

ORDINANCE NO. 676

“Revised Release of Easement Ordinance”

AN ORDINANCE OF THE CITY OF GRANITE SHOALS, TEXAS, AMENDING CHAPTER 8 (BUILDINGS AND BUILDING REGULATIONS), TO ADD A NEW ARTICLE VII (RELEASE OF PUBLIC EASEMENT), ESTABLISHING THE PROCEDURES TO APPLY FOR A RELEASE OF A PUBLIC EASEMENT; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT, SAVINGS, SEVERABILITY, REPEALER, EFFECTIVE DATE, AND PROPER NOTICE AND MEETING

WHEREAS, the City Council of the City of Granite Shoals, Burnet County, Texas ("Council") seeks to provide for the public health, safety and welfare of its citizens; and

WHEREAS, the City of Granite Shoals is the owner of public easements located within the City; and

WHEREAS, some portions of the public easements no longer serve a present or future public purpose; and

WHEREAS, the City of Granite Shoals wishes to establish a simple and efficient procedure in which to consider a release or partial release of its public easements to the owners of land who desire a release; and

WHEREAS, as authorized under law, and in the best interest of the citizens of Granite Shoals, Texas, the Council deems it expedient and necessary to establish the following rules and policies for the release of easements within the city limits;

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**

Chapter 8 (Buildings and Building Regulations), Article VII (Release of Public Easement), of the City of Granite Shoals Code of Ordinances is hereby amended as follows:

“ARTICLE VII. RELEASE OF PUBLIC EASEMENT

Sec. 8-170. Procedure to Request a Release of Public Easement.

- (a) In order to obtain a release of public easement, a person may submit an application for a replat pursuant to Chapter 32 of this Code. Unless another provision of that Chapter applies, a person may apply for a release of easement by submitting an application for a “minor replat.”
- (b) The applicant must submit a letter from each applicable utility company stating that the company has no objection to the proposed release of easement.
- (c) The City Council shall at all times retain discretion regarding the decision of whether to release an easement under this section, taking into consideration the equities involved and whether granting the request would serve the public interest.
- ~~(a) A person must submit an application to the Code City Secretary to obtain a release of a public easement.~~
- ~~(b) An application filed under this section must be accompanied by:
 - ~~a. A non-refundable application fee in an amount established by separate ordinance;~~
 - ~~b. A survey map and field note description of the public easement to be released;~~
 - ~~c. A copy of the recorded Subdivision Plat where the public easement to be released is located;~~
 - ~~d. A copy of the recorded Deed documenting the current property owner;~~
 - ~~e. A copy of the recorded easement document, if applicable;~~
 - ~~f. Such other documents that the City may require.~~~~
- ~~(c) The City Council shall consider the release of easement in a public meeting.~~
- ~~(d) If the application is approved, the Mayor shall execute a Release of Easement; and~~
- ~~(e) Upon the execution of the release, the landowner is authorized and directed to file such release in the real property records of Burnet County, Texas.”~~

**SECTION III
SAVINGS**

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**

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 ordinance or parts of ordinances inconsistent or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent that such inconsistency is apparent. This ordinance shall not be construed to require or allow any act which 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
PROPER NOTICE AND MEETING**

It is hereby officially found and determined that the meeting at which this Ordinance 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.

READ, PASSED, AND ADOPTED THIS 10th DAY OF November 2015.

By: Carl Brugger
Carl Brugger, Mayor

ATTEST:

Elaine Simpson
Elaine Simpson, City Secretary

APPROVED AS TO FORM:

Brad Young
Brad Young, City Attorney

