

ORDINANCE NO. 859

“Amended Property Maintenance Ordinance”

AN ORDINANCE OF THE CITY OF GRANITE SHOALS, TEXAS, TO REPEAL AND REPLACE CODE OF ORDINANCES CHAPTER 8: BUILDINGS AND BUILDING REGULATIONS; ARTICLE V: PROPERTY MAINTENANCE ORDINANCE; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT; A SAVINGS CLAUSE; SEVERABILITY; REPEALER; EFFECTIVE DATE; AND PROPER NOTICE AND MEETING.

WHEREAS, the City Council (the “Council”) of the City of Granite Shoals, Texas (the “City”) seeks to provide for the safe and orderly development of land and use of property within its corporate limits; and

WHEREAS, the Council recognizes its responsibility and authority to adopt ordinances that are necessary for the government of the City, its interests, welfare, the health and safety of the City, and good order of the City as a body politic; and

WHEREAS, the Council wishes to protect individual property rights in the City and wishes to acknowledge the responsibilities encompassed within those property rights, including the rights of neighbors and fellow citizens; and

WHEREAS, the Council finds that these amendments to its property maintenance ordinance are necessary to improve, maintain, and promote good stewardship of property, and to encourage compliance with the City’s Code of Ordinances, and

WHEREAS, the Council finds that the following amendments are necessary to update and clarify its property maintenance ordinance for these purposes; 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 of Granite Shoals and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

SECTION II. AMENDMENT

Code of Ordinances Chapter 8 (Buildings and Building Regulations), Article V (Property Maintenance Ordinance) is hereby repealed and replaced as follows:

“ARTICLE V. PROPERTY MAINTENANCE ORDINANCE

Sec. 8-131 General.

- (a) Purpose. The purpose of the ordinance is to provide minimum standards and regulations, and safeguard and preserve life or limb, property, and public welfare. This ordinance regulates the use and maintenance of the exterior of all structures, buildings, and properties within the city.
- (b) Scope. This article shall apply to all zoning districts, land, properties, structures, and buildings within the city, including all vacant, occupied, residential, nonresidential, improved, or unimproved land, properties, structures, and buildings.
- (c) Other ordinances. If other ordinances of the city conflict with the ordinance from which this article is derived and the standards and regulations established herein, the stricter standard (or regulation) shall prevail.
- (d) Intent. It is the intent of this article to regulate and control public nuisances and other conditions and circumstances, as herein set forth, that adversely affect the health, safety, and welfare of the general public. It is not intended that this article be interpreted or enforced to require the city to intervene in matters which are primarily personal in nature, and which may appropriately be resolved between or among private interests without material danger to the public health, safety, or welfare.

Sec. 8-132 Definitions.

Where terms are not defined, they shall have their ordinary accepted meaning within the context with which they are used. The following terms are defined and shall apply to all sections of this code unless defined elsewhere in the Code:

Building means any structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.

Carrion means dead or decaying animal, fowl, or fish.

Commercial motor vehicle means a motor vehicle designed or used for transportation of property or delivery purposes.

Enforcement authority means the City Manager of Granite Shoals or the person or department to whom the city manager may delegate the enforcement responsibility (*i.e.* code compliance officer and deputies).

Hazardous waste means toxic, caustic, or flammable materials.

Infectious waste means waste containing pathogens or biologically active material capable of transmitting diseases such as animal and human blood or body parts, microbiological, and pathological waste, needles, syringes, and other sharp objects.

Junk means used metals, materials, equipment, appliances, furniture, tires, engines, parts, and other manufactured or raw goods that are so worn, deteriorated, or obsolete as to make the item unusable or inoperable in their existing condition, and/or is a potential safety or health hazard.

Native Wildflowers include Bluebonnets, Paintbrush, Castilleja, Indian Blanket, Drummond Phlox, Verbena, Pink Evening Primrose, Texas Bluebell, Brown-eyed Susan, Mexican Hat, Winecup, Spotted Beebalm, Gayfeather, Blackfoot Daisy, Blue-eyed Grass, White Prickly Poppy, Basketflower, Common Sunflower, Eryngo, Beach Morning Glory, Rain Lily, and Texas Thistle.

