

ORDINANCE NO. 809-A

“Mining Activities Ordinance In City Limits And Portions Of ETJ”

AN ORDINANCE OF THE CITY OF GRANITE SHOALS, TEXAS, TO AMEND PART II, CHAPTER 10 (BUSINESSES AND BUSINESS REGULATIONS) AND ADOPT NEW ARTICLE VI (MINING ACTIVITIES) GENERALLY PROHIBITING MINING ACTIVITIES WITHIN THE CITY LIMITS AND EXTRATERRITORIAL JURISDICTION; PROVIDING FOR FINDINGS OF FACT; SAVINGS; SEVERABILITY; REPEALER; AN EFFECTIVE DATE; AND PROPER NOTICE AND MEETING.

WHEREAS, the City Council of the City of Granite Shoals (“City”) seeks to provide for the health, safety, and welfare of its citizens; and

WHEREAS, pursuant to Texas Local Government Code Section 42.001, the City may adopt ordinances pertaining to its extraterritorial jurisdiction (“ETJ”) in order to protect the health, safety, and welfare of citizens residing in and adjacent to the City; and

WHEREAS, pursuant to Texas Local Government Code Section 217.042(a), the City may define and prohibit any nuisance within 5,000 feet outside of its City limits; and

WHEREAS, the City Council has found and determined that land surface mining operations involving the excavation of the surface of land for the exploration and/or production and removal of granite, granite gravel, coal, uranium, lignite, minerals, soils, sand, and stones should be prohibited because the attendant noise and dust associated with such mining or excavation operations have a detrimental effect on the health and welfare of persons living or working nearby and constitute a public nuisance, and such mining and excavation operations create an attractive nuisance to children and constitute a danger thereto, and such mining and excavation operations are detrimental to the property values of nearby property; and

WHEREAS, the Council has the authority to enact the provisions of this ordinance pursuant to its police power and Section 2.04 of the City Charter;

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 10 (Businesses and Business Regulations), is hereby amended as follows:

“ARTICLE VI. MINING ACTIVITIES

Sec. 10-110 Definitions. The following words, terms, and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section except where the context clearly indicates meaning:

Continuous operation means a time in which surface or subsurface excavation, stockpiling, quarry, and mine improvements, sales of material, shipping of material, processing and/or reclamation has occurred within the past one (1) year by the owner or operator of a mine

Excavation means the removal of earthen material, rock, minerals, or soil to create a depression below the original topography in a commercially significant quantity.

Mine means a pit or excavation in the earth used for resource extraction, including, but not limited to, mining, excavating, or any use that is obnoxious or offensive by reason of odor, dust, smoke, gas, or noise.

Variance means a permit to engage in an act contrary to a usual rule, for example, the prohibitions against mining contained in this article.

Sec. 10-111. Mining Prohibited.

- (a) Mining Prohibited. Mining and excavation is generally prohibited in the municipal limits. Except as otherwise provided herein, the City prohibits mining operations, including any and all production and excavation operations within the City's municipal limits and within the portion of the City's ETJ that is within 5,000 feet of its municipal limits.
- (b) Continuous operations. The prohibitions of this ordinance do not apply to a mining operation that is in continuous operation as of the effective date of this Ordinance; provided, however, that the prohibitions of this Ordinance shall apply to a mining operation that ceases to remain in continuous operation upon the occurrence of one or more of the following:
 - a. The failure of the mining operation to remain in continuous operation for a period of over ninety (90) days.
 - b. The property upon which the mining or excavation site is located is conveyed to another person, either by sale, lease, or other grant of real property rights.
- (c) Excavation sites, and mining operations that lose their exemption as noted herein above, shall within ninety (90) days of losing the exemption, either be brought into compliance

with this Code, or take action to obtain a variance to operate as an expanded excavation site, or mining operation.

Sec. 10-112. Variances.

Variances for excavation and surface mining operations may be issued by the City Council upon approval of a petition for a variance to conduct an excavation or surface mining operation(s) within the city limits. All petitions for variances must be in writing, addressed to the City Council and include, at a minimum, the following information: Name, address, and phone number of petitioner; physical address for which the variance is being requested; petitioner's relationship to the property; detailed description of the operation to be conducted; period of time for which the variance is sought; and any other information deemed pertinent by either the City Manager or the petitioner. The City Council shall evaluate all information pertinent to the variance request. The decision of the City Council is final and not subject to appeal.

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

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. NOTICE AND MEETING

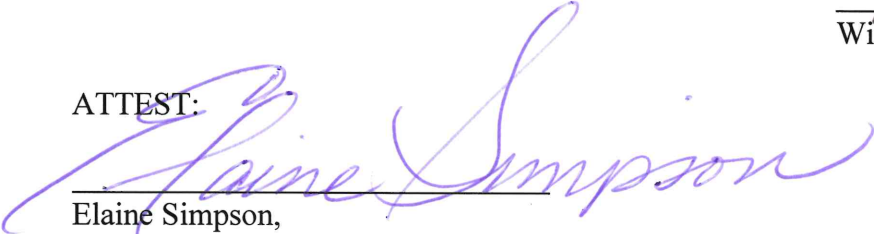
It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

READ, PASSED, AND ADOPTED THIS 23 DAY OF MARCH, 2021.



Will Skinner, Mayor

ATTEST:



Elaine Simpson,
City Secretary

APPROVED AS TO FORM:

Josh Katz,
City Attorney