

**ORDINANCE NO.826**

***“Amended mining activities ordinance”***

**AN ORDINANCE OF THE CITY OF GRANITE SHOALS, TEXAS, TO REPEAL AND REPLACE ORDINANCE NO. 809-A, AMENDING PART II, CHAPTER 10 (BUSINESSES AND BUSINESS REGULATIONS) AND AMENDING ARTICLE VI (MINING ACTIVITIES) GENERALLY REGULATING 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**, the City of Granite Shoals seeks to protect the environment, promote compatible land use with adjoining properties, provide for the health, safety, and welfare of its citizens, and to allow for the safe development of commercial quarrying, cement and concrete products, and related industries, together with accessory support facilities that relate directly to the on-site quarrying, processing, and manufacturing operations; and

**WHEREAS**, the City of Granite Shoals also seeks to encourage residential and commercial development within its city limits and ETJ; and

**WHEREAS**, it is the intent of the City of Granite Shoals to allow for a broad range of directly related uses within a controlled environment for the development of diverse material extraction and processing activities in a manner that is protective of the public health, safety, and welfare; 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 and Chapter 51 of the Texas Local Government Code;

**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 AND REPLACE

Part II (Code of ordinances), Chapter 10 (Businesses and Business Regulations), Article VI (Mining Activities) is hereby repealed and replaced 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 or marketing of material, shipping of material, processing, and/or reclamation of material 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, or underground tunneling in a commercially significant quantity.

Legacy municipal limits means the portion of the city limits of the City of Granite Shoals, Texas, to the west of Valley View Lane and including lots abutting Valley View Lane, and south of RM 1431.

Mine means a pit, quarry, or excavation in the earth used for the mining of minerals by excavating and/or removing the overburden lying above the natural deposit of minerals, mining directly from the natural deposits that are exposed and those aspects of underground mining having significant effects on the surface, and underground tunneling.

Mining operation means those activities conducted at or near the mining site and concomitant with the mining including extraction, storage, processing and shipping of minerals, and reclamation of the land affected by mining.

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 Generally Prohibited.**

- (a) Mining Generally Prohibited. Mining and excavation is generally prohibited in the City’s legacy municipal limits, as that term is defined herein. With respect to that portion of the corporate limits of the City located to the north of RM 1431, no mining or excavation

will be permitted within 1000 feet of the property boundary of a public school and no excavation will be permitted within 200 feet of the northern right-of-way line for RM 1431, or as otherwise provided by state law. State or federal permits may include areas within 200 feet of RM 1431 so long as there is no physical mining excavation. Access to and from current and future mining operations is allowed through the 200 foot area along RM 1431 in which excavation is not permitted. Except as otherwise provided herein, the City prohibits mining operations, including any and all production and excavation operations, within the City's legacy municipal limits and the above-stated 1,000 feet of the property boundary of a public school.

(b) Continuous operations grandfathered. The prohibitions of section (a) of this ordinance and setbacks defined in paragraph (a) of Section 10-112 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 as defined in Section 10-110, and provided that any operator of property that is currently being used for a mining operation must file with the city secretary a metes and bounds description of the property that is currently being used for mining operations within the City limits within one hundred eighty (180) days from the effective date of this ordinance.

(c) Excavation sites and mining operations that lose their exemption as noted herein above, shall be notified by the City and, 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.

(d) Previously mined materials. The removal, sale, marketing, or shipping of materials resulting from mining activities that occurred prior to the effective date of this Ordinance is not prohibited.

### **Sec. 10-112. Operating Conditions**

The following operating conditions and standards must be met at all times for all mining operations within the legacy municipal limits of the City:

(a) Setbacks. Quarrying, excavating, mining, and other related land disturbance for new operation shall not take place within:

a. One hundred (100) feet of adjoining property lines not owned by the operator or owner outright or through other property rights;

b. Two hundred (200) feet of any existing occupied structures on property <sup>not</sup> now owned by the operator or owner outright or through other property rights; or

c. Two hundred (200) feet of any contiguous property not owned by operator or owner outright or through other property rights which is subdivided into residential lots.



- (b) Fencing. For the protection of the general public, a fence shall be constructed prior to the commencement of the operation. Said fence shall be, at a minimum, three (3) strand wire fence posted with warning signs.
- (c) Dust control. The operator must construct, maintain, and operate all equipment in such a manner as to minimize on-site and off-site dust produced by mining operations. The operator shall perform reasonable activities such as spraying of active operation areas with water in order to minimize dust when necessary.
- (d) Noise. All equipment and other sources of noise must operate in accordance with federal and state noise standards.
- (e) Storm water. All mining operations must be permitted, to the extent required by law, under the Texas Pollutant Discharge Elimination System. In addition, all mining operations shall comply with Lower Colorado River authority requirements as applicable.
- (f) Trucking operations. The operator of a mining operation shall ensure that all loads leaving a mining operation within the City are loaded and operated in compliance with state law. The operator shall ensure that access roads shall be constructed and maintained in such a manner, and proper controls are in place, in order to prevent vehicles traveling to or from the mining operation from depositing mud, rocks, or debris on public roadways in the City.
- (g) Point of Contact. The operator of mining operations must be clearly posted at the facility entrance in order to facilitate communication of public concerns.
- (h) Insurance. The operator of a mining facility shall provide proof of bodily injury, property damage, and public liability insurance, and blasting insurance when appropriate, in the amount of \$1,000,000 for any occurrence.

#### **Sec. 10-113. 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 12<sup>th</sup> DAY OF April, 2022.

  
Will Skinner, Mayor

ATTEST:

  
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Elaine Simpson,  
City Secretary

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Josh Katz,  
City Attorney

