

City of Cottonwood Shores

ORDINANCE 13006

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD SHORES, TEXAS, ESTABLISHING A MUNICIPAL RIGHT OF WAY MAINTENANCE PROGRAM; REPEALLING ORDINANCES 13003 CULVERT ASSESSMENT AND 13002 CULVERT REQUIREMENTS; PROVIDING FOR A MAINTENANCE ASSESSMENT; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE, PROVIDING A SAVINGS CLAUSE; PROVIDING FOR A CRIMINAL PENALTY OF A FINE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00); AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council is bound to address the safety and well-being of citizens of which is a need for proper drainage, clear pathways, and maintenance within public right of ways; and

WHEREAS, the City Council wishes to protect the City streets and citizen's property from flooding;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COTTONWOOD SHORES, TEXAS, THAT:

SECTION 1 – Encroachment:

Objects or obstructions not specifically permitted and approved shall not be placed in, upon, above or under any public right of way. This includes but is not limited to: fences, rocks, shrubs, trees, and other forms of obstruction. Bar ditches should be kept free of debris, dirt fill or any material which prohibits the free flow of water along the public streets. Bridging over a culvert - gravel, asphalt, concrete or decorative architectural elements - is not restricted as long as material cannot enter/block the bar-ditch if performed by the City, or a permit is obtained from the City, for any such action.

SECTION 2 – Water Flow Requirements:

In order to correctly maintain right of ways, proper drainage is required where any property abuts City Streets, as determined by City building code and City staff. Various control measures may be needed to control the drainage as defined in Section 552.044 of the Texas Local Municipal Code, and include bridges, catch basins, channels, conduits, creeks, culverts, detention ponds, ditches, draws, flumes, hard surface swales, pipes, pumps, sloughs, treatment works, and appurtenances to those items, whether natural or artificial, or using force or gravity, that are used to draw off surface water from land, carry the water away, collect, store, or treat the water, or divert the water into natural or artificial watercourses. City Public Works staff determine the appropriate control measure.

Pursuant to Texas Local Government Code Section 552 and Texas Transportation Code 313, the City may assess the property owner a drainage charge to recover 90 percent of the material cost to furnish drainage for any benefitted property. Labor will be provided at no cost. Scheduling will depend upon City employees. Home owners may perform the control measure if a permit is applied for and received and the project is completed within the City's time schedule. The City will provide final approval of the control measure.

SECTION 3 – Credit Terms:

In the cases of maintenance on egress/ingress to public right-of-ways, property owners have 30 days after City notification, to pay for the culverts before the City declares the debt delinquent. The city will accrue 8% annual interest to the date of the assessment until paid off. When the culvert is in response to a Citizen request, all payments are due before installation.

SECTION 4 – Delinquencies:

Property owners who fail to pay their assessment debt by 90 days will become delinquent. When an assessment debt becomes delinquent, a \$30.00 delinquency charge will be added to the bill. The property owner will receive a notice of delinquency and a warning that if the debt isn't satisfied within 30 days after delinquency, the debt will be sent to a collection agency. The City may at that time take advantage of other legal means to recover the debt as well.

SECTION 5 – Conflicting Ordinances:

All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby amended to the extent of such conflict and shall hereinafter read and be interpreted as provided herein. To the extent necessary to accomplish the purposes of this Ordinance, any term, condition or provision of any other Ordinance of the City that is in conflict herewith is hereby repealed to the extent of such conflict.

SECTION 6 – Severability:

If any provision of this Ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 7 - Enforcement:

(1) Civil and Criminal Penalties

The City shall have the power to administer and enforce the provisions of this Ordinance as may be required by governing law. Any Police Officer, Fire Official, Code Enforcement Officer or City Official is authorized to enforce the provisions of this ordinance. Any person violating any provision of this Ordinance is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this Ordinance is hereby declared to be a misdemeanor.

(2) Criminal Prosecution

Any person violating any provision of this ordinance shall, upon conviction, be fined a sum not exceeding five hundred dollars (\$500.00). Each day that a provision of this Ordinance is violated shall constitute a separate offense. An offense under this Ordinance is a Class C Misdemeanor.

(3) Civil Remedies

Nothing in this Ordinance shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this Ordinance and to seek remedies as allowed by law.

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SECTION 8 – Open Meetings:

It is hereby officially found and determined that the meeting at which this Ordinance is 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 Local Government Code.

SECTION 9 – Effective Date:

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

ORDINANCE PASSED AND ADOPTED THIS THE 10TH DAY OF MAY, 2018, 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





Sheila C. Moore
City Administrator/City Secretary