

ORDINANCE NO. 584

“Deeds Without Warranty”

AN ORDINANCE OF THE CITY OF GRANITE SHOALS, TEXAS, REPEALING ORDINANCE NOS. 477 AND 477-A AND PROVIDING PROCEDURES FOR LAKEFRONT PROPERTY OWNERS TO OBTAIN DEEDS WITHOUT WARRANTY FOR CERTAIN CITY-OWNED PROPERTY; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT; A SAVINGS CLAUSE; SEVERABILITY; REPEALER; EFFECTIVE DATE; AND PROPER NOTICE AND MEETING.

WHEREAS, the City Council of the City of Granite Shoals, Texas (“Council”) seek to provide for the health, safety and welfare of the citizens generally and to foster a sense of civic pride; and

WHEREAS, the City owns certain narrow strips of land, or land that because of its shape, lack of access to public roads, or small area cannot be used independently under its current zoning or other applicable subdivision or other development control ordinances; and

WHEREAS, such land is described as follows: the city-owned real property located between the platted waterfront property lines and the 825’ contour representing the normal pool elevation of Lake Lyndon Baines Johnson; and

WHEREAS, the Council finds that the City does not hold such land as a public square or park; and

WHEREAS, the Council finds that some lakefront property owners have improved their water-front through the construction of man-made walls or other barriers along the waterfront or through the accretion of land past the original 825’ contour line; and

WHEREAS, the Council seeks to alleviate this burden on its citizens by making such narrow strips of land available for conveyance to abutting property owners by deeds without warranty; and

WHEREAS, nothing in this Ordinance should be construed to require any action by an adjoining property owner or to affect the validity of any “deed without warranty” issued by the City pursuant to Resolution No. 323 adopted January 10, 2006; and

WHEREAS, nothing in this Ordinance should be construed to convey land platted and dedicated as park land in any of the original Sherwood Shores I, II or IV subdivisions or sections thereof;

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

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, Texas and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

SECTION II REPEAL OF PREVIOUS ORDINANCES

Ordinance Nos. 477 and 477-A, providing for the sale of certain city property by special warranty deed, are hereby repealed.

SECTION III. PROCEDURES FOR LAKEFRONT PROPERTY OWNERS TO OBTAIN DEEDS WITHOUT WARRANTY FOR CERTAIN LAKEFRONT PROPERTY

A. Property to Which this Ordinance Applies.

- (1) This Ordinance applies generally to that city-owned real property located between the platted waterfront property lines and the 825' contour.
- (2) In order to be eligible to purchase a deed without warranty for a portion of the city-owned property described by subsection (1), an applicant's property must abut the narrow strip of land for which the applicant seeks to obtain a deed without warranty.
- (3) The portion of city-owned property for which an abutting property owner shall be eligible to obtain a deed without warranty shall be determined by extending the side lot lines of each abutting lakefront property owners' property until such extension shall intersect with the 825' contour. In the event that the adjacent property lines between lots are not at 90 degree angles, the surveyor shall split proportionately the resulting angle on the land to be conveyed.
- (4) For purposes of this Ordinance, the "825' contour" is the 825' contour as it existed on the date of the adoption of this Ordinance.

B. Procedures for Obtaining Deed Without Warranty

- (1) Prior to obtaining a deed without warranty, the abutting property owner shall make application on such forms as the City Manager may from time to time direct.
- (2) The abutting property owner shall provide a professional survey satisfactory to the City and obtained at the property owner's expense that describes in metes and bounds the narrow strip of land for which the property owner seeks to obtain a deed without warranty.
- (3) Upon receipt of a completed application that includes the information required by

Paragraphs C and D and tender of an amount equal to the fair market value of the narrow strip of city-owned land described by this ordinance, the Mayor is hereby authorized to execute a deed without warranty for the property.

(4) If an abutting property owner who obtained a deed without warranty prior to the adoption of Ordinance No. 477 subsequently seeks to obtain a new deed without warranty for the same property pursuant to this Ordinance, the City may credit an amount equal to the fee paid for the deed without warranty toward the fair market value purchase price of the property.

C. Method of Determining Fair Market Value

(1) In order to determine the fair market value of the narrow strip of city-owned land to be conveyed by deed without warranty, an abutting property owner may request an appraisal that is specific to the narrow strip of city-owned land abutting the property-owner's property. The owner shall pay for the appraisal, and it shall be prepared for the City, with the City being shown as the client. The appraisal shall be performed by a Certified General Real Estate Appraiser authorized to perform real estate appraisals in the State of Texas.

The appraiser shall provide proof of licensure at the time of application. The City may, in its sole discretion, disapprove of an appraiser.

(2) Alternatively, at the abutting property owner's request, the City Manager or the City Manager's designee shall obtain from the Burnet Central Appraisal District the valuation per square foot for the applicant's abutting property. Under this method of appraisal, the fair market value of a particular tract to be conveyed by deed without warranty shall be determined by multiplying the price per square foot of the applicant's abutting property, as determined by the appraisal district, by the total square footage of the tract.

D. Title Policy and Letter.

As a condition to the conveyance of a deed without warranty pursuant to this Ordinance, the purchaser must obtain (i) a title insurance policy issued by an approved title company, at the purchaser's expense, that names the City as the insured, and (ii) a letter from the same title company that, in the opinion of the title company, the Exceptions to Coverage in Schedule B.4.c excluding "filled in lands" do not apply to the property being sold and the intent of the exception was to provide an exception to coverage for the State of Texas owned beach land. The City will not sell any property pursuant to this Ordinance unless it first has obtained a title policy and letter subject to this subsection.

E. Re-plat Required.

An abutting property owner who purchases fill area in the manner provided by this Ordinance is hereby notified that a re-plat of the property may be required by the City's

Subdivision Ordinance as a condition to any new development on the property.

SECTION IV. 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 V. 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 be come inoperative or fail by reason of any unconstitutionality or invalidity of any portion, provision or regulation.

SECTION VI. 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 VII. EFFECTIVE DATE.

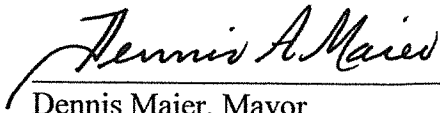
This ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

SECTION VIII. 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.

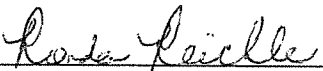
Passed and approved this 27th day of March, 2012.

APPROVED:



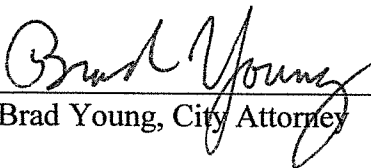
Dennis Maier, Mayor

ATTEST:



Ronda Reichle, City Secretary

APPROVED AS TO FORM:



Brad Young, City Attorney