

Ordinance No. 613

“Vacant or Dangerous Buildings”

AN ORDINANCE OF THE CITY OF GRANITE SHOALS, TEXAS, AMENDING CHAPTER 8 (BUILDINGS AND BUILDING REGULATIONS), ARTICLE III (VACANT AND DANGEROUS BUILDINGS) OF THE CITY OF GRANITE SHOALS CODE OF ORDINANCES; 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 (the “Council”) seeks to provide for the public health, safety and general welfare of its residents; and

WHEREAS, Chapter 8, Article III of the City of Granite Shoals Code of Ordinances, which is derived from Ordinance Nos. 236 and 236 A, provide for the regulation of vacant and dangerous buildings within the City limits; and

WHEREAS, since the Council enacted Ordinance No. 236 in 1989 NS Ordinance No. 236 A in 1995, respectively, the Texas Legislature has enacted multiple amendments to Sections 214.001 *et seq.* of the Texas Local Government Code regarding municipal authority to regulate substandard buildings; and

WHEREAS, the Texas Supreme Court’s decision in *City of Dallas v. Stewart*, 361 S.W.3d 562 (Tex. 2012) provided further guidance to cities regarding the procedures for abating a substandard building; and

WHEREAS, the Council now seeks to amend its Code of Ordinances to conform the City’s regulations regarding substandard buildings more closely to state law;

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 Article as if copied in their entirety.

SECTION II. AMENDMENT

Chapter 8 (Buildings and Building Regulations), Article III (Vacant and Dangerous Buildings), of the City of Granite Shoals Code of Ordinances is hereby amended and replaced in its entirety as follows:

“Article III. Vacant and Dangerous Buildings

Sec. 8-57. Ordinance additional to other provisions.

This Article is in addition to the minimum housing code sections of the adopted International Residential Code for One and Two Family Dwellings 2006, as amended by local ordinance and subsequent editions.

Sec. 8-58. Definitions.

For the purpose of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Alter or alteration: Any change, addition or modification in construction or occupancy.

Approved: Having the approval of the Code Compliance Officer as the result of investigation and tests conducted by him or by reason of accepted principles or tests by national authorities, technical or scientific organizations; or having the approval of the appropriate enforcement official of the City as being in compliance with the standards and requirements of any code or ordinances of the City that applies specifically to the item in question.

Building: A roof supported by walls or columns.

Building Code: The City of Granite Shoals Building Code and amendments thereto.

Code Compliance Officer: The officer and his deputies charged with the administration and enforcement of this Article.

Dwelling unit: A suite of two (2) or more habitable rooms that are occupied or that are used, designed, or intended to be occupied by one (1) family, with facilities for living, sleeping, cooking and eating.

Existing building: A building erected or one for which a legal building permit has been issued prior to the effective date of this Article.

Exit: A continuous and unobstructed means of egress to a public way, including intervening doorways, corridors, ramps, stairways, fire escapes, horizontal exits, exterior courts and yards.

Extermination: The control and elimination of insects, rodents, and vermin by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating or trapping; or by other approved means.

Garbage: The animal, vegetable and mineral waste resulting from the handling, preparation, cooking and consumption of food.

Infestation: The presence of insects, rodents, vermin or other pests within or contiguous to a dwelling, dwelling unit, rooming house, rooming unit or premises.

Maintain: Keep, preserve, erect, construct, enlarge, alter, repair, move, improve, convert, equip, use, maintain status quo, permit to deteriorate, or permit to exist.

Nuisance: The following shall be defined as nuisances:

(a) Any public nuisance known at common law or in equity jurisprudence.

(b) Any attractive nuisance that may prove detrimental to children, whether in a building, on the premises of a building or upon an unoccupied lot. This includes any abandoned wells, shafts, basements, or excavations; abandoned refrigerators or junked motor vehicles; any structurally unsound fences or structures; or any lumber, trash, fences, debris or vegetation that may prove a hazard for inquisitive minors.

(c) Whatever is dangerous to human life or is detrimental to health.

(d) Whatever renders air, food or drink unwholesome or detrimental to the health of human beings.

Owner: Any person who possesses legal title to the premises concerned, including, but not limited to: a feeholder. Any person listed as owner of any such premises upon the last approved City tax roll previous to the offense date shall be presumed to be the owner for purposes of this Article.

Person: Any individual, corporation, firm, association, trust, partnership or group of two (2) or more persons having a joint or common economic interest, including nonprofit, religious, charitable, and professional entities.

