

City of Cottonwood Shores

ORDINANCE 3004

AN ORDINANCE REGULATING DANGEROUS BUILDINGS AND STRUCTURES WITHIN THE CITY; PROVIDING DEFINITIONS; ADOPTING THE 2006 EDITION OF THE ICC INTERNATIONAL CODES; PROVIDING FOR INSPECTIONS OF BUILDINGS AND STRUCTURES WITHIN THE CITY; PROVIDING FOR NOTICE TO OWNERS AND PERSONS WITH INTERESTS IN DANGEROUS BUILDINGS; PROVIDING FOR A CONDEMNATION AND DEMOLITION PROCESS; PROVIDING PENALTIES; PROVIDING FOR THE REPEAL OF ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

WHEREAS, the City Council recognizes the need to regulate and control unsafe, dangerous, dilapidated and substandard buildings within the City of Cottonwood Shores (the "City") in order to preserve and protect the public health and safety and to preserve property values;

WHEREAS, the City Council seeks to adopt regulations outlining minimum criteria for all permanent commercial and residential buildings erected within the City and to provide procedures for the repair or demolition of unsafe, dangerous and substandard buildings;

WHEREAS, it has been determined that the City's adoption of the ICC 2006 Codes, per Ordinance 3001, is in the best interest of the health, safety, and welfare of the citizens and will more adequately protect life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of buildings, structures and premises;

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

Section One - Findings of Fact: The findings and recitations set out hereinabove are found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section Two - Definitions: As used in this Ordinance the following terms shall have the meanings given below:

1. **"Building Official"** means the City Building Official or a person employed, appointed, or designated by the City Council for purposes of making inspections, sending notices, and otherwise enforcing the provisions of this Ordinance.
2. **"Dangerous Building"** or **"Unsafe Building"** means any structure or building located within the incorporated limits of the City that is in such a state or condition of repair or disrepair that all or any of the following conditions exist:
 - 2.1.1. Walls or other vertical structural members list, lean, or buckle;
 - 2.1.2. Damage or deterioration exists to the extent that the building is unsafe;
 - 2.1.3. Loads on floors or roofs are improperly distributed or the floors or roofs are of insufficient

- strength to be reasonably safe for the purposes used;
- 2.1.4. Damage by fire, wind, or other cause has rendered the building or structure dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the City;
 - 2.1.5. The building or structure is so dilapidated, substandard, decayed, unsafe, unsanitary or otherwise lacking in the amenities essential to decent living or use that the same is unfit for human habitation or occupancy, or is likely to cause sickness, disease or injury or otherwise to constitute a detriment to the health, morals, safety or general welfare of those persons assembled, working, or living therein or is a hazard to the public health, safety and welfare;
 - 2.1.6. Light, air, and sanitation facilities are inadequate to protect the health, morals, safety, or general welfare of persons who assemble, work, or live therein;
 - 2.1.7. Stairways, fire escapes, and other facilities of egress in case of fire or panic are inadequate;
 - 2.1.8. Parts or appendages of the building or structure are so attached that they are likely to fall and injure persons or property;
 - 2.1.9. Dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety, and welfare of the City's residents;
 - 2.1.10. Regardless of its structural condition, 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 or other uninvited persons as a place of harborage or could be entered or used by children; or
 - 2.1.11. Boarded up, fenced or otherwise secured in any manner if:
 - 2.1.11.1. The building constitutes a danger to the public even though secured from entry; or
 - 2.1.11.2. The means used to secure the building are inadequate to prevent unauthorized entry or use of the building to the extent it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children;
 - 2.1.11.3. Defined as a dangerous or unsafe building by the ICC 2006 Edition of the International Codes
3. **"Responsible Parties"** means the owner, occupant or person in custody of the building or structure and any mortgagee or lienholder.

Section Three - Unsafe Structures and Equipment, 2006 International Property Maintenance Code, Section 108:

108.1 General. When a structure or equipment is found by the Building Official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.

108.1.1. Unsafe structures. An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

108.1.2. Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

108.1.3. Structure unfit for human occupancy. A structure is unfit for human occupancy whenever the Building Official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the

occupants of the structure or to the public.

Section Four - Unsafe Buildings Declared a Nuisance: It shall be unlawful for any person to maintain or permit the existence of any Unsafe Building in the City; and it shall be unlawful for any person to permit same to remain in such condition.

1. All Unsafe Buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedures provided in this Ordinance.
2. The Building Official shall enforce the provisions of this Ordinance.

