

CITY OF SANDY OAKS, TEXAS

ORDINANCE NO. 2021-179

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANDY OAKS, TEXAS AMENDING ORDINANCE NO. 2019-123 ESTABLISHING A MUNICIPAL COURT, INCLUDING PROVIDING FOR: FINDINGS OF FACT, PURPOSE, DEFINITIONS, CREATION AND JURISDICTION; APPOINTMENT OF A MUNICIPAL COURT JUDGE AND ALTERNATE JUDGES, APPOINTMENT OF A MUNICIPAL COURT CLERK, APPOINTMENT OF A PROSECUTOR; COURT RULES; COURT FACILITIES AND SEAL; PROCEDURES FOR THE OPERATION AND ADMINISTRATION OF THE COURT; AUTHORIZATION TO IMPOSE FEES AND FINES; ESTABLISHMENT OF A MUNICIPAL COURT SECURITY FUND; ESTABLISHMENT OF A MUNICIPAL COURT TECHNOLOGY FUND; SEVERABILITY; PROPER NOTICE AND MEETING; AND AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Sandy Oaks, Texas ("City") seeks to provide for the enforcement of its municipal ordinances in order to protect the public health, safety and welfare; and

WHEREAS, the City Council finds that the enactment of this ordinance is necessary for the good government, peace and order of the City and proper for carrying out the power granted by law to the City; and

WHEREAS, the City Council is authorized to establish a municipal court by virtue of Chapter 29 of the Texas Government Code; and

WHEREAS, the City Council established its municipal court by Ordinance No. 2019-123 and finds it necessary to allow for appointment of alternate judges and therefore finds it necessary to amend Ordinance No. 2019-123;

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

SECTION 1. FINDINGS OF FACT. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2. PURPOSE. This Ordinance is adopted so that the City Council may promote the public health, safety, morals and general welfare within the City through the enforcement of the City's ordinances and applicable state laws in municipal court.

SECTION 3. DEFINITIONS. Words and phrases used in this Ordinance shall have the meanings set forth in the section. Other words and phrases are given their common, ordinary meaning unless the context clearly requires otherwise. Headings and captions are for reference

purposes only and shall not be used in the interpretation of this ordinance. The words below shall have the following meanings:

- (A) "City" means the City of Sandy Oaks, Texas.
- (B) "Person" means any human individual or corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity.
- (C) "Security Fee" means the Municipal Court Building Security Fee.
- (D) "Security Fund" means the Municipal Court Building Security Fund established pursuant to Article 102.017 of the Code of Criminal Procedure.
- (E) "State" means the State of Texas.
- (F) "Technology Fee" means the Municipal Court Technology Fee.
- (G) "Technology Fund" means the Municipal Court Technology Fund.

SECTION 4. CREATION OF MUNICIPAL COURT. There is hereby established one (1) municipal court within the City with the designation of "Municipal Court of the City of Sandy Oaks, Texas."

SECTION 5. JURISDICTION. The municipal court has the jurisdiction provided by general law for municipal courts contained in section 29.003 of the Government Code and Article 4.14 of the Code of Criminal Procedure, including concurrent jurisdiction with justice courts as provided by section 29.003 of the Government Code. The municipal court also has jurisdiction over cases arising within the City's corporate boundaries under ordinances authorized by law.

SECTION 6. MUNICIPAL JUDGE.

- (A) There is hereby created and established the office of Municipal Judge. The Municipal Judge shall preside over the Municipal Court. The judge of a municipal court serves for a term of two years which shall run concurrently with the office of the Mayor, except that the first appointed judge of the City serves until the expiration of the Mayor's term. The Municipal Judge must be a citizen of the United States, a resident of the State of Texas, at least 18 years of age, a licensed attorney in good standing and at least 2 years' experience in the practice of law in the State of Texas and shall not have been convicted of a felony or a crime involving moral turpitude.
- (B) If a vacancy exists in the position of Municipal Judge, the Mayor shall fill the vacancy by appointment, subject to City Council approval, for the remainder of the unexpired term. The Mayor, at all times, shall act as Judge in the absence of any appointment to fill the vacancy as provided by this Section.
- (C) The City Council may appoint alternate judges, subject to the same qualifications as the Municipal Judge, who shall have all the powers and shall discharge all the duties of the Municipal Judge while serving as Municipal Judge. Each appointment shall be for a term of two years to run concurrently with the office of the Mayor. The judges may exchange benches and act for each other in any proceeding pending in the court. An act performed by any of the judges is binding on all parties to the proceeding.
- (D) If the Municipal Judge is temporarily unable to act, the Mayor may appoint one or more persons meeting the qualifications as provided by subsection (A) to sit for the Municipal Judge, subject to the approval of City Council. The Temporary Appointee has all powers