Repair: The reconstruction or renewal of any part of an existing building for the purpose of its maintenance. The term "repair" shall not apply to any change of construction or additions to a building.

Responsible person. Any person using or having control of the premises, including, but not limited to: a lessor, lessee, occupant, vendor under contract of sale, vendee under contract of sale, person in possession, person with right to immediate possession, assignee of rents, receiver, trustee, executor, or person having express, implied, or apparent authority to exercise control of such property as an agent.

Rooming unit: Any room or group of rooms forming a single habitable unit used or intended to be used for living or sleeping but not for cooking or eating purposes.

Rubbish: All combustible and noncombustible waste, except garbage.

Substandard or substandard condition: Either not meeting or conforming with one (1) or more of the standards or specifications set forth in Section 8-65 of this Article or possessing one (1) or more of the conditions or defects set forth in that section.

Window: A glazed opening, including glazed doors, that open upon a yard, court or recess from a court, or a vent shaft open and unobstructed to the sky.

Sec. 8-59. Purpose.

The purpose of this Article is to provide just, equitable and practicable civil and criminal methods to be cumulative with and in addition to any other remedy provided by the City building code, or otherwise available at law, whereby buildings or structures that from any cause might endanger the life, limb, health, property, safety or welfare of the general public or their occupants may be required to be repaired, vacated or demolished.

Sec. 8-60. Applicability, scope and effect.

The provisions of this Article shall apply to all buildings and structures or portions thereof as herein defined that are now in existence or that may hereafter be constructed in the City. Existing buildings or structures that are altered or enlarged shall be made to conform to the building code of the City. Existing buildings or structures that are moved or relocated shall be considered new construction and shall comply with all requirements of the City's Building Code and Zoning Ordinance.

Sec. 8-61. Exemption of city officials from liability.

All of the regulations provided in this Article and the functions and duties of all officers, agents, servants or employees of the City in the enforcement of this Article are declared to be governmental and for the benefit of the general public. Any member of the City Council and city official or employee charged with the enforcement of this Article acting for the City in the discharge of his duties shall not thereby render himself

personally liable by the performance of any act required or permitted in the discharge of his duties.

Sec. 8-62. Incorporation of references.

Any reference made in this Article to any other law, statute, code, ordinance, rule, regulation, or similar statutory or quasi-statutory material is intended to incorporate such material both as it presently exists and also any future amendments, changes, revisions, repeals, or recodifications of such material, unless otherwise expressly provided.

Sec. 8-63. Responsibility for condition of premises; notice; service.

(a) Each owner or responsible person remains liable for violation(s) of duties imposed upon him by this Article, even though an obligation is also imposed on the occupants of his building and even though the owner or responsible person has, by agreement, imposed on the occupants the duty of furnishing required equipment or complying with this Article.

(b) Each owner, responsible person, or his agent, in addition to being responsible for maintaining his building in a sound structural condition, shall be responsible for keeping that part of the building or premises that he occupies or controls in a clean, sanitary and safe condition, including the shared or public areas in such building or structure.

(c) Each owner, responsible person, or occupant shall, where required by this Article or other applicable ordinances, furnish and maintain adequate sanitary facilities; shall furnish and maintain adequate devices, equipment, facilities, or services for the prevention of insect and rodent infestation; and, where infestation exists, shall be responsible for the extermination of any insects, rodents, or other pests.

(d) Each occupant of a building or structure, in addition to being responsible for keeping that part of the building, structure or premises that he occupies and controls in a clean, sanitary and safe condition, shall dispose of all rubbish, garbage and other organic waste in such manners as is required by applicable ordinances of the City.

(e) Each occupant shall, where required by this Article or other applicable ordinances, furnish and maintain adequate devices, equipment, facilities, or services necessary to keep his premises safe and sanitary.

(f) The failure of any such person to receive any notice or order deposited in the United States mail shall not affect the validity of any proceedings taken under this Article. Service by mail in the manner herein provided shall be effective on the date of mailing.

(g) The failure of the Code Compliance Officer to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person

duly served or relieve any such person from any duty or obligation imposed upon him by the provisions of this Article.

Sec. 8-64. Code Compliance Officer

(a) Duties.

(1) The Code Compliance Officer is hereby authorized and directed to enforce all the provisions of this Article.

