

City of Cottonwood Shores

ORDINANCE 1112

AN ORDINANCE ESTABLISHING A PROGRAM OF COMPREHENSIVE EMERGENCY MANAGEMENT WHICH INCLUDES THE MITIGATION, PREPAREDNESS RESPONSE AND RECOVERY PHASES OF CIVIL PREPAREDNESS; ACKNOWLEDGING THE OFFICE OF EMERGENCY MANAGEMENT DIRECTOR; AUTHORIZING THE APPOINTMENT OF AN EMERGENCY MANAGEMENT COORDINATOR; AND PROVIDING THE DUTIES AND RESPONSIBILITIES OF THOSE OFFICES; IDENTIFYING AN OPERATIONAL ORGANIZATION; GRANTING NECESSARY POWERS TO COPE WITH ALL PHASES OF EMERGENCY MANAGEMENT WHICH THREATEN LIFE AND PROPERTY IN THE CITY OF COTTONWOOD SHORES; AUTHORIZING COOPERATIVE AND MUTUAL AID AGREEMENTS FOR RELIEF WORK BETWEEN THIS AND OTHER CITIES OR COUNTIES AND FOR RELATED PURPOSES; PROHIBITING UNAUTHORIZED WARNING AND ALL-CLEAR SIGNALS AND MAKING VIOLATIONS A MISDEMEANOR PUNISHABLE BY FINE UP TO \$2,000.00.

History: December 6, 2012 - Repealed Ordinance 22290-A and Adopted Ordinance 1112
April 2, 2015: Amended Ordinance stating that EMP complies with NIMS standards and criteria

WHEREAS, the City Council of the City of Cottonwood Shores finds that the identification of potential hazards and the prevention or mitigation of their effects must be an on- going concern of the City if the lives and property of the populace are to be protected; and

WHEREAS, the City Council further finds that in times of disaster which may imperil the safety of the inhabitants of the City, or their property, it becomes necessary to effectuate and place into operation preconceived plans and preparations with a minimum of delay; and

WHEREAS, the City Council finds, therefore, that the preparation, adoption, and implementation of such plans is imperative;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COTTONWOOD SHORES:

Section 1: Organization

There exists the office of Emergency Management Director of the City of Cottonwood Shores, which shall be held by the Mayor in accordance with state law.

- (a) An Emergency Management Coordinator may be appointed by and serve at the pleasure of the Director.
- (b) The Director shall be responsible for a program of comprehensive emergency management within the City and for carrying out the duties and responsibilities set forth in this Ordinance. He/she may delegate authority for execution of these duties to the Coordinator, but

ultimate responsibility for such execution shall remain with the Director.

- (c) The operational emergency management organization shall consist of the City Council and officers and employees of the City so designated by the Director in the Emergency Management Plan, as well as organized volunteer groups. The functions and duties of this organization shall be distributed among the officers and employees in accordance with the terms of the Emergency Management Plan.

Section 2: Director; Powers and Duties

The powers and duties of the Director shall include the following:

- (a) Conduct an on-going survey of actual or potential major hazards which threaten life and property within the City, and an on-going program of identifying and requiring or recommending the implementation of measures which would tend to prevent the occurrence or reduce the impact of such hazards if a disaster did occur.
- (b) Supervision of the development and approval of an emergency management plan for the City and recommendation for adoption by the City Council along with any and all mutual aid plans and agreements which are deemed essential for the implementation of such emergency management plan.
- (c) Authority to declare a local state of disaster. The declaration may not be continued or renewed for a period in excess of seven days except by, or with, the consent of the City Council. Any order or proclamation declaring, continuing, or terminating a local state of disaster shall be given prompt and general publicity and shall be filed promptly with the City Secretary.
- (d) Issuance of necessary proclamations, regulations or directives which are necessary for carrying out the purposes of this Ordinance. Such proclamations, regulations, or directives shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless circumstances attendant on the disaster prevent or impede, promptly filed with the City secretary.
- (e) Direction and control of the operations of the City emergency management organization as well as the training of emergency management personnel.
- (f) Determination of all questions of authority and responsibility that may arise within the emergency management organization of the City.
- (g) Maintenance of liaison with other municipal, county, district, state, regional or federal emergency management organizations.
- (h) Marshalling of all necessary personnel, equipment or supplies from any department of the City to aid in the carrying out of the provisions of the emergency management plan.
- (i) Supervision of the drafting and execution of mutual aid agreements, in cooperation with the representatives of the state and of other local political subdivisions of the state, and the drafting and execution, if deemed desirable, of an agreement with the county in which the City is located and with other municipalities within the county, for the county-wide coordination of emergency management efforts.
- (j) Supervision of and final authorization for the procurement of all necessary supplies and equipment, including acceptance of private contributions which may be offered for the purpose of improving emergency management within the City.

- (k) Authorizing of agreements, after approval by the City attorney, if any, for use of private property for public shelter and other purposes.
- (l) Survey of the availability of existing personnel, equipment, supplies and services which could be used during a disaster, as provided for herein.
- (m) Other requirements as specified in Texas Disaster Act of 1975, V.T.C.A., Government Code § 418.001 et seq.

