

CITY OF SANDY OAKS, TEXAS

ORDINANCE NO. 2016-38

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANDY OAKS, TEXAS AMENDING ORDINANCE NO. 2015-32 TO PROHIBIT THE SALE AND STORAGE OF FIREWORKS WITHIN THE CITY LIMITS; PROVIDING FOR INJUNCTIVE RELIEF, A PENALTY CLAUSE, A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the City of Sandy Oaks, Texas (“City”) is a Type A General Law municipality with the authority to adopt ordinances that are not inconsistent with state law, that are necessary for the government, interest, welfare, or good order of the municipality pursuant to section 51.012 of the Local Government Code; and

WHEREAS, section 217.002 of the Local Government Code permits a Type A municipality to abate and remove a nuisance and punish by fine the person responsible for the nuisance and define and declare what constitutes a nuisance and authorize and direct the summary abatement of the nuisance, including fireworks within the City; and

WHEREAS, the City Council adopted Ordinance No. 2015-32 prohibiting the sale of fireworks within the City limits and has determined that the sale and storage of fireworks within the City limits constitute a nuisance, desires to prohibit the sale and storage of fireworks within the territorial limits of the City, and desires to amend Ordinance No. 2015-32 to declare such nuisances.

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

Section 1. Findings Incorporated. The findings set forth above are found to be true and correct and incorporated into the body of this Ordinance as if fully set forth herein.

Section 2. Definitions. For the purposes of this ordinance, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

“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.

“City Council” shall mean the governing body of the City.

“Fireworks” shall mean any combustible or explosive composition, or any substances or combination of substances, or article prepared for the purpose of producing a visible and/or audible effect by combustion, explosion, deflagration or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which any such explosives are used, the type of unmanned balloons which require fire underneath to propel the same, firecrackers, lady fingers, torpedoes, skyrockets, Roman candles, dayglow bombs, sparklers, or other devices containing any such explosive substance.

“Person” shall mean any individual, firm, organization, partnership, unincorporated association or corporation.

“Sale,” “sell” or “sold” means the selling, offering for sale, exhibiting or possessing with the intent to give away, sell or offer to sell merchandise, equipment, or service, at wholesale or retail, to the public or to any person, whether in the past or present tense.

“Storage,” “storing” or “store” means the holding, keeping, accumulating, or putting away for future use for a period of more than 30 days.

Section 3. Sale and storage of Fireworks Declared a Public Nuisance. It shall be unlawful for any person, firm, entity or corporation to sell or store fireworks within the territorial limits of the City as the sale and storage of fireworks within the City limits is declared a public nuisance. The City Marshal or Fire Marshal is authorized and directed to seize and cause to be safely destroyed any fireworks found to be for sale or sold within the territorial limits of the City in violation of this Ordinance.

Section 4. Injunctive Relief. Any violation of this Ordinance is hereby declared to be a nuisance. In addition to any other relief provided by this Ordinance, the City Attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this Ordinance. The application for relief may include seeking a temporary restraining order, temporary injunction and permanent injunctions.

Section 5. Penalty. Any person, firm, entity or corporation violating any provision of this Ordinance, as it exists or may be amended, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined in an amount not exceeding TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00). Each continuing day’s violation shall constitute a separate offense. The City retains all legal rights and remedies available to it pursuant to local, state and federal law to enforce this Ordinance.

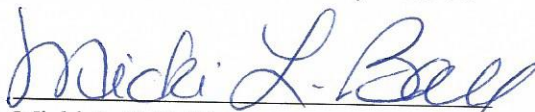
Section 6. Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional and/or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. 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, whichever occurs later.

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 the manner and for the length of time prescribed by law.

PASSED AND APPROVED on this 14th day of January, 2016.

CITY OF SANDY OAKS, TEXAS



Micki L. Ball, Mayor

ATTEST:


Charlotte Rabe, City Clerk