

Ordinance No. 682

“Regulation of Alcoholic Beverages”

AN ORDINANCE OF THE CITY OF GRANITE SHOALS, TEXAS, REPEALING ORDINANCE NO. 85 RELATING TO THE SALE OF ALCOHOLIC BEVERAGES AND INCORPORATING THE RELEVANT PORTIONS INTO THE CITY OF GRANITE SHOALS CODE OF ORDINANCES BY AMENDING CHAPTER 3 (ALCOHOLIC BEVERAGES); AND INCORPORATING THE FOLLOWING: FINDINGS OF FACT; A SAVINGS CLAUSE; SEVERABILITY; REPEALER; EFFECTIVE DATE; AND PROPER NOTICE AND MEETING.

WHEREAS, the City of Granite Shoals, Texas is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code, and

WHEREAS, City staff is recommending the creation of rules and regulations relating to the sale of alcohol within the city limits of the City of Granite Shoals, Texas; and

WHEREAS, the City Council of the City of Granite Shoals, Texas (“Council”) has a substantial interest in protecting the health, safety, welfare, and convenience and enjoyment of the general public from injury which may be caused by the unregulated sale and distribution of alcoholic beverages; and

WHEREAS, the Texas Alcoholic Beverage Code authorizes the City of Granite Shoals by ordinance to restrict the sale of alcoholic beverages under certain statutory conditions; and

WHEREAS, the City Council of the City of Granite Shoals hereby finds that the creation of rules and regulations relating to the sale of alcohol within the city limits of the City of Granite Shoals, Texas is in the best interests of the citizens of the City of Granite Shoals, Texas, and

WHEREAS, the meeting at which this Ordinance was enacted was open to the public as required by the Texas Open Meetings Act, and that notice of the time, place, and subject matter of the meeting was given as required by the Texas Open Meetings Act.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRANITE SHOALS, TEXAS:

SECTION I. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the City of Granite Shoals and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

SECTION II. AMENDMENT AND REPEAL

Ordinance No. 85 is hereby repealed, and Chapter 3 (Alcoholic Beverages) of the City of Granite Shoals Code of Ordinances is hereby amended as follows:

“Chapter 3 – ALCOHOLIC BEVERAGES

Sec. 3-1. Definitions.

For the purpose of this Article, all definitions of words, terms, and phrases set forth in the Texas Alcoholic Beverage Code, as it exists now or as it may be hereafter amended, are hereby adopted and made a part thereof.

Sec. 3-2. Location restricted near church, school or hospital.

- (a) No person may sell any alcoholic beverage within 300 feet of a church, public or private school, or public hospital.
- (b) The measurement of the distance between the place of business where the alcoholic beverages are sold and the church or public hospital shall be along the property lines of the street fronts and from front door to front door, and in a direct line across intersections.
- (c) The measurement of the distance between the place of business where alcoholic beverages are sold and the public or private school shall be:
 - (1) In a direct line from the property line of the public or private school to the property line of the place of business, and in a direct line across intersections; or
 - (2) If the permit or license holder is located on or above the fifth story of a multistory building, in a direct line from the property line of the public or private school to the property line of the place of business, in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the permit or license holder is located.

- (d) An applicant may apply for, and the city council may approve, a variance from the provisions of this section if the council determines that the enforcement of this section in a particular instance is not in the best interest of the public, constitutes waste or inefficient use of land or other resources, creates an undue hardship on an applicant for a license or permit, does not serve its intended purpose, is not effective or necessary, or for any other reason the council, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community.
- (e) This section does not apply to the holder of:
 - (1) A license or permit who also holds a food and beverage certificate covering a premise that is located within 300 feet of a private school; or
 - (2) A license or permit covering a premise where minors are prohibited from entering under V.T.C.A., Texas Alcoholic Beverage Code § 109.53 and that is located within 300 feet of a private school.
- (f) For purposes of this section, the term "private school" means a private school, including a parochial school, that:
 - (1) Offers a course of instruction for students in one or more grades from kindergarten through grade 12; and
 - (2) Has more than 100 students enrolled and attending courses at a single location.

Sec. 3-3. Location restricted in residential area.

The sale of liquor and beer is prohibited in all residential sections or areas of the City, as designated by any zoning ordinance or Comprehensive Plan of the City. The City Council may enact any and all other regulations regarding the sale, consumption, distribution, etc. of alcoholic beverages, as permitted by law.

Sec. 3-4. Civil and criminal penalties.

The City shall have the power to administer and enforce the provisions of this section as may be required by governing law. Any person violating any provision of this section is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this section is hereby declared to be a nuisance.

- (a) Criminal prosecution. Any person found to be violating this chapter is guilty of a misdemeanor and, upon conviction, is subject to a fine as provided by section 1-10 of this Code.

- (b) Civil remedies. Nothing in this section shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this section and to seek remedies as allowed by law, including, but not limited to the following:
- (1) Injunctive relief to prevent specific conduct that violates the section or to require specific conduct that is necessary for compliance with the section; and
 - (2) A civil penalty up to \$100.00 a day when it is shown that the defendant was actually notified of the provisions of the section and after receiving notice committed acts in violation of the section or failed to take action necessary for compliance with the section; and
 - (3) Other available relief.”

SECTION III. SAVINGS

The repeal of Ordinance No. 85 or any other ordinance or part of ordinances effectuated by the enactment of this ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the City under any section or provisions of any ordinances at the time of passage of this ordinance.

SECTION IV. SEVERABILITY

If any provision, section, sentence, clause or phrase of this ordinance, or the application of the same to any person or set of circumstances is for any reason held to be unconstitutional, void, invalid, or unenforceable, the validity of the remaining portions of this ordinance or its application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council of the City of Granite Shoals in adopting, and of the Mayor in approving this ordinance, that no portion thereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any portion, provision or regulation.

SECTION V. REPEALER

The provisions of this ordinance shall be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein, provided, however, that all prior ordinances or parts of ordinances inconsistent or in conflict with any of the provisions of this ordinance, including Ordinance No. 85, are hereby expressly repealed to the extent that such inconsistency is apparent. This ordinance shall not be construed to require or allow any act that is prohibited by any other ordinance.

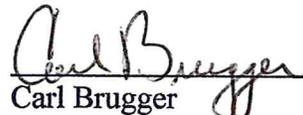
SECTION VI. EFFECTIVE DATE

This ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

SECTION VII. NOTICE AND MEETING

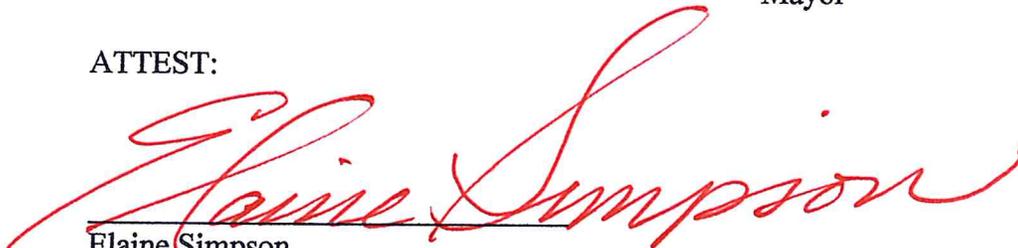
It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED AND APPROVED this 23rd day of February, 2016.



Carl Brugger
Mayor

ATTEST:



Elaine Simpson,
City Secretary

APPROVED AS TO FORM:

Brad Young,
City Attorney