Section 3: Emergency Management Plan

A comprehensive emergency management plan shall be developed and maintained in a current state. The plan shall set forth the form of the organization, establish and designate divisions and functions, assign responsibilities, tasks, duties, and powers, and designate officers and employees to carry out the provisions of this chapter. Development of the plan shall be consistent with standards and criteria dictated by the National Incident Management System (NIMS) dated March 1, 2004. As provided by state law, the plan shall also follow the standards and criteria established by the state division of emergency management, however in the case of conflicts between the state division of emergency management requirements and NIMS requirements; NIMS requirements shall take precedence. Insofar as possible, the form of organization, titles, and terminology shall conform to the recommendations of the state division of emergency management. When approved, it shall be the duty of all departments and agencies to perform the functions assigned by the plan and to maintain their portion of the plan in a current state of readiness at all times. The emergency management plan shall be considered supplementary to this chapter and have the effect of law during the time of a disaster. The applicable emergency plan for the City shall be the emergency management plan for the county dated May 2005, including subsequent revisions thereafter, augmented by any of the required City's unique appendices and as adopted by the City council.

Section 4: Interjurisdictional Program

The Mayor is hereby authorized to join with the County Judge of the County of Burnet and the mayors of the other cities in said county in the formation of an Emergency Management Council for the County of Burnet and shall have the authority to cooperate in the preparation of a joint emergency management plan and in the appointment of a joint Emergency Management Coordinator, as well as all powers necessary to participate in a county-wide program of emergency management insofar as said program may affect the City of Cottonwood Shores.

Section 5: Ordinance Provisions Prevail; Nonconflicting Regulations

- (a) At all times when the orders, rules, and regulations made and promulgated pursuant to this Ordinance shall be in effect, they shall supersede and override all existing ordinances, orders, rules, and regulations insofar as the latter may be inconsistent therewith.
- (b) This Ordinance shall not be construed so as to conflict with any State or Federal statute or with any military or naval order, rule, or regulation or personal and property rights.

Section 6: Disclaimer of Liability

public peace, health, and safety and neither the City of Cottonwood Shores, the agents and representatives of the City, nor any individual, receiver, firm, partnership, corporation, association, or trustee, nor any of the agents thereof, in good faith carrying out, complying with or attempting to comply with, any order, rule, or regulation promulgated pursuant to the provisions of this Ordinance shall be liable for any damage sustained to persons as the result of such activity. Any person owning or controlling real estate or other premises who voluntarily and without compensation grants to the City of Cottonwood Shores a license of privilege, or otherwise permits the City to inspect, designate and use the whole or any part of such real estate or premises for the purpose of sheltering persons

during an actual, impending or practice enemy attack or natural manmade disaster shall, together with his successors in interest, if any, not be civilly liable for the death of, or injury to, any person on or about such real estate or premises under such license, privilege or other permission or for loss of, or damage to, the property of any person.

Section 7: Commitment of Funds

No person shall have the right to expend any public funds of the City in carrying out any Emergency Management activity authorized by this Ordinance without prior approval by the City Council, nor shall any person have any right to bind the City by contract, agreement or otherwise without prior and specific approval of the City Council unless during a declared disaster. During a declared disaster, the mayor may expend and/or commit public funds of the City when deemed prudent and necessary for the protection of health, life or property.

Section 8: Violations

- (a) It shall be unlawful for the Emergency Management organization to issue a rule or regulation at variance with the United States or the State of Texas Constitutions.
- (b) It shall be unlawful for any person willfully to obstruct, hinder, or delay any member of the Emergency Management organization in the enforcement of any rule or regulation issued pursuant to this Ordinance, or to do any act forbidden by any rule or regulation issued pursuant to the authority contained in this Ordinance.
- (c) It shall likewise be unlawful for any person to wear, carry or display any emblem, insignia or any other means of identification as a member of the Emergency Management organization of the City of Cottonwood Shores, unless authority to do so has been granted to such person by the proper officials.
- (c) Any unauthorized person who shall operate a siren or other device so as to simulate a warning signal, or the termination of a warning shall be deemed guilty of a violation of this Ordinance and shall be subject to the penalties imposed by this Ordinance

Section 9: Penalty

An offense under this section shall be filed with the Municipal Court of Cottonwood Shores by

complaint or citation issued by the Police Department or any Peace Officer of the State of Texas and is punishable by the assessment of a fine up to two thousand dollars (\$2,000.00). Each day or portion of a day in which the violation occurs shall be considered a separate offense and may be filed as such in the municipal court.

Section 10: Affirmation

Each employee or any individual that is assigned a function or responsibility shall solemnly swear or affirm to support and defend the Constitution of the United States, laws of the State of Texas and the Ordinances of the City of Cottonwood Shores.

Section 11: Severability

If any portion of this Ordinance shall, for any reason be declared invalid, such invalidity shall not affect the remaining provisions thereof.

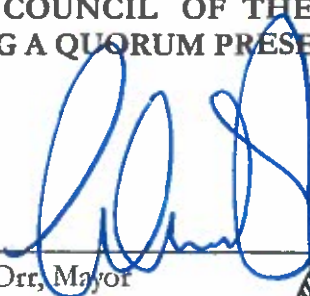
Section 12: Open Meetings

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

Section 13: Repeal of Conflicting Ordinances

Upon passage of this Ordinance, all other Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

ORDINANCE PASSED THIS THE 2ND DAY OF APRIL 2015, AT A MEETING OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD SHORES, TEXAS, THERE BEING A QUORUM PRESENT, BY 5 YEAS, 0 NAYS AND 0 ABSTAINS.



Donald Orr, Mayor



Attest:



Sheila C. Moore,
City Administrator/City Secretary