

ORDINANCE NUMBER 840-2016

AN ORDINANCE OF THE CITY OF DICKINSON, TEXAS, AMENDING SECTION 18-11, DEFINITIONS OF TERMS AND PHRASES, OF ARTICLE II, DEFINITIONS, OF CHAPTER 18, ZONING, OF THE CODE OF ORDINANCES OF THE CITY OF DICKINSON, TEXAS, TO ADD A DEFINITION FOR “VACATION RENTAL”; REPEALING SECTION 18-61, DEVELOPMENT AND PERFORMANCE STANDARDS, OF ARTICLE V, SPECIFIC USES, OF CHAPTER 18, ZONING, OF THE CODE OF ORDINANCES; ADOPTING A NEW SECTION 18-61, DEVELOPMENT AND PERFORMANCE STANDARDS, TO ESTABLISH MINIMUM REGULATIONS FOR BED AND BREAKFAST AND VACATION RENTAL LODGING; PROVIDING FOR THE INCORPORATION OF PREAMBLE; PROVIDING A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION HEREOF; AND PROVIDING A REPEALER CLAUSE, A SAVINGS CLAUSE, A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.

WHEREAS, the City Council finds that it is in the best interest of the health, safety, and welfare of the citizens of the City of Dickinson to require minimum regulations for Bed and Breakfast and Vacation Rental Lodging; and

WHEREAS, the City Council is of the opinion and finds that the regulations contained in this Ordinance are in the best interest of the health, safety, and welfare of the Citizens;

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

Section 1. The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. Section 18-11, Definitions, of Article II, Definitions, of Chapter 18, Zoning, of the Code of Ordinances of the City of Dickinson, Texas, is hereby amended by the addition of the following definition of “Vacation Rental”:

Vacation Rental means a residential facility that is offered for rental for a period not to exceed thirty (30) days. The owner or the owner’s designated representative shall not be required to occupy the facility at the time the facility is being rented.

Section 3. Section 18-61, Development and performance standards, of Article V, Specific Uses, of Chapter 18, Zoning, of the Code of Ordinances of the City of Dickinson, Texas, is hereby repealed.

Section 4. A new Section 18-61, Development and Performance Standards, of Article V, Specific Uses, of Chapter 18, Zoning, of the Code of Ordinances of the City of Dickinson, Texas, is hereby adopted and shall read as follows:

“Sec. 18-61. Development and Performance Standards.

- (a) Licensed Day Care Centers. Licensed day care centers in the “NC” district and registered family homes and group day care homes in the “CR” district are permitted by a specific use permit.
- (1) The licensee shall submit to the city, on an annual basis, a copy of their most recent state license, proof of insurance, and all other documentation required by the City or State.
 - (2) Licensed day care facilities shall be operated in accordance with the State of Texas Department of Protective and Regulatory Services regulations and guidelines.
- (b) Bed and Breakfasts. Bed and Breakfasts in the “RR” or “CR” district are permitted by a specific use permit.
- (1) The residential feel and character of a Bed and Breakfast shall be maintained and not unnecessarily intrude upon the adjacent neighbors. By requiring the presence of the owner or the owner designated representative while the facility is rented, will help ensure that the impact of traffic noise or other nuisance does not occur or is immediately stopped to avoid any adverse effects on the surrounding neighborhood.
 - (2) In addition to any conditions imposed as part of the approved specific use permit, the following regulations shall be applicable to Bed and Breakfast lodging facilities:
 - a. Property shall be subject to inspection at any time by designated City representatives, if compliance is in question, with proper notice provided if feasible.
 - b. The specific use permit shall terminate and be considered abandoned if and when there is evidence of no rental activity based in part on the State Occupancy Tax Reports, for a period of nine (9) consecutive months. The burden is on the property owner to prove that the use of the property has been in continuous use.
 - c. One (1) smoke alarm shall be provided in each guest bedroom along with a fire extinguisher visible and be accessible to guests. A fire escape plan shall be developed and graphically displayed in each guest room. A second exit from the lodging facility structure shall be provided.