(2) The Code Compliance Officer and the Code Compliance Officer's authorized representatives shall be authorized to make inspections of all buildings, houses, and premises within the City for the purposes of determining that the provisions of this Article are fully complied with. If there is probable cause to suspect that any building or premises is in violation of this Article, and:

a. if such building or premises is open and clearly unoccupied, the Code Compliance Officer may enter such building or premises for the purpose of inspecting same without prior notice to any person; or

b. if such building or premises is closed or if a reasonably prudent person would have reason to believe that such premises is occupied, the Code Compliance Officer shall have recourse to every procedure, right, or remedy provided by law to secure entry for the purpose of inspecting same, including, but not limited to, by obtaining a search warrant.

(3) For purposes of this section, a building or premises shall be "closed" if entry cannot be gained without the use of force, however slight, including, for example, the force necessary to open an unlocked door or climb into an open window. A building or premises shall be "occupied" if occupied for either residential or business purposes.

Sec. 8-65. Minimum Standards.

The following are defective conditions in buildings or structures:

(a) Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic;

(b) Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one-half (1 1/2) times the working stress or stresses allowed in the Building Code, as amended, for new buildings of similar structure, purpose, or location;

(c) Whenever any portion of any building or structure has been damaged by fire, earthquake, wind, flood or by any other cause to such an extent that the structural strength or stability thereof is materially less than it was before such occurrence and is less than the minimum requirements of the building code, as amended, for new buildings of similar structure, purpose or location;

(d) Whenever any portion or member or appurtenance thereof is likely to fail, to become detached or dislodged or to collapse, thereby injuring persons or damaging property;

(e) Whenever any portion of a building or any member, appurtenance, or ornamentation on the exterior thereof is not of sufficient strength or stability or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of the specified in the Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Building Code for such buildings;

(f) Whenever any portion thereof has wracked, warped, buckled, twisted or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction;

(g) Whenever the building or structure or any portion thereof is likely to collapse partially or completely, because of:

- (1) Dilapidation, deterioration or decay;
- (2) Faulty construction;
- (3) The removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building;
- (4) The deterioration, decay or inadequacy of its foundation; or
- (5) Any other cause.

(h) Whenever for any reason the building or structure or any portion thereof is manifestly unsafe for the purpose for that it is being used;

(i) Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base;

(j) Whenever a supporting member, other than columns, of a building or structure is thirty-three percent (33%) or more damaged or deteriorated or there is fifty

percent (50%) damage to or deterioration of its nonsupporting member, or a column is ten percent (10%) or more damaged or deteriorated;

(k) Whenever the building or structure has been so damaged by fire, wind, earthquake, or flood, or has become so dilapidated or deteriorated as to become an attractive nuisance;

(l) Whenever any building or structure has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such building or structure as provided by the building regulations of this City as specified in the Building Code, as amended, or in violation of any law of this state or ordinance of this City relating to the condition, location, or structure of buildings;

(m) Whenever any building, structure or any member or portion thereof does not have the fire-resistant qualities and characteristics required by law in the case of a newly constructed building of like size, height, and occupancy in the same location;

(n) Whenever a building or structure, because of inadequate light, air, sanitation facilities, or otherwise, is determined by the Code Compliance Officer to be unsanitary, unfit for human habitation, or in such a condition that it is likely to cause sickness or disease;

(o) Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistant construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the fire chief to be a fire hazard;

(p) Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence;

(q) Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure, or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public; or

(r) Whenever any portion of a building or structure has been so damaged by flood that the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

Sec. 8-66. Procedure for Designation of a Substandard Building.

(a) Commencement of Public Hearing. Whenever the Code Compliance Officer has inspected any premises and has found the existence of a substandard condition, he shall schedule a public hearing before the City Council to determine whether the building or structure complies with the standards set out in this Article.

(b) Notice.

(1) *Issuance of notice.*

a. The Code Compliance Officer shall issue a notice of hearing to each owner of the building and to each mortgagee and lienholder of the building and of the property on that it is located, as known and shown by the City and as shown by search of the following records:

1. Official public records of real property in Burnet County, specifically in the Burnet County Clerk's office;
2. Appraisal district records for the Burnet Central Appraisal District;
3. Records of the Texas Secretary of State;
4. Assumed name records for Burnet County;
5. Tax records of the City; and
6. Utility records for the City.

b. The Code Compliance Officer shall issue notice of hearing to all unknown owners by posting the notice as described in [Section 8-66\(b\)\(3\)](#).

