

Ordinance No. 691

“Nonconforming Structures”

AN ORDINANCE OF THE CITY OF GRANITE SHOALS, TEXAS, AMENDING CHAPTER 40 (ZONING), SECTIONS 40-2 (DEFINITIONS), 40-6 (SINGLE-FAMILY RESIDENTIAL DISTRICT, R-1), 40-8 (MULTIFAMILY RESIDENTIAL DISTRICT, R-2), 40-10 (MOBILE HOME RESIDENTIAL DISTRICT, M-1), AND 40-18 (NONCONFORMING BUILDINGS AND USES) OF THE CITY OF GRANITE SHOALS CODE OF ORDINANCES; AND CREATING A NEW SECTION 40-29 (OVERLAY DISTRICTS); 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 has determined that quality of life, increased property values and aesthetics are important issues and concerns affecting the City and seek to provide for the safe and orderly development of land within the City; and,

WHEREAS, the regulations established by this Ordinance are specifically designed to lessen congestion in the streets, secure safety from fire, panic, and other dangers; promote health and general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; facilitate the adequate provision of transportation, water, schools, parks and other public facilities; and

WHEREAS, in the course of adopting the regulations established by this Ordinance, the City Council has given careful consideration to the unique qualities of the City, including the demographics of its inhabitants, the community’s history, geography, natural resources, existing structures, property values, workforce, education levels, commercial base, surrounding communities, public facilities and infrastructure; and with a view of conserving property values and encouraging the most appropriate use of land in the City; and

WHEREAS, the regulations established by this Ordinance are furtherance of the public interest, for the good government, peace, order, trade and commerce of the City, and are made in accordance with the City’s Comprehensive Plan and are necessary and proper for carrying out the power granted by the law of the City; and

WHEREAS, the Planning and Zoning Commission has considered the contents of this ordinance and held a public hearing on June 21, 2016, at which time all persons interested in the proposed amendments to the City’s zoning ordinance had an opportunity to be heard; and

WHEREAS, the City Council held a public hearing on June 28, 2016, at which time all persons interested in the proposed amendments to the City’s zoning ordinance had an opportunity to be heard; and

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 Council and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION II. AMENDMENT

A. Chapter 40 (Zoning), Section 40-2 (Definitions) is hereby amended to add the following definitions as follows:

“....

Eaves means the projecting lower edges of a roof overhanging the wall of a building.

....

Overhang means the part of a roof or wall that extends beyond the facade of a lower wall.

....”

B. Chapter 40 (Zoning), Section 40-6 (Single-Family Residential District, R-1), subsection (1) (Yard Requirements) of the City of Granite Shoals Code of Ordinances is hereby amended as follows:

“(1) *Yard requirements.*

(1) *Front yard.* There shall be a front yard having a depth of not less than 20 feet.

(2) *Side yard.* All lots shall have a side yard of not less than five feet on each side, provided that on a corner lot the side yard on the street side of the lot shall be not less than ten feet and shall extend from front to rear of the lot. Sidewalk/flatwork may be located in the side yard only if all easements have been released from the side yard area where the sidewalk/flatwork is located.

- (3) *Rear yard.* All lots shall have a rear yard of not less than five feet.
- (4) *Eaves and overhangs.* Eaves and overhangs may not encroach into the front yard, side yard, or rear yard except as follows:

Those portions of eaves and overhangs that extend into the front yard, side yard, or rear yard, that were in existence on July 1, 2016, and that have remained in continuous existence since that date may continue. Any additions to non-conforming structures must conform to same building regulations as new construction.

- (5) *Structural encroachments.* A building or structure may not encroach into the front yard, side yard, or rear yard except as follows:

Those portions of a building or structure that extend into the front yard, side yard, or rear yard, that were in existence on July 1, 2016, and that have remained in continuous existence since that date may continue. Any additions to non-conforming structures must conform to same building regulations as new construction.

