

ORDINANCE NO. 807

“Short Term Rental Ordinance”

AN ORDINANCE OF THE CITY OF GRANITE SHOALS, TEXAS, TO AMEND PART II: CODE OF ORDINANCES; CHAPTER 40: ZONING; SECTION 40-2: DEFINITIONS; TO REPEAL SECTION 40-9: BED AND BREAKFAST FACILITIES; TO REPEAL AND REPLACE SECTION 40-26: VACATION HOME RENTAL USE; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT; A SAVINGS CLAUSE; SEVERABILITY; REPEALER; EFFECTIVE DATE; AND PROPER NOTICE AND MEETING.

WHEREAS, the City Council of the City of Granite Shoals, Texas (the “City”) seeks to provide for the safe and orderly development of land and use of property within its corporate limits; and

WHEREAS, the Council respects the property rights of property owners who wish to use their property as Short Term Rentals, and

WHEREAS, the Council recognizes that the increased prevalence of short term rental usage of property in conjunction with recent court decisions have changed the regulatory landscape since the City first adopted its ordinances regulating vacation home rentals; and

WHEREAS, the Council finds that the following amendments are necessary to update and amend its vacation home rental and bed and breakfast ordinances to align with those changes; and

WHEREAS, the Planning and Zoning Commission of the City of Granite Shoals held a properly noticed public hearing regarding proposed amendments to Chapter 40 (Zoning) of the City’s Code of Ordinances regarding the Short Term Rental Ordinance on March 16, 2021; and

WHEREAS, the City Council held a properly noticed public hearing regarding proposed amendments to Chapter 40 (Zoning) of the City’s Code of Ordinances regarding the Short Term Rental Ordinance on March 23, 2021; and

WHEREAS, the City recognizes its responsibility and authority to adopt ordinances that are necessary for the government of the City, its interests, welfare, the health and safety of the City, and good order of the City as a body politic.

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. REPEAL, ADOPTION, AND AMENDMENT

Part II (Code of Ordinances), Chapter 40 (Zoning), Section 40-2 (Definitions) is hereby amended; Section 40-9 (Bed and Breakfast Facilities) is hereby repealed; and Section 40-26 (Vacation Home Rental Use) is hereby repealed and replaced as follows:

“Sec. 40-2 Definitions.

...

Agent: an individual or organization retained or utilized by owner to list, advertise, and/or manage short term rentals for an owner’s residential property.

~~Bed and breakfast means a family residence where rooms are rented to transient guests on an overnight basis, serving primarily breakfast to those particular guests.~~

Dwelling Unit: a suite of two or more habitable rooms that are occupied or that are used, designed, or intended to be occupied, with facilities for living, sleeping, cooking, and eating.

Enforcement authority: the city manager of Granite Shoals or the person or department to whom the city manager may delegate enforcement responsibility.

Owner: any person or legal entity claiming ownership or title of real property, including but not limited to:

- (1) Holder of fee simple title.
- (2) Holder of life estate.
- (3) Holder of a leasehold estate for an initial term of five years or more.
- (4) A buyer in possession, or having right of possession, under a contract or deed.
- (5) A mortgagee, receiver, executor, or trustee in possession or control or having right of possession or control of real property
- (6) Any agent who is responsible for managing, leasing, or operating of property.

Short Term Rental: a dwelling unit (as defined in this section) intended for permanent occupancy that is occupied for transient use by any person other than the primary owner for any form of compensation and for a period of not less than one day, nor more than 30 consecutive days. The term “vacation home rental” does not include a bed and breakfast permitted and operated in accordance with this chapter.

STR: an abbreviation of the term Short Term Rental

Tenant: any person or agent, not the owner, who occupies a residence for any period of time.

Sec. 40-9 — Bed and breakfast facilities.

~~(a) — Purpose. It is the purpose of this section to provide standards for bed and breakfast facilities, and to ensure that the facility complies with the applicable health, fire, and LCRA standards. A permit request will be considered by the planning and zoning commission and city council. The procedures for a hearing concerning a bed and breakfast permit request must follow those procedures outlined in the Texas Local Government Code. Before this hearing, the applicant must present a plot of the property with all requirements for a bed and breakfast as outlined in this section.~~

~~(b) — Standards. Bed and breakfasts shall comply with all standards of the zoning district it is in plus the following special standards:~~

~~(1) — Breakfast for guests shall be the only meal served.~~

~~(2) — No cooking shall be permitted within the rooms. Outside grills are permitted.~~