and duties of the Municipal Judge and is entitled to compensation as set by the City Council. The Mayor, at all times, shall act as the Temporary Judge in the absence of any appointment of a Temporary Judge as provided by this Section.

- (E) The Municipal Judge and alternate judges shall take judicial notice of State law and the ordinances of the City.
- (F) The Municipal Judge alternate judges are a magistrate and may issue administrative search warrants. The Municipal Judge and alternate judges have all powers and authorities granted to him or her by the laws of the State of Texas and City ordinances necessary to the enforcement of the jurisdiction of the Municipal Court.
- (G) A Municipal Judge or alternate judge may be removed from office by the City Council at any time for incompetency, corruption, misconduct, or malfeasance.

SECTION 7. CLERK OF COURT.

- (A) The position of the Municipal Court Clerk is hereby created and established. The Municipal Court Clerk shall be appointed by City Council and shall be entitled to a salary set by the City Council. The City Council may appoint a Deputy Clerk as necessary.
- (B) The Municipal Court Clerk or the Deputy Clerk shall keep the records of the municipal court, issue process, and generally perform the duties for the court that a Clerk of the county court at law exercising criminal jurisdiction is required by law to perform for that court. In addition, the clerk or the clerk's deputies shall maintain an index of all court judgments in the same manner as court clerks are required by law to prepare for criminal cases arising in county courts. The clerk shall perform the duties in accordance with statutes and ordinances of the City.
- (C) The Municipal Court Clerk may be removed from office by the City Council at any time for incompetency, corruption, misconduct, or malfeasance. A Deputy Clerk may be removed at any time.

SECTION 8. COURT PROSECUTOR. There is hereby created and established the Court Prosecutor. Prosecution in the municipal court shall be conducted as provided by Article 45.201 of the Code of Criminal Procedure. All prosecutions in Municipal Court shall be conducted by the City Attorney or by a Deputy City Attorney, as designated by the City Council.

SECTION 9. COURT RULES. The Code of Criminal Procedure and the Texas Rules of Appellate Procedure govern the trial of cases before the municipal court. The Court may make and enforce all rules of practice and procedure necessary to expedite the trial of cases before the Court that are not inconsistent with law.

SECTION 10. COURT FACILITIES AND SEAL.

- (A) The City Council shall provide courtrooms, jury rooms, offices, office furniture, libraries, law books, and other facilities and supplies that the City Council determines necessary for the proper operation of the municipal court.
- (B) The City Council shall provide the Municipal Court with a seal that contains the phrase "Municipal Court of the City of Sandy Oaks, Texas." The seal's use must conform to Article 45.012 of the Code of Criminal Procedure.

SECTION 11. COMPLAINTS AND PLEADINGS. Complaints and pleadings must substantially conform to the relevant provision of Chapters 27 and 45 of the Code of Criminal Procedure.

SECTION 12. JURY.

- (A) A person who is brought before the Municipal Court and who is charged with an offense is entitled to be tried by a jury of six (6) persons. Trial by jury, including the summoning of jurors, must substantially conform to Chapter 45 of the Code of Criminal Procedure.
- (B) The Court Clerk shall supervise the selection of persons for jury service.

SECTION 13. APPEAL FROM JUDGMENT OF CONVICTION IN MUNICIPAL COURT.

- (A) A defendant has the right of appeal from a judgment or conviction. The State for Texas has the right to appeal as provided by Article 44.01 of the Code of Criminal Procedure.
- (B) All appeals shall be conducted pursuant to the Texas Code of Criminal Procedure.

