information is required for a renewal of a license.

2. Prior to the approval of an initial license or the renewal of an existing license, the regulatory authority shall inspect the proposed food establishment to determine compliance with state laws and rules. A food establishment that does not comply with this ordinance, state laws, and rules will be denied a license or the renewal of a license.

- C. Upon initial payment of such license fees, the proprietor of each such food establishment shall be required to purchase a copy of the Texas Food Establishment Rules, and shall be required to receipt in writing, therefore. Licenses shall expire on the 31st day of December in the year when issued. The fees for annual licenses issued on or after February 1st each year shall be prorated, but no annual license shall be issued on and after November 1 each year, and monthly licenses shall thereafter be the license of greatest duration granted for the balance of said year.
- D. A person may not operate a food establishment without a license issued by the regulatory authority. Licenses are not transferrable from one person to another or from one location to another location, except as otherwise permitted by this ordinance. A valid license must be posted in or on every food establishment regulated by this ordinance.

## **SECTION 19. LICENSE FEES**

- A. Food establishment license fee established:

1. Minimum fee for establishment in which or 2 persons are employed, operated by not more than 2 persons: \$85.00.

2. Operated by more than 2 and not more than 6 persons: \$130.00.
3. Operated by more than 6 and not more than 10 persons: \$250.00
4. Operated by more than 10 and not more than 15 persons: \$400.00.
5. Operated by more than 15 persons: \$600.00.
6. Initial Operating License: \$100.00

There shall be an administrative fee of \$100.00 for first-year food establishments for training of personnel in proper food handling and storage techniques. This fee may be waived when sufficient knowledge is demonstrated to the health and sanitation officer and no further training is required by the City.

- B. TEMPORARY FOOD LICENSE FOR SPECIAL EVENTS: \$10.00 per day per stand for temporary food service establishments with \$40.00 maximum per stand per event, per person, for not over 14 days. (Not renewable)
- C. MASTER FEE SCHEDULE: The fees contained herein shall be incorporated into the City's Master Fee Schedule and future adjustments to these fees shall be reflected solely in the Master Fee Schedule of City.

## **SECTION 20. SUSPENSION OF LICENSE.**

- A. The regulatory authority may, without warning, notice, or hearing suspend any license to operate a food establishment if the operation of the food establishment constitutes an imminent hazard to the public health. Suspension is effective upon service of the notice required by Section (15) of this ordinance. When a license is suspended, food operations shall immediately cease. Whenever a license is suspended, the holder of the license shall be afforded an opportunity for a hearing within twenty (20) days of receipt of a request for a hearing.
- B. Whenever a license is suspended, the holder of the license or the person in charge shall be notified in writing that the license is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the regulatory authority by the holder of the license within ten (10) days. If no written request for hearing is filed within ten (10) days, the suspension is sustained. The regulatory authority may end the suspension at any time if reasons for suspension no longer exist.

## **SECTION 21. REVOCATION OF LICENSE.**

- A. The regulatory authority may, after providing opportunity for a hearing, revoke a license for serious or repeated violations of any of the requirement of these rules or for interference with the regulatory authority in the performance of its duties. Prior to revocation, the regulatory authority shall notify the holder of the license or the person in charge, in writing, of the reason for which the license is subject to revocation and that the license shall be revoked at the end of the ten (10) days following service of such notice



unless a written request for a hearing is filed with the regulatory authority by the holder of the license within such ten (10) day period.

- B. If no request for hearing is filed within the ten (10) day period, the revocation of the license becomes final.

## **SECTION 22. ADMINISTRATIVE PROCESS**

- A. A notice as required in these rules is properly served when it is delivered to the holder of the license or the person in charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the holder of the license. A copy of the notice shall be filed in the records of the regulatory authority.
- B. The hearings provided for in this ordinance shall be conducted by the regulatory authority at a time and place designated by it. Based upon the recorded evidence of such hearing, the regulatory authority shall make final findings, and shall sustain, modify or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the holder of the license by the regulatory authority.

**SECTION 23. HEALTH AND SANITATION OFFICER.** The terms of this article shall be enforced by a health and sanitation officer, any assistant health inspectors that may be appointed, and the city health officer. All references in the provisions adopted in this article to the director of public health and other officials shall be construed to mean their counterparts as set out above.

**SECTION 24. INSPECTION OF MEAT AND MEAT PRODUCTS.** No person may sell, offer for sale, or have in his possession with intent to sell, store, or transport for sale any meat, meat products, or prepared meals and dishes consisting of or containing meat of any kind capable of being used for food for human consumption unless such meat or product has been inspected and passed for human consumption by a qualified agency of a state health department or agricultural department or under the supervision or control of the U.S. Department of Agriculture, Meat Inspection Division, and is so marked by the official "inspected and passed" legend or its legal equivalent.

**SECTION 25. EMPLOYMENT OF INFECTED PERSONS.** No person, firm, corporation, or organization operating or managing any public eating place or any place where food or drink is manufactured, processed, prepared, dispensed, or otherwise handled in such manner or under such circumstances as would license probable transmission of disease from any handler thereof to the consumer shall employ or work any person to handle such products, or utensils, dishes, or serving implements used in connection therewith, who is infected with any transmissible condition of any disease known to be normally communicable through the handling of food or drink.

**SECTION 26. HANDLING OF FOOD AND DRINK BY INFECTED PERSONS.** No person infected with a disease, the condition of which is transmissible to another through the handling of food or drink or who resides in a household with a transmissible case of a communicable disease which may be food-borne, or who is known to be a carrier of the

organisms causing such disease, and no person having a local infection transmissible through food or drink, shall be employed at any place or vehicle in which food or drink is manufactured, processed, prepared, or dispensed; nor shall any person at any time handle any food or drink or utensils, dishes, or serving implements used in connection therewith which may be directly or indirectly for public sale or offered for the use or consumption of another.

**SECTION 27. PERSONAL CLEANLINESS OF FOOD HANDLERS.** Every person engaged in the handling of food, drink, or unsealed containers therefore shall maintain personal cleanliness, shall wear clean outer garments, shall keep his hands clean at all times, and shall thoroughly wash the hands with soap and water after each visit to the toilet. The use (in, on, or about any place where food or drink for public consumption is handled or sold) by two (2) or more persons of any towel before it is thoroughly laundered is hereby declared to be unsanitary practice and shall constitute a violation of this code.

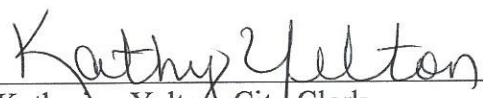
**SECTION 28. SEVERABILITY.** If any section, subsection, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distance than independent provision and such holdings shall not affect the validity of the remaining portions thereof.

**SECTION 29. EFFECTIVE DATE.** That the City of Sandy Oaks City Clerk is hereby ordered and directed to cause this ordinance to be published in every issue of the official newspaper for two days; or one issue of the newspaper if the official newspaper is a weekly paper. This ordinance and the rules, regulations, provisions, requirements, orders, and matters established and adopted hereby shall take effect and be in full force and effect when the publication requirement is satisfied.

**PASSED, APPROVED AND ADOPTED THIS 13<sup>th</sup> day of December 2018.**

  
Micki L. Ball, Mayor

**ATTEST:**

  
Katherine Yelton, City Clerk