~~(3) — No long term rental of rooms past 14 days are permitted.~~

~~(4) — All bed and breakfasts shall comply with the applicable local and state health, fire and LCRA codes. The facility shall be connected to the city water system~~

~~(5) — No more than four bedrooms for guests will be allowed in R-1 and M-1 zones.~~

~~(6) — Guestrooms must be in the residence of the operator or in accessory buildings on the same premises.~~

~~(7) — A bed and breakfast may be operated only by a bona fide resident in or at his home. Such operator must be present (living in the home) while the bed and breakfast is in operation.~~

~~(8) — See the sign ordinance regarding signs for bed and breakfast.~~

~~(9) — Off street parking. See section 40-16(a)(1)r.~~

~~(c) — Application procedures for a conditional use permit. The application for a conditional use permit for a bed and breakfast shall be submitted on a form obtained at the city hall. It shall be signed by the owner of the property and shall have attached to it the current state department of water resources, private individual sewage disposal system license.~~

~~(1) Fee. A one time administrative fee of \$25.00 is required. If a hearing is required, the fee will be \$100.00.~~

~~(2) Inspections. The facility may be inspected, in order to ensure that it complies with applicable building, health and fire codes.~~

~~(3) Permit limitations.~~

~~a. Once a conditional use permit has been issued for a bed and breakfast, it shall not be transferred to another location or owner.~~

~~b. The conditional use permit shall be valid only for so long as the bed and breakfast complies with the requirements of this chapter.~~

~~c. The city may immediately revoke or suspend the permit or deny either the issuance or renewal thereof, if it is found that:~~

~~1. The applicant or permittee has violated or failed to meet any of the provisions of this chapter or conditions of the permit.~~

~~2. Any required licenses have been suspended, revoked or canceled upon denial, suspension, or revocation. The city shall notify the applicant or permittee in writing of the action taken and the reasons thereof. After giving notice by certified mail, if the bed and breakfast has not been removed within 30 days, the city may cause the closure of any bed and breakfast found in violation of this chapter.~~

~~(4) Appeals. Any person aggrieved by the decision of the city under this section, may appeal the notice of cancellation, denial or suspension.~~

~~a. Appeals shall be submitted to the chairman of the board of adjustment in writing within 15 days following the date of mailing of the notice of cancellation, denial, suspension or revocation to the applicant or permittee.~~

~~b. The board of adjustment shall hear the appeal at its next possible meeting and thereupon make a recommendation to the city council to uphold, reverse or modify the decision, based upon the requirements of this chapter.~~

~~c. Any further appeal shall be to the county district court."~~

Sec. 40-16 Off-street parking and loading space requirements.

...

(1)

...

(r) ~~Bed and breakfast. Off-street parking shall be provided for the resident and a minimum of one space for each guest room.~~

~~Sec. 40-26 Vacation home rental use.~~

(a) ~~Zoning districts allowed. Vacation home rentals are allowed in the R-2 district only, except as provided by subsection (b) of this section.~~

(b) ~~Existing vacation home rentals. A vacation home rental that is located in a zoning district that does not permit vacation home rental uses and that was in existence as of the date of this ordinance may continue, provided that it satisfies the following requirements:~~

(1) ~~Registration. The property owner (or their authorized agent) shall register the vacation home rental with the city within 30 days of the effective date of the ordinance from which this section is derived. Registration shall require full disclosure of the complete ownership of the property. Requirements for registration are as follows:~~

a. ~~The applicant shall prove that the vacation home rental use was established prior to the effective date of the ordinance from which this section is derived, and that the use has been continuously maintained during that time by presenting proof of reporting/payment to the city of the hotel occupancy tax (HOT) filed in 2011.~~

b. ~~There shall be an annual re-registration that will establish the continuous proof of reporting/payment of the city hotel occupancy tax for the prior year. A \$150.00 annual application fee is required at the time of the filing of a registration form and at each renewal.~~

c. ~~Address, legal description, and number of bedrooms of the property being used as a vacation home rental.~~

d. ~~Any additional information that may be requested by the city necessary to make an informed decision regarding the application.~~

e. ~~Contact information. Name, address and phone number of the homeowner and any management company authorized to by the owner commissioned to maintain this property.~~

(2) ~~Burden of proof. The burden of establishing that a vacation home rental use was in existence prior to the effective date of the ordinance from which this section is derived rests entirely upon the person claiming such status.~~