~~(5) — *Shoreline.* Where a lot abuts Lake Lyndon B. Johnson or other waterway designated by the city, the following setback and other requirements in relation to the shoreline shall be used. The shoreline shall usually be the water's edge, under normal conditions, existing as of the date of the requested building permit.~~

~~a. — No main or accessory building, except as otherwise specified, shall be located nearer than ten feet to the shoreline. In no instance shall it extend beyond the original platted lot line.~~

~~b. — A boat dock shall not exceed 18 feet in height (as measured from an 825-foot lake level). No boat dock shall be closer than five feet to any extended side property line.”~~

C. Chapter 40 (Zoning), Section 40-8 (Multifamily Residential District, R-2), subsection (c) (Yard Requirements) of the City of Granite Shoals Code of Ordinances is hereby amended as follows:

“(c) *Yard requirements.*

- (1) *Front yard.* There shall be a front yard having a depth of not less than 20 feet.

- (2) *Side yard.* All lots shall have a side yard on each side of not less than five feet on each side, provided that on a corner lot the side yard on the street side of the lot shall not be less than ten feet and shall extend from front to rear of the lot.
- (3) *Rear yard.* All lots shall have a rear yard of not less than five feet.
- (4) *Eaves and overhangs.* Eaves and overhangs may not encroach into the front yard, side yard, or rear yard except as follows:

Those portions of eaves and overhangs that extend into the front yard, side yard, or rear yard, that were in existence on July 1, 2016, and that have remained in continuous existence since that date may continue. Any additions to non-conforming structures must conform to same building regulations as new construction.

- (5) *Structural encroachments.* A building or structure may not encroach into the front yard, side yard, or rear yard except as follows:

Those portions of a building or structure that extend into the front yard, side yard, or rear yard, that were in existence on July 1, 2016, and that have remained in continuous existence since that date may continue. Any additions to non-conforming structures must conform to same building regulations as new construction.

- ~~(5) *Shoreline.* Where a lot abuts Lake Lyndon B. Johnson or other waterway designated by the city, the following setback and other requirements in relation to the shoreline shall be used. The shoreline shall usually be the water's edge, under normal conditions, existing as of the date of the requested building permit.~~

- ~~a. No main or accessory building, except as otherwise specified, shall be located nearer than 20 feet to the shoreline. In no instance shall the main building extend beyond the original platted lot line.~~

- ~~b. A boat dock or a boat storage building not to exceed 16 feet in height (as measured from an 825-foot lake level), and no more than 200 square feet of storage area, without living quarters, is not required to have any setback from the shoreline. No boat dock or boat house shall be closer than five feet to any side property line.~~

- ~~c. No lighting shall be done in such a manner as to provide a direct glare into an adjoining residence or into a public street that creates a driving hazard. Lighting shall be hooded or shielded."~~

D. Chapter 40 (Zoning), Section 40-10 (Mobile Home Residential District, M-1), subsection (b) (Yard Requirements) of the City of Granite Shoals Code of Ordinances is hereby amended as follows:

“(b) *Yard requirements.*

- (1) *Front yard.* There shall be a front yard having a depth of not less than 20 feet.
- (2) *Side yard.* All lots shall have a side yard of not less than five feet on each side. On a corner lot, the side yard on the street side of the lot shall be not less than ten feet and shall extend from the front to the rear of the lot.
- (3) *Rear yard.* All lots shall have a rear yard of not less than five feet.
- (4) *Eaves and overhangs.* Eaves and overhangs may not encroach into the front yard, side yard, or rear yard except as follows:

Those portions of eaves and overhangs that extend into the front yard, side yard, or rear yard, that were in existence on July 1, 2016, and that have remained in continuous existence since that date may continue. Any additions to non-conforming structures must conform to same building regulations as new construction.

- (5) *Structural encroachments.* A building or structure may not encroach into the front yard, side yard, or rear yard except as follows:

Those portions of a building or structure that extend into the front yard, side yard, or rear yard, that were in existence on July 1, 2016, and that have remained in continuous existence since that date may continue. Any additions to non-conforming structures must conform to same building regulations as new construction.

- ~~(5) *Shoreline.* Where a lot abuts Lake Lyndon B. Johnson or other waterway designated by the city, the following setback and other requirements in relation to the shoreline shall be used. The shoreline shall usually be the water's edge, under normal conditions, existing as of the date of the requested building permit.~~

- ~~a. — No main or accessory building, except as otherwise specified, shall be located nearer than 20 feet to the shoreline. In no instance shall it extend beyond the original platted lot line.~~

- ~~b. — A boat dock or a boat storage building not to exceed 16 feet in height, (as measured from an 825-foot lake level), and no more than~~

~~200 square feet of storage area. No boat dock or a boat storage building shall be closer than five feet to any side property line.”~~

- E. Chapter 40 (Zoning), Section 40-18 (Nonconforming buildings and uses), subsection (a) (Regulations) of the City of Granite Shoals Code of Ordinances is hereby amended as follows:

“Sec. 40-18. - Nonconforming buildings and uses.