(2) *Contents of notice.* Notice of the hearing described under [Section 8-66\(a\)](#) of this Article shall contain the following:

a. The street address, if any, or other description sufficient for identification of the premises upon that the building is located;

b. A statement that the Code Compliance Officer has found the building to be substandard, with a general description of the conditions found to render the building substandard;

c. A statement that the City will vacate, secure, remove, or demolish the building or relocate the occupants of the building if the ordered action is not taken within a reasonable time;

d. A statement specifying the date, time and place of the hearing; and

e. A statement that the owner will be afforded an opportunity to comment at the hearing and will be required to submit at the hearing proof of the

scope of any work that may be required to comply with the minimum standards set out in this Article and the time it will take to reasonably perform the work.

(3) *Service of notice.*

a. Notice of the hearing shall be given by certified mail with return receipt requested, delivered by the United States Postal Service using signature confirmation service, or by personal service. If the address of any person entitled to notice cannot be ascertained, or if service cannot be made by mail or in person after a reasonable attempt, and for all unknown owners, service shall be made by posting a copy of the notice on the front door of each improvement situated on the affected property or as close to the front door as practicable.

b. The notice shall be mailed and/or posted before the tenth day before the date of the hearing. Service by certified mail shall be effective on the date of mailing.

c. Proof of personal service shall be certified at the time of service by a written declaration executed by the person effecting service, declaring the date, time and manner in that service was made. The declaration, together with any receipt card returned in acknowledgement of receipt by certified mail, shall be affixed to the copy of the notice retained by the Code Compliance Officer.

d. Notice of the hearing may be filed in the official public records of real property in Burnet County, specifically in the Burnet County Clerk's office. The notice shall contain:

1. The name and address of the owner of the affected property if that information can be determined.
2. A legal description of the affected property; and
3. A description of the hearing.

The filing of the notice is binding on subsequent grantees, lienholders, or other transferees of an interest in the property who acquire such interest after filing of the notice, and constitutes notice of the hearing on any subsequent recipient of any interest in the property who acquires such interest after the filing of the notice.

(c) Hearing.

(1) *Conduct of hearing.* This section applies to all public hearings before the City Council to determine whether a building or structure complies with the requirements of this Article.

a. *Failure to appear.* If the owner of the building fails to appear at the hearing after being duly served, the Council shall conduct the hearing as if the owner personally appeared.

b. *Quorum.* A majority of the members of the Council shall constitute a quorum for the purposes of holding a hearing. An affirmative vote by a majority of the members of the Council present at the hearing shall be required for the rendering of decisions or the issuance of orders authorized under this Article.

c. *Procedure.* The Council may establish rules and regulations for the conduct of hearings, if such are consistent with this Article and state law.

d. *Decisions and orders.*

1. After all evidence has been presented at the hearing, the Council shall determine whether the building or structure complies with the requirements of this Article. If more than one (1) building is located on a property and is the subject of the hearing, the Council shall make a separate determination for each building.

2. If the building or structure is in substandard condition because it does not comply with the provisions of this Article, the Council may order that the building be vacated, secured, repaired, removed, or demolished, and shall specify a reasonable time for the owner to do so.

3. If necessary to protect the health, safety and welfare of the building's occupants, the Council shall order the building vacated. If the condition of the building is due to neglect or to intentional or negligent acts by the owner, the Council shall order the owner to relocate the occupants at reasonable expense and in a reasonable manner. The Council shall specify a reasonable period of time for the completion of the relocation.

4. The Council shall also order an additional reasonable period of time for all mortgagees or lienholders to comply with the order should the owner fail to comply with the order within the time provided for action by the owner.

5. The Council shall also order a civil penalty that the City may assess if the owner fails to repair, remove or demolish the building in accordance with the Council's order. Such penalty shall not exceed the amount of one thousand dollars (\$1,000.00) per day that the building is out of compliance with the order.

6. A reasonable period of time to comply with an order of the Council is within thirty (30) days from the date of an order:

- a. To secure the building from unauthorized entry, or
- b. To repair, remove, or demolish the building, unless the owner or lienholder or mortgagee establishes at the hearing that the work cannot reasonably be performed within thirty (30) days.

7. If the Council finds that the work cannot reasonably be performed within thirty (30) days to repair, remove, or demolish the building, the Council shall order specific time schedules for the commencement and performance of the work and shall order the owner, lienholder, or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed.

