

CITY OF SANDY OAKS, TEXAS

ORDINANCE NO: 2020-166

AN ORDINANCE OF THE CITY OF SANDY OAKS, TEXAS AMENDING ORDINANCE NO. 2018-105 TO PROVIDE FOR BUSINESS REGULATION OF PEDDLERS, SOLICITORS AND VENDORS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Sandy Oaks (“City”) seeks to promote the health, safety and general welfare of the community by preventing death, injury and property damage within its city limits; and

WHEREAS, the City of Sandy Oaks finds that it needs to maintain the surrounding environment of the city and protect the residents of Sandy Oaks in regards to vendors, peddlers and solicitors; 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 the general welfare of the community; and

WHEREAS, on March 14, 2015 the City Council of the City of Sandy Oaks adopted Ordinance No. 2015-13 regulating peddlers, solicitors and vendors consistent with the foregoing recitals, which was amended by Ordinance No. 2018-105 on May 10, 2018; and

WHEREAS, the City regulates vendors and solicitors in public places, but finds it necessary to regulate vendors and solicitors throughout the City for the health, safety, welfare of the citizens of the City; and

WHEREAS, the City Council desires to amend Ordinance No. 2018-105 to require all vendors to acquire a license to operate within the City limits; and

WHEREAS, the City Council desires to repeal all conflicting ordinances;

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

ARTICLE I. TITLE:

These rules and regulations shall be known as the “Vendor, Peddler and Solicitor Regulations” of the City of Sandy Oaks, Texas.

SECTION 1: PEDDLERS, VENDORS AND SOLICITORS

A. Purpose.

Reasonable regulation of peddlers, vendors and solicitors within the City is necessary to protect public health, safety, and welfare. To protect local residents against trespassing by peddlers, solicitors, and vendors upon the private property of such residents if they have given reasonable notice that they do not wish to be solicited by such persons or do not desire to receive merchandise or services. The regulations contained in this ordinance are not intended in any way to prohibit or hamper speech that is protected by the constitution of both the United States and the State of Texas but merely to regulate specific activities, which are commercial in nature. This entire ordinance is and shall be deemed an exercise of the police power of the State of Texas and of the City of Sandy Oaks for the process set forth above.

B. Definitions.

For the purposes of this article the following words and phrases shall have the meanings respectively ascribed to them by this section:

1. "Peddler," "solicitor," and/or "vendor" shall mean any person firm or corporation, whether as owner, agent, consignee or employee, whether a resident of the city or not, who engages in a business of selling or offering for sale, food, beverages, goods, services, wares and merchandise or engages in soliciting orders for the sale of goods, services, wares and merchandise for future delivery and who, in furtherance of such purposes, hires, leases, uses or occupies any stand, motor vehicle, tent, or from his or her person.
2. "Motor Vehicle" shall mean any vehicle used for the displaying, storing, or transportation of articles for sale by a vendor which is required to be licensed and registered by the state department of motor vehicles. This term is to include, but not be limited to, trailers, trucks, buses, and automobiles.
3. "Stand" shall mean any newsstand, table, bench, booth, rack, handcart, pushcart, or any other fixture or device which is not required to be licensed and registered by the department of motor vehicles, and is used for the display, storage, or transportation of articles offered for sale by a vendor.
4. "Special Event" shall mean any occasion including, but not limited to, fairs, shows, exhibitions, citywide celebrations, festivals, etc., within a specifically defined area of the city for a period of time not to exceed seven (7) days.
5. "Public Place" shall mean any public road, street, alley, park, building, or other property of the city or any other place to which people commonly congregate for the purpose of business, recreation, or amusement.
6. "Door-to-door selling" shall mean going to one or more residence within the City in person or by the agent for the purpose of peddling, soliciting, or vending, who engages in a business of selling or offering for sale, food, beverages, goods, services, wares and

merchandise or engages in soliciting orders for the sale of goods, services, wares and merchandise for future delivery.

7. “Merchandise” is used in its broadest sense and shall include property of every kind.

8. “Services” is used in its broadest sense and shall include any work done for the benefit of another person.

9. “Temporary” shall mean any such business for which definite arrangements have not been made for the hire, rental or lease of premises for at least one month, in or upon which such business is to be operated or conducted.

10. “Commercial area” or “commercial property” is property designated by the City’s Master Plan and/or zoning ordinance for commercial uses such as retail, offices, restaurants, or light industrial uses.

11. “Residential area” or “residential property” is property designated by the City’s Master Plan and/or zoning ordinance for residential uses such as single-family or multi-family use.

12. “Retailer” is a person or business that enters into a rental or lease agreement for no less than six (6) months or owns space in a commercial area for the sale of food, beverages, goods, services, wares, and merchandise from the business to a consumer.

13. “Home occupation” is use of a dwelling in a residential area for the purposes of a home business that is incidental and subordinate to the residential use by the occupants, is conducted entirely within the dwelling or a permanent accessory of the dwelling, such as a garage or guest house, and solely occupants of the dwelling are on the premises for the purposes of the operation of the home occupation.