- d. Signage for Bed and Breakfasts shall be limited to one (1) non illuminated sign not to exceed four (4) square feet in area.
 - e. A valid taxpayer number for reporting any Texas tax shall be provided to the City along with a copy of the completed *State of Texas Hotel Occupancy Tax Questionnaire (form AP-102)* no later than thirty (30) days following the approval of the specific use permit.
 - f. If there is a change in ownership of the property the City shall be notified of any change in property ownership within thirty (30) days of such change.
 - g. If guests have water access, guests may not enter upon any property which is not part of the owner's property for the purpose of entering or exiting the water.
 - h. A copy of the requirements set forth in the specific use permit shall be made available to all guests.
 - i. On-street parking is prohibited. Two (2) parking spaces are required plus one additional space per room rented subject to modification as part of the specific use permit approval process.
 - j. The maximum occupancy allowed shall be reviewed and determined in each individual specific use permit application based on number of rooms, beds, parking, neighborhood input, and any other factor determined to be relevant by the Planning and Zoning Commission or City Council.
- (c) Vacation Rentals. Vacation Rentals in the "RR" or "CR" district are permitted by a specific use permit.
- (1) The residential feel and character of a Vacation Rental property shall be maintained and not unnecessarily intrude upon the adjacent neighbors.
 - (2) In addition to any conditions imposed as part of the approved specific use permit, the following regulations shall be applicable to Vacation Rental lodging facilities:
 - a. Property shall be subject to inspection at any time by designated City representatives, if compliance is in question, with proper notice provided if feasible.
 - b. The specific use permit shall terminate and be considered abandoned if and when there is evidence of no rental activity based in part on the State Occupancy Tax Reports, for a period of nine (9) consecutive

months. The burden is on the property owner to prove that the use of the property has been in continuous use.

- c. One (1) smoke alarm shall be provided in each guest bedroom along with a fire extinguisher visible and be accessible to guests. A fire escape plan shall be developed and graphically displayed in each guest room. A second exit from the lodging facility structure shall be provided.
- d. Signage for Vacation Rentals shall be limited to one (1) non illuminated sign not to exceed four (4) square feet in area.
- e. A valid taxpayer number for reporting any Texas tax shall be provided to the City along with a copy of the completed *State of Texas Hotel Occupancy Tax Questionnaire (form AP-102)* no later than thirty (30) days following the approval of the CUP.
- f. If there is a change in ownership of the property the City shall be notified of any change in property ownership within thirty (30) days of such change.
- g. If guests have water access, guests may not enter upon any property which is not part of the owner's property for the purpose of entering or exiting the water.
- h. A copy of the requirements set forth in the specific use permit shall be made available to all guests.
- i. On-street parking is prohibited. Two (2) parking spaces are required plus one additional space per room rented subject to modification as part of the specific use permit approval process.
- j. The maximum occupancy allowed shall be reviewed and determined in each individual specific use permit application based on number of rooms, beds, parking, neighborhood input, and any other factor determined to be relevant by the Planning and Zoning Commission or City Council. Owner occupancy is permitted but not required. However the subject property owner shall provide the City and property owners within 200 feet of the subject property, with the current name and contact information (including telephone numbers and e-mail address) for the local responsible party for the subject property. The local contact shall be able to respond to any incident within thirty (30) minutes of a call and shall be authorized to make decisions regarding tenants at the property. If the name or contact information for the local contact changes then the property owner shall notify the City and

property owners within 200 feet of the subject property, with the current name and contact information.

- (d) The review for specific use permit approval of a Bed and Breakfast and/or Vacation Rental lodging facility shall consider but not be limited to the following factors:
- a. The proposed occupancy and the size of the property, and whether a smaller occupancy level is appropriate;
 - b. Setbacks and proximity to other dwellings;
 - c. Rental regulations (such as no large parties, no extra guests) imposed by the owner and the degree of owner involvement in property management;
 - d. Occupant access to waterways and other environmentally sensitive areas;
 - e. Vehicle access and onsite parking and the number of parking spaces available; and
 - f. Compliance with all State, County, and City ordinances, laws, rules, and regulations including the Building Codes and Fire Codes.”

Section 5. All provisions of the ordinances of the City of Dickinson in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Dickinson not in conflict with the provisions of this Ordinance shall remain in full force and effect.

Section 6. 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 municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

Section 7. Any person who shall intentionally, knowingly, recklessly, or with criminal negligence violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to a fine in an amount not to exceed \$2,000.00. Each day a violation continues shall constitute a separate offense.

Section 8. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it

shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Dickinson, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

Section 9. This Ordinance shall become effective upon final reading and adoption of this Ordinance, in accordance with law.

DULY PASSED AND APPROVED on first reading this the 22nd day of March, 2016.

DULY PASSED AND APPROVED on second reading this 12th day of April, 2016.

(Third Reading Suspended)

DULY PASSED, APPROVED, AND ADOPTED on third and final reading this ___ day of _____, 2016.

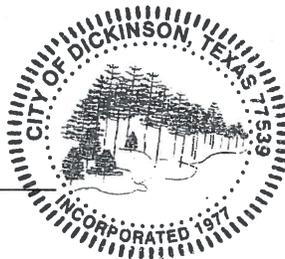


Julie Masters, Mayor
City of Dickinson, Texas

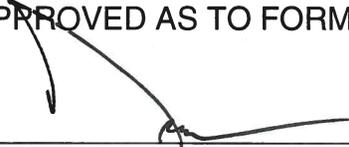
ATTEST:



Alun Thomas, Interim City Secretary
City of Dickinson, Texas



APPROVED AS TO FORM AND CONTENT:



David Olson, City Attorney
City of Dickinson, Texas