SECTION 14. FEES AND FINES. The Municipal Court Clerk shall collect and administer all fees and fines authorized by State law and City ordinances. Fees and fines shall be in the amounts established by State law, the Municipal Court Judge, and fee schedules adopted by the City Council, as may be amended.

SECTION 15. ESTABLISHMENT OF MUNICIPAL COURT BUILDING SECURITY FUND.

- (A) There is hereby created and established a Municipal Court Building Security Fund (the "Security Fund") pursuant to Article 102.017 of the Code of Criminal Procedure.
- (B) The Municipal Court is hereby authorized and required to assess a Municipal Court Building Security Fee (the "Security Fee") in the amount of \$3.00 against all Defendants convicted of a misdemeanor offense by the Municipal Court. Each misdemeanor conviction shall be subject to a separate assessment of the Security Fee.
- (C) A person is considered to have been convicted in a case if: (1) judgment, sentence, or both are imposed on the person; (2) the person is placed on deferred disposition; or (3) the Court defers final disposition or imposition of the judgment and sentence.
- (D) The Security Fee shall be collected on convictions for offenses committed on or after this ordinance is adopted.
- (E) The Municipal Court Clerk is hereby authorized and required to collect the Security Fee and to pay same to the treasury of the City of Sandy Oaks, Texas. All Security Fees so collected and paid over to the treasury of the City of Sandy Oaks, Texas shall be segregated in the Security Fund.
- (F) The Security Fund shall be used only for the purpose of financing the purchase of security devices and/or services for the building or buildings housing the Municipal Court. "Security devices and/or services" shall include any and all items described in Article 102.017(d-1) of the Code of Criminal Procedure.
- (G) The Security Fund shall be administered by or under the direction of the City Council.

SECTION 16. ESTABLISHMENT OF MUNICIPAL COURT BUILDING TECHNOLOGY FUND.

- (A) There is hereby created and established a Municipal Court Technology Fund, herein known as the "Technology Fund," pursuant to Article 102.0172 of the Code of Criminal Procedure.
- (B) The Technology Fund may be maintained in an interest-bearing account and may be maintained in the general revenue account.
- (C) The Municipal Court is hereby authorized and required to assess a Municipal Court Technology Fee (the "Technology Fee") in the amount of \$4.00. The Technology Fee shall be assessed and collected from the Defendant upon conviction for a misdemeanor offense in the Municipal Court as a cost of court. A Defendant is considered convicted if: (1) judgment, sentence, or both are imposed on the person; (2) the person is placed on deferred disposition; or (3) the Court defers final disposition or imposition of the judgment and sentence.
- (D) The Technology Fee shall be collected on convictions for offenses committed on or after this ordinance is adopted.
- (E) The Court Clerk shall collect the Technology Fee and pay the Technology Fee to the City Secretary who shall deposit the fee into the Technology Fund.
- (F) The Technology Fund shall be used only for the purpose of financing the purchase of or to maintain technological enhancements for the Municipal Court "Technological enhancements" shall include any and all items described in Article 102.0172(d) of the Code of Criminal Procedure.
- (G) The Technology Fund shall be administered by or under the direction of the City Council.

SECTION 17. SEVERABILITY. If any section, paragraph, sentence, clause, phrase or word of this Ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance, and the City Council hereby declares that it would have passed such remaining portions despite invalidity or unconstitutionality.

SECTION 18. PROPER NOTICE AND MEETING. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Government Code.

SECTION 19. PUBLICATION. The City Clerk is hereby authorized and directed to publish this Ordinance, or a caption that summarizes the purpose of this Ordinance and the penalty, fine or forfeiture imposed by this Ordinance in the manner and for the length of time prescribed by law.

SECTION 20. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its publication as required by section 52.011 of the Local Government Code.

PASSED AND APPROVED THIS 11TH DAY OF MARCH 2021.

CITY OF SANDY OAKS, TEXAS

Micki L. Ball

Micki L. Ball, Mayor

ATTEST:

K. Yelton

Katherine Yelton, City Secretary