C. License Required

1. It shall be unlawful for any vendor or solicitor to engage in the business of selling, displaying, or offering for sale any food, beverage, goods, services or merchandise within the City of Sandy Oaks without first obtaining a license from the City Clerk. This shall apply to all persons whether acting separately or as a group of individuals located on the same land or lot.
2. It is an exception to the license and fee requirement of Section G if the business is a legally operating home occupation or a retailer.

D. Door-to-Door Selling Prohibited

It shall be unlawful for any person to engage in door-to-door selling within the City. It is an exception to this prohibition for religious, philanthropic, non-profit, or charitable organizations or persons promoting political or religious ideas or beliefs and who do not ask for donations.

E. Application

Every person desiring to engage in the business of a vendor as defined in Section B above shall apply for a license from the City Clerk. The application must include the following:

1. The full name, home address, permanent business address (if any), telephone number, driver's license number, and proof of identity;
2. A brief description of the nature, character, and quality of the food, beverages, goods, merchandise, or services to be sold;
3. The specific location, if any, in which the vendor intends to conduct business;
4. If the vendor is employed by or is an agent of another, the name and business address of the principal/hiring person, firm, association, organization, company or corporation;
5. If a motor vehicle is to be used in the vending business, a description of the vehicle, together with the motor vehicle registration number, license number, and a copy of the vehicle's current proof of liability insurance;
6. A copy of the vendor's current State of Texas Sales Tax Permit together with written documentation from the State Comptroller that all sales taxes that may be due and owing by the vendor have been fully paid;
7. A complete listing of any other licenses or permits issued to applicant by the City of Sandy Oaks within the past five (5) years;
8. A written statement from the property owner consenting to applicant's use of his/her property for the sales activities indicated in the permit application;
9. Proof of bond or insurance policy as provided by in Section J.

F. Health Permit

The application of any vendor engaged in the sale or distribution of food or beverages shall also be referred to the City of Sandy Oaks's designated health department or officer for approval of a valid health permit. The health permit shall be required in addition to the vending license required by this article. Such vendor's equipment shall be subject to inspections by the designated health department or officer at the time of application and at periodic intervals thereafter.

G. Issuance of License and Payment of Fees

Not later than thirty (30) days after the filing of a completed application for a vendor's license, the applicant shall be notified by the City Clerk of the decision on the issuance or denial of the license. If it is found that the applicant has fully complied with all provisions of this article and is operating in a public place, said applicant will be required to pay a license fee in the amount of Eighteen Hundred Dollars (\$1,800.00) for such license. The purpose of the fee is to partly defray

the expenses of surveillance and inspection of the premises and property for the use of the licensee, and the enforcement of the provisions of this article.

H. License not transferable

The license provided for in this article shall not be transferable nor give authority to more than one (1) person to sell or exhibit food, beverages, goods, wares, merchandise, or services either by agent or clerk or in any other way than his own proper person, but any person having obtained such license may have the assistance of one (1) or more persons in conducting the sale or exhibit who shall have the authority to aid that principal but not to act for or without him.

I. Duration of license; display and identification badge

The license provided for in this article shall continue so long as the licensee is conducting business in the City, but in no event shall it continue for more than one year from the date of its issuance. Such license shall be prominently displayed in a conspicuous place on the premises where business is being conducted or on the motor vehicle windshield if the vendor is a vendor operating out of a motor vehicle. Further, each licensee and each assistant, if any, must, at the licensee's sole expense obtain a photo identification badge from the City Clerk, or his authorized representative, showing the individual's name, the address wherein the vending business is to be conducted, and the effective period of the license.

J. Insurance or Bond Required

Before any license shall be issued under the provisions of this article, the application therefore shall be accompanied by a bond or insurance policy in an amount not less than \$50,000.00 acceptable to the City Clerk to cover any and all property damage, injuries, including injury resulting in death, or wrongful fraudulent or illegal conduct of the vendor while conducting business in the city. The bond or insurance policy shall remain in full force and effect during the entire duration of the license as provided in this article and one (1) year thereafter.

K. Temporary Vending License - Special Events

Vendors wishing to conduct business at any special event shall apply to the city for a Temporary Vending License. Application for such a license must be made at least seven (7) days prior to the beginning of the event. The license is valid only for the duration of the special event or the expiration of seven (7) days, whichever comes first. The fee for issuance of a Temporary Vending License shall be twenty-five dollars (\$25.00) for up to three (3) days and sixty dollars (\$60.00) for an event lasting four (4) to seven (7) days payable to the City Clerk at the time of issuance, unless such special event is a City-sponsored event, such fee may be waived. Vendors granted a temporary license shall be subject to the same application and operating regulations as other vendors, except where otherwise specified.

L. Exemptions

The following vendors are exempt from the fee provisions of Section G together with Sections J and K of this article but shall otherwise be required to comply with all other provisions:

Religious, non-profit, philanthropic and/or charitable organizations including, but not limited to, public or private schools, volunteer departments and scouting organizations.