Nuisance means:

- (1) Whatever is dangerous to human life or is detrimental to health and is contrary to public health, safety, or welfare.
- (2) Inadequate or unsanitary sewage or plumbing facilities, allowing sewage on lots, grounds, yards or any other place in the city, contrary to the public health, safety, or welfare or in violation of the codes and ordinances of the city and state.
- (3) Uncleanliness, contrary to the public health, safety, or welfare or in violation to the codes and ordinances of the city and state.
- (4) Whatever renders air, food, or drink unwholesome or detrimental to the health of human beings, public health, safety, or welfare, or in violation of the codes and ordinances of the city and state.
- (5) Any attractive nuisance which may prove detrimental to children whether in a building, or on the premises of the building, including but not limited to abandoned wells, shafts, basements, excavations, discarded refrigerators, unsecured vacant buildings, motor vehicles (not road worthy or unregistered), unprotected swimming pools, or any structurally unsound fences or structures, or any gasoline, chemicals, lumber, trash, debris, or vegetation which may be hazardous to the public and inquisitive children.
- (6) Graffiti of any type, if unauthorized by property owner.
- (7) Keeping, storing, or accumulating rubbish, including newspapers, furniture, tires, cans, etc. on premises for ten days or more.
- (8) Maintaining premises in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or disease-carrying pests.
- (9) Sewage, human excreta, wastewater, garbage, or other organic waste deposited, stored, discharged or exposed in such a way as to be a potential instrument or medium in disease transmission to a person or between persons.
- (10) A vehicle or container that is used to transport garbage, human excreta, or other organic material and that is defective and allows leakage or spilling of contents.
- (11) A collection of water in which mosquitoes are breeding in the city limits.
- (12) A place or condition harboring rats or breeding flies in a populated area.
- (13) Any public nuisance known at common law or in equity jurisdiction or as defined by codes or city ordinances.

Open storage means the unscreened storage of materials, salvaged items, rubbish, or vehicle parts. Open storage shall include furniture (other than furniture designed for outside use), household items, and products of a commercial trade or business enterprise, whether such items are used or new. Open storage also includes items of salvage character such as scrap metal, papers, cans, lumber, and other building materials not currently being used or held for immediate use upon the premises.

Owner means any person claiming the ownership or title of real property, including but not limited to:

- (1) Holder of fee simple title.
- (2) Holder of life estate.
- (3) Holder of a leasehold estate for an initial term of five years or more.
- (4) A buyer in possession or having right of possession under a contract or deed.
- (5) A mortgagee, receiver, executor, or trustee in possession or control or having right of possession or control of real property

Pool means a permanent swimming pool, spa, or hot tub. It can be located at ground level, above the ground, or below ground, and filled or empty.

Premises means any parcel, lot, or tract of land, including any structure, building, landscaping, trees, or other structure or improvement located thereon.

Refuse/rubbish means all decaying and nondecaying solid waste including, but not limited to, garbage, ashes, cans, papers, boxes, glass, and lawn and lake debris.

Sanctuary Property means unimproved property allowed to grow and flourish in a natural state as a safe area for native plants and wildlife. The presence of construction materials, rubbish, litter, and junk as described herein shall be prohibited on Sanctuary Property.

Screening wall means any combination of wood, masonry, or vegetation. This definition does not pertain to boundary fences.

- (1) Screen walls shall mean a solid, opaque screening fence or wall that completely conceals item(s) being screened from public view.
- (2) Vegetation consisting of solid hedgerow or evergreen shrubs, or trees and shrubs, providing full screening from the ground (no height restriction).
- (3) Any other form of compatible and appropriate screening in compliance with the applicable requirements of Chapter 40 of the Code of Ordinances (Zoning).

State of Disrepair means a building or structure that has rotten and decaying facades, large noticeable holes or gaps in siding or trim, rotting and unsafe wood on decks and railings, overhangs/roofs/porches/awnings with large holes or tears, windows where the glass has been broken out and not replaced, collapsing chimneys, or broken non-functioning garage doors.