8. The Council shall not provide the owner, lienholder, or mortgagee with more than ninety (90) days to repair, remove, or demolish the building or fully perform all work required to comply with the order unless the owner, lienholder or mortgagee:

- a) Submits a detailed plan and time schedule for the work at the hearing; and
- b) The Council finds that the work cannot reasonably be completed within ninety (90) days because of the scope and complexity of the work.

9. If the Council orders that the owner, lienholder or mortgagee complete any part of the work required to repair, remove, or demolish the building within a time period that is more than ninety (90) days, the Council shall order that the owner, lienholder or mortgagee regularly submit progress reports to the Code Compliance Officer and appear before the Council or the Council's designee to prove compliance with the time schedule.

10. If the Council orders that the owner, lienholder or mortgagee complete any part of the work required to repair, remove or demolish the building within a time period that is more than ninety (90) days and the landowner, lienholder, or mortgagee owns property, including structures or improvements on property, within the City that exceeds one hundred thousand dollars (\$100,000.00) in total value, the Council may order that the owner, lienholder or mortgagee post a cash or surety bond in an amount adequate to cover the cost of repairing, removing, or demolishing a building under [Section 8-72](#).

(2) *Contents of order.*

a. An order issued by the Council shall be in writing and shall set forth the decisions of the Council made pursuant to [Section 8-66\(c\)\(1\)\(d\)](#).

b. An order to repair shall set forth those items that need to be repaired.

c. An order to vacate shall require the Code Compliance Officer to post notice to vacate at or upon each entrance and exit of the building or structure in substantially the form described by [Section 8-70](#).

d. An order shall also contain the following statement:

"It is further ORDERED that if the owner fails to comply with any part of this order by the specified dates, and if any of the mortgagees or lienholders fail to comply with the order in the owner's stead and by the specified dates, the City is hereby authorized at its discretion to vacate, secure, repair, remove, and/or demolish the building(s) at its own expense. Alternatively, the City is authorized to assess a civil penalty on the owner in the amount of _____ (\$ _____) per day for each day that the building continues to be in violation of this order. Such costs or penalty shall accrue interest at a rate of ten percent (10%) per annum. The City shall have all remedies provided by law to recover such costs, penalties and interest, and shall be entitled to place a lien on the property unless it is a homestead protected by the Texas Constitution."

e. A copy of the order shall be sent promptly after the hearing by certified mail with return receipt requested or by the United States Postal Service using signature confirmation service to the owner of the building and to any lienholder or mortgagee of the building. If a notice is mailed according to this subsection and the United States Postal Service returns the notice as "refused" or "unclaimed", the validity of the notice is not affected, and the notice shall be deemed as delivered.

f. Within ten (10) days after the date the order is issued:

1. A copy of the order shall be filed in the office of the City Secretary; and,

2. A notice shall be published in a newspaper of general circulation in the City, said notice containing;

- a) The street address or legal description of the property;
- b) The date of the hearing;
- c) A brief statement indicating the results of the order;
and
- d) Instructions stating where a complete copy of the order may be obtained.

(3) *Appeal to district court.* The findings and decision of the City Council may be appealed to district court for a trial in accordance with *City of Dallas v. Stewart*, 361 S.W.3d 562 (Tex. 2012) within thirty (30) days after the City Council has rendered its decision.

(4) *Failure to comply with order.*

a. If the owner of a building declared substandard fails to comply with an order of the Council within the allotted time, the Code Compliance Officer shall cause a copy of the Council's order to be sent by certified mail return receipt requested to each lienholder and mortgagee as was determined pursuant to Section 8-66(b)(1). This shall constitute notice to the lienholders and mortgagees that the owner has failed to comply with the order.

b. If the lienholders and mortgagees fail to comply with the order within the time allotted to them by the Council, the Code Compliance Officer may:

1. Vacate, secure, repair, remove and/or demolish the building at the City's expense; or

2. Assess a civil penalty against the owner of the building, as provided by the Council, for failure to comply with the order.

c. The Code Compliance Officer is authorized to repair a building only to the extent necessary to bring the building into compliance with minimum standards, and only if the building is a residential building with ten (10) or fewer dwelling units.

d. The Code Compliance Officer is authorized, if the order requires demolition, to cause the building to be sold and demolished, or to be demolished and the materials, rubble, and debris removed and the lot cleaned. Any such

demolition work shall be accomplished, and the cost thereof paid and recovered in the manner provided in [Section 8-72](#) of this Article. Any surplus realized from the sale of any such building or from the demolition thereof over and above the cost of demolition and of cleaning the lot shall be paid to the person or persons lawfully entitled thereto.

e. The Code Compliance Officer is further authorized to ask the City Attorney to bring suit against the owner in a Burnet County district court to request that a receiver be appointed to rehabilitate the property.