~~(3) Denial of registration. The city may deny registration if it appears that the documents submitted by the owner or authorized agent are incomplete, not valid, or that the documents produced do not show the existence of the vacation home rental use in accordance with of this section. The city may also deny registration based on valid nuisance complaints filed with the city.~~

~~(4) Revocation. The city will, in writing, suspend or revoke a registration issued under the provisions of this section, whenever the registration is issued in error, or on the basis of incorrect information supplied, or when it is determined that the building or structure, or portion thereof is in violation of any ordinance of the city or applicable regulations.~~

~~(5) Signage. No signage is allowed, other than the premises address.~~

~~(6) Transferability. Registration of a vacation home rental does not transfer from one property owner to another.~~

~~(7) Abandonment and termination of a vacation home use.~~

~~a. A vacation home use is deemed abandoned and the right to operate the existing use shall terminate immediately if any of the following occur:~~

~~1. The hotel occupancy tax (HOT) has not been reported for two consecutive reporting periods of 90 days each.~~

~~2. Discontinuance or abandonment shall be conclusively deemed to have occurred irrespective of the intent of the property owner if any portion of the structure in which the existing use is located is dilapidated, substandard, or is not maintained in a suitable condition for occupancy during a continuous period of 120 days, unless a building permit is obtained.~~

~~b. A property owner may not resume an abandoned or otherwise terminated existing vacation home use.~~

~~e. Destruction of existing vacation home use. The right to operate and maintain any existing use shall terminate and shall cease to exist whenever the structure or any portion of the structure in which the existing use is operated and maintained is damaged or destroyed by fire, the elements or other intentional acts of the owner, operator, or third party, if the destruction amounts to 60 percent or more of its fair market value as determined by the tax appraisal roll, not including the value of the land, on the date of such damage or destruction. If the owner of a existing use fails to begin reconstruction of the destroyed building, when permitted to do so by city ordinances within 120 days of the date of destruction, the existing use shall be deemed to be discontinued or abandoned, and shall no longer be authorized to continue.~~

Sec. 40-26 Short Term Rentals (STR)

- (a) Agent. For the purposes of this subsection, an agent of an STR shall have the same responsibilities as an owner of an STR and the same rights as an owner to rent a property as an STR.
- (b) Owner. Owner of an STR shall maintain such premises in compliance with Chapter 8, Article V of this Code. An owner shall not let, rent, or lease an STR for occupancy or use in any manner that does not comply with the provisions of this Code.
- (c) Owner and tenant. Every owner and every tenant of an STR shall maintain the premises in a clean, sanitary, and safe condition, including the disposal of rubbish, garbage, organic and inorganic waste, junk, or other waste in a lawful manner.
- (d) Zoning districts allowed. Short term rentals are allowed in all zoning districts in which residential uses are permitted.
- (e) Registration. The property owner (or their authorized agent) shall register the short term rental by filing a registration form with the city for each property to be used as a short term rental.
- (1) The registration form shall contain the following information:
- a. Full disclosure of the complete ownership of the property.
 - b. Address, legal description, and number of bedrooms of the property.
 - c. Contact information, including name, address, and phone number(s) of the owner and of any agent or management company authorized by the owner to maintain the STR. This information shall be provided in order of whom should be contacted first, and shall indicate which individual on the contact list should be able to respond onsite to the subject property within 30 minutes of notification by a law enforcement authority or an official representative of the City.
 - d. Any additional information that may be requested by the city that is necessary to make an informed decision regarding the application.
 - e. A copy of the information that must be provided to each STR renter pursuant to subsection (o) of this Ordinance.
 - f. Proof of property insurance with the “short term rental use” clearly identified that, at a minimum, is sufficient for personal injury liability of guests.
- (2) Registration Period. Approved registrations are valid for a period of one year

from date of approval.

(3) Registration fee. A registration fee is required at the time of the filing of a registration form and at each annual renewal. The fee will be listed in Appendix B of this Code, Schedule of Fees and Charges. To be eligible for renewal, the applicant must provide continuous proof of reporting/payment of the city hotel occupancy tax for the prior year for the dates the property has been rented.

(4) Denial of registration. A registration that is denied will result in a full refund of the corresponding registration fee. The city may deny registration if:

- a. It appears that the documents submitted by the owner or authorized agent are incomplete, not valid, or that the documents produced do not show the existence of the short term rental use in accordance with this section;
- b. Valid and unresolved nuisance complaint(s) have been filed with the city about the subject property;
- c. The subject property does not comply with all applicable local and state health, fire, and LCRA regulations, statutes, or ordinances; or
- d. An applicant seeking renewal fails to provide continuous proof of reporting/payment of the city hotel occupancy tax for the prior year.