- (a) ~~Regulations~~ Regulation of nonconforming buildings. The lawful use of any building, ~~or structure or land~~ existing on the effective date of the ordinance from which this chapter is derived may be continued, although such use building or structure does not conform with the provisions of this chapter. However, the right to continue ~~the use of such nonconforming use~~ building or structure shall be subject to the following regulations:
- (1) Normal repairs and maintenance, interior improvements or remodeling, and exterior improvements or remodeling may be made to a nonconforming building or structure; provided, that no improvements or remodeling structural alterations shall be made that increase the noncompliance or create an additional noncompliance of all or any part of such structure. ~~except those required by law or ordinance or those necessary for installing or enclosing required sanitary facilities, such as toilets and bathrooms.~~
 - (2) Unless otherwise provided, a nonconforming building or structure shall not be added to or enlarged in any manner unless such additions and enlargements are made to conform to all of the requirements of the zoning district in which such building or structure is located.
 - (3) A nonconforming building or structure shall not be moved in whole or in part unless every portion of such building or structure is made to conform to all regulations of the zoning district in which it is to be located.
 - (4) If a nonconforming building or structure is damaged or destroyed to an extent of less than 60 percent of its fair market value by fire, explosion, act of God or the public enemy, then restoration or new construction shall be permitted. If destruction is greater than 60 percent of its fair market value, such building or structure and its use, if repaired or replaced, shall conform to all regulations of the zoning district in which it is located, and it shall be treated as a new building.
 - (5) A vacant, nonconforming building or structure lawfully constructed before the day of enactment of the ordinance from which this chapter is derived may be occupied by a use for which the building or structure was designed or intended, if so occupied within a period of ~~90~~ 180 days after the

effective date of the ordinance from which this chapter is derived. The use of a nonconforming building or structure lawfully constructed before the date of enactment of the ordinance from which this chapter is derived which becomes vacant after the effective date of said, may be reoccupied by the use for which the building or structure was designed or intended, if so occupied within a period of ~~90~~ 180 days after the building or structure become vacant. All such buildings after ~~90~~ 180 days of vacancy, shall be converted to a conforming use

~~(b)(6)~~ Nonconforming buildings or structures may not be changed or expanded except as otherwise provided in this section.

(b) Regulation of nonconforming uses of buildings or structures. The nonconforming use of a building or structure may be continued as hereinafter provided:

(1) The nonconforming use of a building or structure may not be changed to a use which does not conform to the requirements of the zoning district in which it is located.

(2) A nonconforming use of a conforming building or structure shall not be extended or expanded into any other portion of such conforming building or structure, nor changed except to a conforming use. ~~—If such nonconforming use or portion thereof is voluntarily discontinued or changed to a conforming use, any future use of such building or structure or portion thereof shall conform to the regulations of the zoning district in which such building or structure is located.~~

(c) Regulation of Nonconforming Uses of Land~~Continuation of existing uses.~~ The nonconforming use of land existing at the time of the effective date of the ordinance from which this chapter is derived may continue as hereinafter provided.

(1) Nonconforming use of land shall not be expanded, extended or changed to some other use not in compliance with the regulations of the zoning district in which the land is situated.

(2) If a nonconforming use of land or any portion thereof, is voluntarily discontinued for a period of ~~90~~ 180 days any future use of such land or portion thereof shall be in conformity with the regulations of the zoning district in which such land or portion thereof is located.

(3) If a nonconforming use or portion thereof is voluntarily discontinued or changed to a conforming use, any future use of such land or building or structure upon the land shall conform to the regulations of the zoning district in which the land is located.

(4) Any sign, billboard or poster panel which lawfully existed and was maintained at the time of the effective date of the ordinance from which this chapter is derived, may be continued, although such uses do not conform with the provision of this chapter; provided, however, that no structural alterations are made thereto.