Sec. 8-67. Additional authority to secure substandard buildings.

(a) *Authority to secure building.* The Code Compliance Officer may secure or cause to be secured a building at the City's expense if the Code Compliance Officer determines:

(1) That the building or structure violates the minimum standards for the use and occupancy of buildings in the City regardless of the date of their construction, and

(2) That the building or structure is unoccupied or is occupied only by persons who do not have a right of possession to the building.

(b) *Issuance of notice.* Before the eleventh day after the date the building is secured pursuant to [Section 8-67\(a\)](#), the Code Compliance Officer shall give notice to the owner that the building has been secured. The Code Compliance Officer shall also give notice to each mortgagee and lienholder, and to any unknown owners, in the same manner as described by [Section 8-66\(b\)](#).

(c) *Contents of notice.* The notice under this section shall contain:

(1) An identification of the building and the property on which it is located;

(2) A description of the violation of the ordinance that is present at the building;

(3) A statement that the City has secured the building; and

(4) A statement explaining the owner's right to request a hearing about any matter relating to the City's securing of the building.

(d) *Service of notice.* Notice regarding the securing of the building shall be given by either:

(1) Personally serving the owner with written notice; or

(2) Depositing the notice in the United States Mail addressed to the owner at the owner's post office address; or

(3) If personal service cannot be obtained and the owner's post office address is unknown;

a. Publishing the notice at least twice within a ten-day period in the official newspaper of the City; or

b. Posting the notice on or near the front door of the building.

(e) *Hearing.* If, within thirty (30) days after the date a building is secured pursuant to [Section 8-67\(a\)](#), the owner files with the Code Compliance Officer a written request for a hearing, the Code Compliance Officer will schedule a hearing before the Council to determine whether the actions of the Code Compliance Officer to secure the building are upheld, modified or reversed in the same manner as provided by [Section 8-66\(c\)](#). At the hearing the owner may testify or present witnesses or written information about any matter relating to the City's securing of the building.

(f) *Scheduling of hearing.* The Council will conduct the hearing within twenty (20) days after the date the request is filed.

(g) *Notice of hearing.* Notice of the hearing shall be provided to the requestor by personal service or certified mail, return receipt requested, before the tenth day before the hearing, in the same manner as provided in [Section 8-66\(b\)\(3\)](#).

(h) *Procedure after hearing.* After the hearing before the Council, or after the expiration of the time allowed for the owner to request a hearing and no hearing has been requested, the Code Compliance Officer will mail by certified mail with return receipt requested or through the United States Postal Service using signature confirmation service a copy of the order to the owner of the building and to any lienholder or mortgagee of the building. Within ten (10) days after the date the order from the Council is issued, the Code Compliance Officer will:

(1) File a copy of the order in the office of the City secretary; and

(2) Publish in the City's official newspaper a notice containing:

a. The street address or legal description of the property;

b. The date of the hearing;

c. A brief statement indicating the results of the hearing or order; and

d. Instructions stating where a complete copy of the order may be obtained.

(i) *Appeal to district court.* The findings and decision of the City Council may be appealed to district court for a trial in accordance with *City of Dallas v. Stewart*, 361 S.W.3d 562 (Tex. 2012) within thirty (30) days after the City Council has rendered its decision.

(j) *Liens and collection of expenses.* If the City incurs expenses under [Section 8-67](#), the City may assess the expenses on and place a lien against the land on that the building is located, in the same manner as provided by Sections [8-68](#), [8-69](#), and [8-72](#).

Sec. 8-68. Liens.

(a) If the City assesses a civil penalty pursuant to [Section 8-66\(c\)\(4\)\(b\)\(2\)](#), or if the City incurs expenses under [Section 8-66\(c\)\(4\)\(b\)\(1\)](#) or [\(c\)\(4\)\(c\)](#), or under [Section 8-67](#), the City may assess the expenses or penalty on and place a lien against the land on which the building was located.

(b) A lien imposed pursuant to this Article is a privileged lien subordinate only to tax liens and all previously recorded bona fide mortgage liens.