Section Five - Inspections and Duties of the Building Official: The Building Official shall inspect, or cause to be inspected, every building, or portion thereof, reported to be unsafe. If such building, or any portion thereof, is determined to be unsafe, the Building Official shall give the Responsible Parties notice in accordance with the requirements set forth in Sections Six and Seven of this Ordinance. The Building Official shall further:

1. Inspect or cause to be inspected, every building, or portion thereof, reported to be unsafe ~~structure~~ within the incorporated limits of the City. If such building, or portion thereof, is determined to be unsafe, the Building Official shall give the Responsible Party notice in accordance with the requirements set forth in this Ordinance.

Section Six – Initial Notice to Property Owner or Occupant of Violations: Whenever the Building Official determines that a building or structure is in violation of the provisions of this Ordinance; he shall give notice of such determination to the Responsible Party and to the City. Such notice shall:

1. Be in writing
2. Identify the property on which the violation is located and the structure or building in violation;
3. Identify the specific conditions upon which such determination was based;
4. Contain the provisions of the Code or Ordinance alleged to be violated;
5. Specify the corrective measures required;
6. Provide a reasonable time for compliance;
7. Advise the Responsible Party that if compliance is not obtained by the day set out in the notice, there will be a public hearing before the municipal court to determine whether the structure or building violates this Ordinance.

Section Seven - Sufficiency of Notice: Notice given pursuant to this Ordinance shall be deemed properly served upon the Responsible Parties if a copy thereof is:

1. served upon him/her personally;

2. sent by USPS mail to the last known address of such person as shown on the records of the City; or
3. posted in a conspicuous place in or about the building affected by the notice.

Section Eight – Municipal Court Jurisdiction, powers and duties relating to unsafe buildings

1. The municipal court of record has the power and duty to hold a public hearing to determine whether a structure or building violates this Ordinance.
2. The municipal court has the following powers and duties:
 - To require the repair of a structure found to be unsafe;
 - To require that an open and vacant structure or open and vacant portion of a structure be secured;
 - To assess a civil penalty, not to exceed \$2,000.00 a day per violation against the Responsible Party for each day or part of a day that the Responsible Party fails to repair or demolish a structure in compliance with the court order issued under this article
 - To require relocation of the occupants of a structure found to be unsafe
 - To require repair of the structure by the Responsible Party as needed to correct every violation of minimum standards found by the court to exist at the structure, the repair to be accomplished within 30 days, unless an extension is granted
 - The court may allow more than 30 days to comply with an order to repair or demolish a structure if the Responsible Party establishes at the hearing the work cannot reasonable be performed within 30 days. The court shall establish a specific time schedule for the commencement and performance of the work and require the Responsible Party to secure the property from unauthorized entry while the work is being performed.

Section 9 – Noncompliance with court orders; civil penalties, liens:

1. If the city determines that the Responsible Party of a structure has not timely complied with a municipal court order issued under Section 8 of this Ordinance, the City and Building Official will initiate demolition proceedings and present the case to the Board of Adjustment.

Section Ten – Violations:

1. A Responsible Party who fails to comply with any notice or order to repair or vacate said building or structure, such notice or order given by the authority of the Municipal Court, shall be guilty of a Misdemeanor.
2. Any person removing the notice of a Dangerous Building as provided for in Section Seven of this Ordinance, shall be guilty of a Misdemeanor.
3. The violation of any provision of this Ordinance shall be unlawful and a Misdemeanor and will be subject to fines and penalties as assessed by the Municipal Court. Each day a violation of this Ordinance continues shall constitute a separate offense.

Section Eleven – Repeal Of Conflicting Ordinances: All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

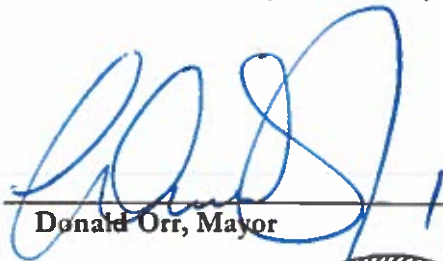
Section Twelve – Severability:

It is hereby declared to be the intention of the City Council that the section, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this Ordinance of any such invalid phrase, clause, sentence, paragraph or section. If any provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

Section Thirteen – Effective Date: This Ordinance shall take effect immediately upon its approval and passage and publication as required by Law.

Section Fourteen – Open Meeting: It is hereby officially found and determined that the meeting at which this Ordinance 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.

ORDINANCE PASSED AND ADOPTED THIS THE 15th DAY OF JANUARY 2015, AT A MEETING OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD SHORES, TEXAS, THERE BEING A QUORUM PRESENT, BY 4 YEAS, 0 NAYS AND 0 ABSTAINS.



Donald Orr, Mayor



ATTEST:



Sheila C. Moore
City Administrator/City Secretary