(5) Revocation. The city may, in writing, suspend or revoke a registration issued under the provisions of this section when it is determined that:

- a. The registration was issued in error or on the basis of incorrect information supplied,
- b. The circumstances described in subsection (s) have occurred,
- c. The short term rental use produces a nuisance as defined in the city's Code of Ordinances or otherwise results in a violation of any ordinance of the city or applicable regulation, or
- d. The building or structure, or portion thereof, is in violation of applicable local and state health, fire, or LCRA regulations, statutes, or ordinances.

(6) Transferability. Registration of a short term rental does not transfer from one property owner to another.

(g) Fire Inspections. The City has adopted the International Fire Code. Annual inspections may be conducted by the City to ensure that an STR property meets the current International Fire Code. Inspections will include verifying working smoke detectors and fire extinguishers.

- (h) Occupancy Limits. Overnight guest occupancy may not exceed two (2) persons per bed, including temporary beds such as roll-away beds or pull-out couches, plus an additional two persons, not including infant sleeping accommodations.
- (i) Noise. Property shall be subject to Chapter 16, Article II of the City of Granite Shoals Code of Ordinances.
- (j) Parking. Property shall require one off-street parking spot for each bedroom of the STR. No on street parking is permitted, and no impediment to ingress and egress to surrounding properties is permitted.
- (k) Property exterior. Exterior grounds are to be maintained as specified in Chapter 8, Article V of this Code.
- (l) Pets. To the extent the property owner wishes to allow pets at an STR, the number of pets in an STR is a maximum of five pursuant to the applicable portions of Article IV of this Code, excluding the requirement to register the pet(s) with the City. If a pet is involved in an incident listed in Section 4-7(a)(1) of this Code, the pet owner must be able to show proof of pet's current rabies inoculation. If proof is not provided, Animal Control will take custody of the animal until such time as proof is provided, or the animal is euthanized per Section 4-9 of this Code.
- (m) Signage. No exterior signage is allowed, other than the premises address.
- (n) Trash and Recycling.
- (1) Containers. The number of trash containers required shall be based on the maximum number of overnight occupants permitted on the property. For 1-4 occupants, one container provided by the City's solid waste service provider is required; for 5-8, two containers are required; more than 8 occupants, three containers will be required.
- (2) Owner/agent is responsible for ensuring that trash containers are placed in their pickup position not more than 24 hours prior to pick-up, and returned to a storage location within 24 hours after pickup. Recycle bins are subject to the same requirements.
- (o) Exterior Lighting. No lighting shall be permitted that results in direct or reflected glare into a nearby residence or into a public street that creates a driving hazard. Lighting shall be hooded or shielded. This excludes streetlights.
- (p) Information to be provided to each STR renter by the owner or agent.

- (1) Maximum number of overnight guests permitted.
 - (2) Maximum number of parking spaces allocated to the property, and location of offsite parking (including parking for boat trailers), if available.
 - (3) 24 hour contact number(s) of owner/agent.
 - (4) Telephone number of City Utilities Department, Fire Department, and Police Department.
 - (5) Notification of what constitutes trash and what items are recyclable.
 - (6) Notification of trash pickup day.
 - (7) Notification of recycle pickup day.
 - (8) Other information as may be deemed pertinent by owner/agent or the City.
- (q) The city manager and/or his or her designee may enforce the provisions of this Section.
- (r) Enforcement shall be as specified in Section 8-133 of this Code.
- (s) Penalties. Following the issuance of a citation to an STR tenant of a violation of this Ordinance by the city's enforcement authority, the owner shall be notified of the citation and the following penalties shall apply to the owner:
- (1) First offense in a twelve month period, a warning citation shall be issued to owner.
 - (2) Second offense in a twelve month period, a fine of \$100 shall be levied on owner.
 - (3) Third offense in a twelve month period, a fine of \$250 shall be levied on owner.
 - (4) Fourth offense in a twelve month period, a fine of \$500 shall be levied on owner, and owner's STR registration permit shall be suspended for a period of six (6) months from the date of payment of the fine.
 - (5) The owner of an STR is responsible for payment of any citations issued to that owner's tenant if the tenant does not pay the citation within the required timeframe.

SECTION III. SAVINGS CLAUSE

The repeal of any 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 CLAUSE.

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