(c) The lien arises and attaches to the property at the time the notice of the lien is recorded and indexed in the official public records of real property in Burnet County, specifically in the office of the county clerk for Burnet County. The notice shall contain the name and address of the owner if that information can be determined; a legal description of the land on that the building was located; the amount of expenses incurred by the City or the civil penalty and the balance due.

(d) A lien is extinguished when the property owner or other person pays the City the balance due in full.

Sec. 8-69. Notice and collection of penalty and expenses.

(a) If the City incurs expenses under [Section 8-66\(c\)\(4\)\(b\)\(1\)](#) or [\(c\)\(4\)\(c\)](#), or under [Section 8-67](#), the Code Compliance Officer shall cause a statement to be sent to the owner, setting forth the amount of the expenses and the interest accrued to date. The Code Compliance Officer shall thereafter cause an annual statement to be sent to the owner until the expenses and interest are paid in full.

(b) If the City assesses a civil penalty pursuant to [Section 8-66\(c\)\(4\)\(b\)\(2\)](#), the Code Compliance Officer shall cause a notice to be sent to the owner that the City has begun assessing the penalty provided by the order. Thereafter, the Code Compliance Officer shall cause a monthly statement to be sent to the owner, setting forth the amount of the accrued penalty and interest, until the penalty and interest is paid in full.

(c) A civil penalty or assessment for expenses shall accrue interest at the rate of ten percent (10%) per annum from the date of assessment until paid in full.

(d) The City shall be entitled to all remedies provided by law for the collection of debt in order to recover penalty, expenses and interest. However, the City shall not foreclose a lien for repair expenses if the property on which the repairs were made is occupied as a residential homestead by a person sixty-five (65) years of age or older or a person who is under a disability for purposes of payment of disability insurance benefits under Federal Old-Age, Survivors, and Disability Insurance.

Sec. 8-70. Notice to vacate; violations.

(a) Every notice to vacate shall be posted at or upon each entrance and exit of the building and shall be in substantially the following form:

SUBSTANDARD BUILDING

DO NOT OCCUPY

It is a misdemeanor to occupy this building, or to remove or deface
this notice.

Code Compliance Officer

City of Granite Shoals

The notice to vacate shall specify the conditions that necessitate the posting and recite the emergency or shall identify the order to vacate and state where a complete copy of the order may be obtained.

(b) *Compliance; violations.* No person shall remain in or enter any building that has been posted, except that entry may be made to repair, remove, demolish or secure such building under permit. No person shall remove or deface any such notice after it is posted until the required work has been completed and a certificate of occupancy is issued pursuant to the provisions of the Building Code. Any person violating this subsection shall be guilty of a misdemeanor punishable by a fine not to exceed two thousand dollars (\$2,000).

Sec. 8-71. Criminal enforcement.

(a) An owner who fails to comply with an order of the City Council shall be guilty of a misdemeanor punishable by a fine not to exceed two thousand dollars (\$2,000).

(b) Each day that a violation continues shall constitute a separate offense.

(c) A criminal prosecution shall be in addition to any civil remedies to which the City is entitled.

(d) No person shall obstruct, impede, or interfere with any officer, employee, contractor or authorized representative of the City whenever such officer, employee, contractor or authorized representative of the City, is engaged in the work as ordered or in performing any necessary act preliminary to or incidental to such work.

(e) No person shall obstruct, impede, or interfere with any person who owns or holds an estate or interest in any building or structure that has been ordered repaired, removed, secured, vacated or demolished under the provisions of this Code, whenever such person is engaged in the work as ordered or in performing any necessary act preliminary to or incidental to such work.

(f) No person shall obstruct, impede, or interfere with any person to whom a building or structure has been lawfully sold whenever such person is engaged in the work as ordered or in performing any necessary act preliminary to or incidental to such work.

(g) A person who obstructs, impedes, or interferes with an order of the City Council shall be guilty of a misdemeanor punishable by a fine not to exceed two thousand dollars (\$2,000.00).

Sec. 8-72. Performance of work and recovery of cost.

(a) *General.*

(1) *Procedure.* When any work to repair, remove, secure, vacate, or demolish is to be done pursuant to this Article, the Code Compliance Officer shall cause the work to be accomplished by City personnel or by private contract under the direction of the Code Compliance Officer, or he may employ such architectural and engineering assistance on a contract basis as he may deem reasonably necessary.

(2) *Costs.* The cost of such work shall be paid from the General Fund, and may be made a special assessment against the property involved.