(d) *Abandonment of nonconforming buildings or structures.* The nonconforming use of a building, ~~or structure or land~~ which has been abandoned shall not thereafter be returned to such nonconforming use. A nonconforming use building or structure shall be considered abandoned when:

(1) The intent of the owner to discontinue the use is apparent; ~~or~~

(2) The characteristic equipment and furnishings of the nonconforming use have been removed from the premises and have not been replaced by similar equipment within ~~90~~ 180 days; ~~or~~

(3) A nonconforming building, ~~or structure or land~~, or portion thereof, which is or hereafter becomes vacant and remains unoccupied for a period of ~~90~~ 180 days.

(4) ~~A nonconforming use has been replaced by a conforming use.~~

(e) *Change in zoning district boundaries.* Wherever the boundaries of a zoning district shall be changed so as to transfer an area from one zoning district to another zoning district, or when the boundaries of zoning districts are changed as the result of annexation of new territory, or changed in the regulations or restrictions of this chapter, the foregoing provisions relating to nonconforming uses shall also apply to any uses existing therein which may be or become nonconforming.”

F. Chapter 40 (Zoning), of the City of Granite Shoals Code of Ordinances is hereby amended to create a new Section 40-29 (Overlay Districts), as follows:

“Sec. 40-29. Overlay districts.

(a) *Application.* Overlay and districts shall be used in conjunction with base zoning districts. In the use of the following overlay zoning classifications, the base district shall remain in effect if it is already in existence unless changed by zoning amendment. New base districts or changes in existing base districts may be requested at the same time overlay districts are requested.

(b) Waterfront Overlay District, WF.

- (1) General purpose and description. The WF, Waterfront Overlay District is intended to preserve and enhance the quality of waterfront property along Lake Lyndon B. Johnson within the City of Granite Shoals.
- (2) Limits of overlay. Application of this overlay is limited to platted lots on which at least one lot line directly abuts Lake Lyndon B. Johnson.
- (3) Permitted uses. Permitted uses in the WF overlay district are governed by the allowable underlying zoning districts. These permitted uses must conform to the special development standards set forth for this overlay district.
- (4) Site development standards. The site development standards of the WF overlay district are the same as those of the underlying zoning district except as follows:
 - (A) Shoreline. Where a lot abuts Lake Lyndon B. Johnson, the following setback and other requirements in relation to the shoreline shall be used. The shoreline shall usually be the water's edge, under normal conditions, existing as of the date of the requested building permit.
 1. No main or accessory building, except as otherwise specified, shall be located nearer than ten feet to the shoreline. In no instance shall it extend beyond the original platted lot line.
 2. A boat dock shall not exceed 18 feet in height (as measured from an 825-foot lake level). No boat dock shall be closer than five feet to any extended side property line."

SECTION III. SAVINGS

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

Should any sentence, paragraph, subdivision, clause, phrase, or section of this Ordinance be adjusted or held to be unconstitutional, illegal, or invalid, the same shall not

affect the validity of this Ordinance in whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

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 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.

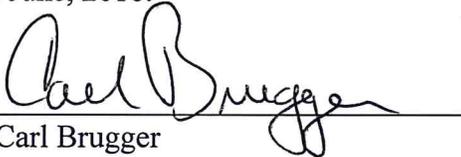
SECTION VI. EFFECTIVE DATE

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

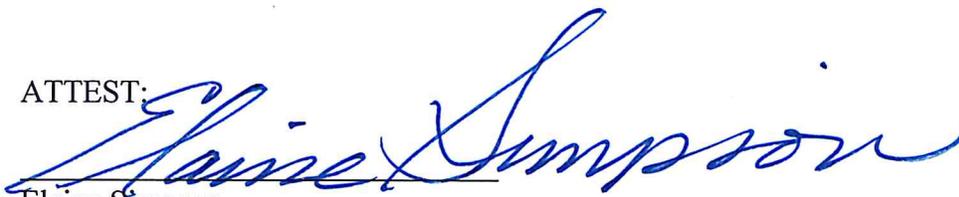
SECTION VII. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at that this Ordinance was passed was open to the public as required 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 28th day of June, 2016.


Carl Brugger
Mayor

ATTEST:


Elaine Simpson,
City Secretary

APPROVED AS TO FORM:

Brad Young,
City Attorney