Structure means any residential building, nonresidential building, dwelling, condominium, townhouse, apartment unit, detached garage, shed, awning, fence, screening wall, sign, swimming pool, excavation, any edifice, erection of material, or any other improvement placed or located on any property within the city.

Tenant means any person or agent who occupies a structure or property.

Unsafe building means a building which is:

- (1) dilapidated, substandard, structurally unsound, or in a state of disrepair, or
- (2) dangerous and unfit for human habitation, or
- (3) is a hazard to the public health, safety, and welfare, or
- (4) is unoccupied by its owners, lessees, or other invitees and is unsecured from unauthorized entry to the extent that it could be entered or used by vagrants, uninvited persons, a place of harborage, or could be entered or used by children.

Unsanitary means any matter or object which poses a health or safety hazard or a potential health or safety hazard.

Sec. 8-133 Enforcement, inspection, and general penalty.

- (a) The enforcement authority for the provisions of this article shall be the city manager or their delegate.
- (b) Whenever it is necessary to inspect to enforce this Code, or whenever the enforcement authority has reasonable cause to believe that there exists a condition or a violation which is unsafe, dangerous, hazardous, or detrimental to the public interests, the enforcement authority may enter upon such property at all reasonable times to inspect the same.
- (c) A city official or other authorized agent of the city shall only enter into any property within the city for the purpose of administering or enforcing the provisions of this Code of Ordinances and ensuring compliance.
- (d) If the property is occupied, the city's representative shall first identify him or herself, present proper credentials, and request permission to enter from the property owner or resident, tenant, or lessee of the property.
- (e) If the property is not occupied, the city's representative will make a reasonable effort to locate the owner or the designated agent of the owner regarding the property to request permission to enter.
- (f) If entry is refused, or if the premises are unoccupied and the owner or designated agent cannot be located, the enforcement officer or representative may seek to obtain a lawfully issued administrative warrant.
- (g) The code official shall be the sole code enforcement officer to whom an administrative search warrant may be issued pursuant to the Texas Code of Criminal Procedure article 18.05.
- (h) Whenever any act is prohibited by this article or the failure to do any act is declared to violate this article, the violation shall be a misdemeanor and punished by a fine of not less than \$50.00 and not to exceed \$500.00.
- (i) ~~A person commits an offense under this article if the act declared to violate this article remains unabated after the tenth (10th) day from the date on which the person receives written notice from the city to abate the violation.~~ Within ten (10) days after a person receives written notice from the city to abate a violation of this Ordinance, the person must either abate the act declared to violate this Ordinance, or contact Code Enforcement to request additional time to do so, which may be granted at the discretion of Code Enforcement. A person commits an offense under this Ordinance if the act declared to violate this Ordinance is not abated within either ten days after receipt of notice or the additional time, if any, provided by Code Enforcement.

- (j) Each day any violation of this article continues shall constitute a separate offense. Each day an act declared to violate this Ordinance is not abated after the date by which Code Enforcement required abatement of the violation may constitute a separate offense. Code Enforcement may, at its discretion, grant additional time to a person in order to complete the abatement of a violation.
- (k) Any violation of this article does not require a culpable mental state. If any such violation is designated as a nuisance under the provisions of this article, such nuisance may be summarily abated by the city.

Sec. 8-134 Responsibility.

Every owner and tenant of the premises shall maintain such premises in compliance with this Code. An owner shall not let, rent, or lease a premise or premises for occupancy or use in a manner which does not comply with the provisions of this Code.

Sec. 8-135 Exterior grounds.