(b) *Vacant or Dangerous Building Remediation Funding.*

(1) The City Council may appropriate such sums as it may deem necessary in order to expedite the remediation. Payments shall be made out of said funding upon the order of the Code Compliance Officer, with the concurrence of the City Manager, to defray the costs and expenses incurred by the City in doing or causing to be done the necessary remediation of substandard buildings and structures. Any collection or special assessment shall be refunded to the General Fund.

(2) The Code Compliance Officer shall keep an itemized account of the expenses incurred by the City in the remediation of any building pursuant to the provisions hereof, and upon the completion of the work, the Code Compliance Officer shall cause to be prepared and filed with the City Secretary a report specifying the work done, the itemized and total cost thereof, a description of the real property upon that the building or structure is or was located and the names and addresses of the persons entitled to notice pursuant to [Section 8-69](#) hereof.

(3) The City Council may thereupon order that said costs, including administrative costs, be made a personal obligation of the feeholder and/or assess said charge against the property involved under the applicable provisions of the Constitution and laws of the United States, the State of Texas, and the Charter of the City of Granite Shoals.

(4) If the City Council orders that the charge shall be a personal obligation of the feeholder, it may request the City Attorney to collect the same on behalf of the City by use of all appropriate legal remedies. If the City Council orders that the charge shall be assessed against the property under the applicable provisions of the Constitution and laws of the United States, the State of Texas, and the Charter of the City of Granite Shoals, it shall confirm the assessment and cause the same to be recorded in the real property records of Burnet County, and thereafter said assessment shall constitute a special assessment against and a lien upon the property.

Sec. 8-73. Discontinuation.

After any premises have been ordered repaired or demolished under [Section 8-66\(c\)](#) hereof, the Code Compliance Officer shall regularly reinspect same. If at any time the building on such premises is no longer substandard to the extent that the life, land, health, property, safety, or welfare of the public or the occupants thereof is endangered, the Code Compliance Officer shall immediately withdraw his prior order and issue a certificate reflecting such action to the feeholder of such property.

Sec. 8-74. Change in feeholder.

(a) A change in feeholders of any property upon which proceedings are pending under the Ordinance shall not affect the validity of such proceedings if either:

(1) The new feeholder has been a party served with notice at each stage of the proceedings; or

(2) The new feeholder has been given notice as required by [Section 8-66\(b\)](#) hereof.

(b) It shall be presumed that the new feeholder has been given notice under [Section 8-66\(b\)](#) hereof, as required by law. If, however, the new feeholder shows that he has not been so served, all pending proceedings under this Article are invalid and must be

recommended. A change in feeholders made for the purpose of delaying or avoiding proceedings under this Article shall not affect the validity of such proceedings.”

SECTION III. SAVINGS

The repeal of any ordinance or part of ordinances effectuated by the enactment of this Article 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 Article.

SECTION IV. SEVERABILITY

Should any sentence, paragraph, subdivision, clause, phrase, or section of this Article be adjusted or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this Article 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 Article 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 Article are hereby expressly repealed to the extent that such inconsistency is apparent. This Article shall not be construed to require or allow any act that is prohibited by any other ordinance.

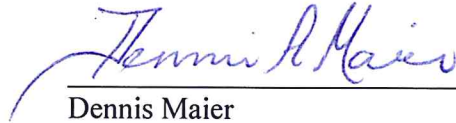
SECTION VI. EFFECTIVE DATE

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

SECTION VII. PROPER NOTICE AND MEETING

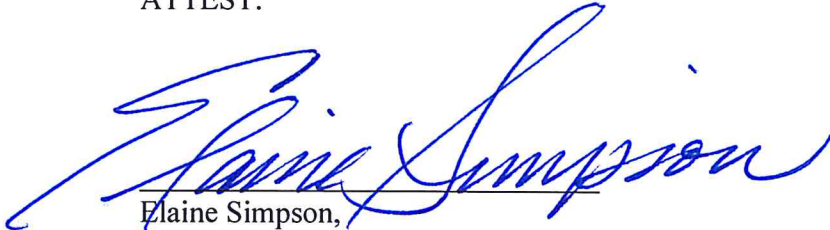
It is hereby officially found and determined that the meeting at that this Article was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED AND APPROVED this 27th day of August, 2013.


Dennis Maier

Mayor

ATTEST:


Elaine Simpson,
City Secretary

APPROVED AS TO FORM:

Brad Young,
City Attorney