M. Restrictions Applicable to all Vendors

1. Stands. Vendor stands shall not:

- a. Exceed 20 feet in length, 10 feet in width or 13 feet in height;
- b. Impede access to the entrance or driveway of any adjacent building;
- c. Occupy more than half of the available sidewalk width or 20 feet of such sidewalk, whichever is less.

2. Hours of Operation. - Except for the vending of food or drinks from a motor vehicle or other non-stationary means within construction, manufacturing or similar areas in the manner specified in subsection 8 below, vendors shall be allowed to engage in the business of vending only between the hours of 8:00 A.M. to 8:00 P.M. All vending stands must be removed during non-vending hours. When Temporary Vending Permits are issued for special events under the provisions of Section K above, the applicant may request from the city an exception to the usual hours of operation. All stands and other vending operations must be removed during non-operating hours.

3. Handicapped Areas - No vendor shall conduct business within 20 feet of any handicapped parking space or access ramp.

4. Removal of Trash - All trash or debris accumulating within 50 feet of any vending stand shall be collected by the vendor and deposited in an authorized trash container. All vendors selling food or beverages must provide trash receptacles adjacent to or as a part of their stands.

5. Approved and Prohibited Areas. A vending license issued pursuant to this ordinance is valid only in a commercial area, on commercial property, or in public places of the City of Sandy Oaks. The City shall prohibit vendors from selling in a commercial area, on commercial property, or in public places within the City if it determines such prohibitions are necessary for the protection of public health and safety. Vendor stands are prohibited within 20 feet of a fire hydrant, fire escape, loading zone, or the driveway of a fire station, police station or hospital.

6. Noise - No vendor may sound any device, which produces a loud and raucous noise, or use or operate any loudspeaker, public address system, radio sound amplifier, or similar device to attract public attention.

7. Monthly Reports - All vendors shall provide a copy of their monthly report of sales tax receipts to the City Clerk.

8. Motor Vehicles - No vendor vending from a motor vehicle shall:

1. Stop, stand or park the vehicle within 20 feet of any intersection, within any other prohibited area, or during prohibited hours;

2. Conduct business in such a way as would increase traffic congestion or delay, constitute a hazard to life or property, interfere with an abutting property owner, or obstruct access to emergency vehicles;
3. Not park within 15 feet of a fire hydrant or designated fire lane.

N. Denial, Suspension or Revocation of License

1. Any license issued under this ordinance may be denied, suspended or revoked for any of the following reasons:
 - a. Fraud or misrepresentation in the application or this license;
 - b. Fraud or misrepresentation in the course of conducting the business of vending;
 - c. Conducting the business of vending in any way contrary to the provisions of this ordinance;
 - d. Conducting the business of vending in such a manner as to create a public nuisance or constitute a danger to the public health, safety or welfare;
 - e. Conviction of any felony offense or any misdemeanor offense involving moral turpitude while holding a vending license from the City of Sandy Oaks or for a period of 5 years prior to the date of the application for a vending license;
 - f. Suspension or cancellation of health department authorization for a food and beverage vending unit.
3. Upon denial, suspension or revocation, the city shall deliver written notice to the applicant/license holder stating the action taken and the reasons supporting such action. The written notice shall be delivered to the applicant/license holder's place of business or mailed to the applicant/license holder's last known address.

O. Renewals

Licenses may be renewed, provided an application for renewal and license fees are received by the city no later than the expiration date of the current license. Applications received after that date shall be processed as new applications. The city shall review each application for renewal to determine that the applicant is in full compliance with the provisions of this ordinance. If the city finds that the application meets the above requirements, the city shall renew said license for a period of one year upon payment of all applicable license fees.

P. Appeals

Any person who is denied a license or whose license has been suspended or revoked may appeal same by filing a written notice of appeal to the Sandy Oaks City Council. All appeals must be filed with the City Clerk within ten (10) days after notice of denial, suspension, or revocation of a license. The appeal shall be heard by the Sandy Oaks City Council within thirty (30) days after receipt. At least five (5) days notice of the date of the hearing shall be given to the applicant, license holder. Based on the hearing of the appeal and the facts relative thereto, the City Council

will either sustain or reverse the decision to deny, suspend or revoke the license. The decision of the City Council shall be final.

Q. Penalties and Enforcement

Any person violating any provision of this Ordinance shall, upon conviction, be fined a sum not exceeding \$500.00 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. An offense under this Ordinance is a Class C Misdemeanor.

ARTICLE II. REPEAL OF CONFLICTING ORDINANCES

All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

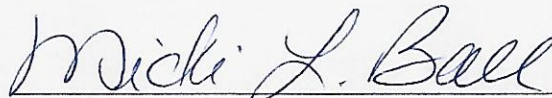
ARTICLE III. SEVERABILITY

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.

ARTICLE IV. 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 23rd DAY OF JULY 2020


Micki L. Ball, Mayor

ATTEST:


Katherine Yelton, City Secretary