- (a) Trash, debris, and waste. All exterior property shall be maintained in a clean, safe, and sanitary condition. It shall be unlawful to allow junk, hazardous or infectious waste, or refuse/rubbish, including but not limited to paper, wood, rocks, junk, appliances, furniture, dead grass, branches, trash debris, carrion, improper composting, rubber tires, bottles, scrap metal, vehicle parts, construction materials, fill materials, paving materials, infectious waste, hazardous waste (i.e. chemicals, oils, solvents, gasoline, paints, pesticides, cleaners, batteries) to accumulate or remain on any piece of property to include easements so as to create a potential harborage, or breeding place for rats, vermin, or insects, or in such a manner as to be injurious to the public health.
- (b) Grading and drainage.
- (1) All property shall be maintained to prevent the accumulation of stagnant or foul water thereon, within, or under any structure located thereon.
 - (2) No filling or excavation shall be performed or constructed on any property without the city determination that there will be no adverse effect on an existing or planned drainage pattern on an adjacent property. If it appears that drainage problems may result from filling, excavation, improvements, or landscaping, plans indicating review and approval by a state licensed engineer must be submitted to the city by the property owner.
 - (3) It shall be unlawful to impede the flow of water into any gutter, culvert, drainage ditch, or creek.
 - (4) If dirt or any other fill material appears to the enforcement authority to be contaminated or poses a threat to the public health, the city shall require proof of no contamination by a licensed authority authorized to issue such opinion.
 - (5) The draining or discharging of pesticides, grease, petroleum products, paints, sewage, septic or grease trap waste, and toxic chemicals onto any property, streets, alleys, or sewers is prohibited.
- (c) Sidewalks. The owner and tenant of private property adjacent to all public sidewalks, walkways, driveways, and steps shall keep same free of mud, debris, or other obstructions that would impair or prevent their use.

- (d) Insect and rodent control. Every owner and every tenant of a building, structure, or property shall prevent any condition which can provide harborage and breeding of rats, vermin, mosquitoes, or other pests which can create a public health hazard or a public nuisance.
- (e) Glare and direct illumination. Exterior lights placed or erected on private property shall be shielded, placed, or erected so that the illumination does not create a traffic hazard. Exterior lights shall not produce direct illumination across the bordering property lines.
- (f) Trees, shrubs, and other vegetation. Trees, shrubs, plants, and other vegetation that are dead and/or which are hazardous to persons or property shall be removed by the property owner or tenant.
- (g) Weeds and grass. Every owner and every tenant of property with a residence or structure located on the property shall maintain such property up to the edge of the road clear from weeds or grass over 12” tall. Sanctuary Properties and unimproved properties are exempt from this 12” height restriction and mowing requirement.

To promote the growth and survival of the native wildflowers on improved property, for any native wildflower in active growth, flowering, or bearing seed, the height and mowing requirements as set forth in this ordinance shall be suspended no later than July 31st of each year, and only in the area that the native wildflowers are actively growing and within a 3-foot perimeter around the wildflower(s) growing area.

- (h) Animal pens. All animal pens, runs, exercise areas, fenced areas, houses, structures and enclosures shall be kept clean, sanitary, free from odor and excrement, and insects. Pens and housing for animals shall be kept in a state of good repair and comply with state law, and shall not be located in the front yard of a property.
- (i) Firewood. ~~Any firewood which may be used as a harborage by rats, rodents, snakes or other vermin shall be elevated not less than six (6) inches above the ground with a clear intervening space underneath.~~ Firewood storage shall be separated from an adjacent property at a minimum of five (5) feet. Firewood shall not be stored in the front yard.
- (j) Fences.
 - (1) All fences shall be maintained structurally sound and not be out of vertical alignment more than 20 degrees.
 - (2) All damaged, rotting, removed, or missing sections shall be replaced with comparable materials to the remaining portion of the fence and shall be maintained in good repair.
 - (3) A fence that has deteriorated to a condition that it is likely to fall or is hazardous to the public shall be repaired, replaced, or removed.
 - (4) Fences shall not be externally braced in lieu of replacing or repairing posts, columns, or other structural members.
 - (5) All damaged or missing parts of chain link or metal fencing shall be replaced or repaired.
 - (6) All boundary fences must comply with city zoning ordinances.

- (k) Dwellings and accessory structures. Residences, carports, awnings, patio covers, detached garages, sheds, storage buildings, benches, and other accessory structures shall be structurally sound, and maintained in good repair. Unsafe buildings or structures in a state of disrepair are prohibited.

- (l) Open storage.
 - (1) Non-residential. All properties located within a commercial development with open storage of materials, equipment, vehicles, etc. shall follow zoning ordinances.
 - (2) Residential. Open storage is not permitted in the front yard, in a carport, or on a front porch in any residential dwelling. Open storage elsewhere shall be screened from adjacent properties and the public view in compliance with the screening wall definition.

- (m) Burned structures.
 - (1) Whenever any building, structure or other property on the premises is partially burned, the owner or person in control of the premises shall within 30 days after completion of investigation by the fire department and insurance representatives, remove from the premises all refuse, debris, charred and partially burned lumber, and material. If such building or structure shall be burned or damaged to such an extent that it is rendered incapable of being repaired, the owner or person in control shall within 60 days after completion of investigation by the fire department and insurance representatives, remove from the premises all the remaining portion of the building, structures, lumber, and material.
 - (2) If the building or structure is to be repaired, re-construction work shall begin within 60 days of completion of section (1) above.

Sec. 8-136 Notice to remove; authority of city to remove; assessment of cost.

- (a) Notice. Should any owner of any lot or lots within the city who shall allow stagnant water, weeds, brush, vegetation, junk, rubbish, carrion or any other unsanitary matter to grow or accumulate thereon, fail and/or refuse to cut down and/or remove such weeds, rubbish, junk, brush or other unsanitary matter within ten (10) days after receiving written notice from the City to said owner to do so, which notice shall be given as provided in Texas Health and Safety Code sec. 342.006 as the same may be amended from time to time, the city may cut down and/or remove the same, or cause the same to be done as described in Section 8-133 of this Code. The City, at its discretion, may extend the ten day deadline for compliance if circumstances warrant.

- (b) Assessment. The city may pay the expenses incurred in doing such work or having such work done or improvements made, which shall be charged the owner of such lot or lots or real estate. If such work is done or improvements made at the expense of the city, then such expenses shall be assessed in accordance Texas Health and Safety Code sec. 342.006, and the city may obtain a lien against the property in accordance with the provisions of Sec. 342.007. The city, and the city's authorized assistants, employees,

contracting agents, or other representatives are hereby expressly authorized to enter upon private property at all reasonable hours following issuance of notice as discussed in subsection (a) for the purpose of cutting, destroying and/or removing such weeds, brush, vegetation, junk, refuse, rubbish, carrion or the unsanitary materials in a manner consistent with this article and with the laws governing the state. The municipal court of the city shall have authority to issue all orders necessary to enforce this article. Neither the city nor its employees, agents, or contractors shall be answerable in damages or otherwise for damage to property due to the enforcement of this article.

Sec. 8-137. City's costs to constitute privileged lien.

- (a) Lien filing. The city manager or other person authorized to act on behalf of the city may file a statement of such expenses incurred under section 8-136. The filing shall be made with the county clerk of Burnet County Texas and will include a description of work performed, the amount of such expenses, the date on which said work was done or improvements made.
- (b) Lien position. The city shall have a privileged lien on such lot or lots or real estate upon which said work was done or improvements made to secure the expenditures so made, in accordance with the provisions said Texas Health and Safety Code Chapter 342, which said lien shall be second only to tax liens and liens for street improvements. Said lien amount shall bear ten percent interest from the date said statement was filed. It is further provided that for any such expenditures, and interest, as aforesaid, suit may be instituted and recovery and foreclosure of said lien may be had in the name of the city. The statement of expenses so made, as aforesaid, or a certified copy thereof, shall be prima facie proof of the amount spent on such work and/or improvements.

Sec. 8-138. Work or improvements by municipality; notification.

The city, in the notice of a violation under section 8-136, may inform the owner by certified mail, return receipt requested, that if the city verifies that the same owner commits another violation of the same kind or nature that poses a danger to the public health and safety on or before the first anniversary of the date of the notice, the city without further notice may correct the violation at the owner's expense and assess the expense against the property.

Secs. 8-139–8-150 Reserved.”

SECTION III. SAVINGS CLAUSE

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 CLAUSE.

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 other portion, provision or regulation.

SECTION V. REPEALER CLAUSE.

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 CLAUSE.

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.

This ordinance shall become effective upon passage and adoption in accordance with State Law.

Passed and approved this ___ day of _____, 2024.

Ron Munos, Mayor

ATTEST:

Dawn Wright, City Secretary

Approved to Form:

Joshua Katz, City Attorney