

City of Cottonwood Shores

ORDINANCE 3016

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD SHORES, TEXAS, ESTABLISHING A RESIDENTIAL RENTAL PROPERTY REGISTRATION AND INSPECTION ORDINANCE IN ACCORDANCE WITH THE BUILDING AND BUILDING REGULATIONS OF THE COTTONWOOD SHORES CODE OF ORDINANCES, TO PROVIDE FOR REGISTRATION AND INSPECTION OF RESIDENTIAL RENTAL PROPERTIES WITHIN THE CITY. PROVIDING PENALTIES FOR VIOLATIONS; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE AND OPEN MEETINGS CLAUSE AND ORDERING PUBLICATION.

WHEREAS, the City of Cottonwood Shores, Texas ("City"), is a Type A general law City operating pursuant to the laws of the State of Texas, by and through its duly elected Council members;

WHEREAS, the City Council ("Council") of the City serves as the elected governing body of the City directly responsible for the promotion and protection of the public health and safety of its citizens and inhabitants;

WHEREAS, the City is authorized and empowered to adopt and enforce ordinances, not inconsistent with state law, that are necessary to protect the safety of its inhabitants (Texas Local Government Code § 51.012);

WHEREAS, the Council has adopted the City of Cottonwood Shores Code of Ordinances, as is permitted by Texas Local Government Code, § 53;

WHEREAS, the Council is aware of the ever changing economy and the increased demand for residential rental property within the City;

WHEREAS, the City is committed to ensuring that residential rental properties in the community are safe, livable and routinely maintained in accordance with public health, safety, and property maintenance standards as adopted in the City of Cottonwood Shores Code of Ordinances;

WHEREAS, the City has only rarely before regulated rental properties through the adopted building codes and maintenance codes promulgated by the International Building Codes;

WHEREAS, some residential rental property owners routinely fail to maintain their properties putting rental unit dwellers at risk of injury or death;

WHEREAS, the City lacks the necessary resources to identify and track problem residential rental properties and owners/landlords, relying solely on sporadic and oftentimes after- the-fact tenant complaints;

WHEREAS, the Council has researched and reviewed the ordinances and policies of other cities and learned that residential rental property registration and inspection programs provide cities with a powerful mechanism for the identification, tracking, and enforcement of poorly maintained properties and

owners/landlords; and

WHEREAS, the City Council wishes to employ a more organized approach to regulating residential rental properties within the City.

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

SECTION I - DEFINITIONS

Administrator: The City Administrator or their designee.

Local contact: An individual designated by an absent Owner/landlord (one that lives outside of the City of Cottonwood Shores), who is able to respond promptly (less than two hours) to an emergency at a Rental property, subject to this ordinance, on the Owner/landlord's behalf and authorized to make decisions and act to remedy the emergency situation.

Owner/Landlord: Any person or corporation/company that owns, leases or subleases residential Rental property.

Rental property: Any residential single-family, two-family, or multi-family dwelling unit, including manufactured homes, that is not owner occupied, and is rented or leased, whether or not rent is charged whether or not the lease is memorialized in writing. Rental property includes, but is not limited to: properties rented or leased to students, families, or any other persons; properties in which a family member of the owner resides in the home but the owner does not (regardless of whether additional persons also reside in the home); properties used as vacation rentals and hosted short-term rentals; properties owned by a company or corporation to house employees, whether rent is paid or not; and properties where a property caretaker lives in the home but the owner does not.

SECTION II – RESIDENTIAL REGISTRATION

(A) The owner/landlord or real estate manager of Rental property (as defined by this article), is required to register Rental property with the City on a form provided by the Administrator by January 1 of each year or within fifteen (15) days of the property becoming Rental property, if not previously registered with the City, and within 30 days if a Rental property changes ownership. For purposes of this Section, only one registration is required per property location, whether the property location consists of a two-family unit (duplex) or multi-family unit (triplex, quadplex, apartment building, etc.). The information required to register the Rental property is as follows:

- 1) Physical address of the Rental property;
- 2) Full name(s) of owner(s)/landlord(s);
- 3) Name of the Rental property, if not identified by the physical address, (i.e. The Cottonwood Apartments, Lakeside Condos, etc.);
- 4) If the owner/landlord is a corporation or association, the name and address of the registered agent on file with the Texas Secretary of State;
- 5) Full contact information of the owner/landlord (home phone, cell phone, business phone, fax number, email address, and mailing and physical address);

ORIGINAL

- 6) Type of rental property (single-family, two-family, multi-family, etc.);
 - 7) The name and complete contact information for the Local contact, if different than the owner/landlord, in the case of an absentee owner. The Local contact cannot be someone who is listed on the lease;
 - 8) If a two-family or multi-family property, the number of individual rental units and buildings at the property;
 - 9) Telephone number that will be answered 24 hours a day (i.e. emergency phone number) by a responsible party (owner/landlord, local contact, etc.) as is required by Texas Property Code Section 92.020, if applicable;
 - 10) Tenant names, the contact information for all persons listed on the current lease(s), and all current lease(s) shall be presented to the City Administrator for review upon request; and
 - 11) Any other information, shall likewise be provided, as deemed necessary by the City Administrator.
- (B) An owner/landlord of rental property shall pay a fee of Ten Dollars (\$10.00) per registration, and at the time of any required renewal registration.
- (C) An owner/landlord of rental property may not permit or allow another person to occupy or lease rental property without a registration and inspection required by this Ordinance.

SECTION III – RESIDENTIAL RENTAL INSPECTIONS

- (A) The City will require a habitability inspection before a new tenant occupies the property. This inspection will be ordered at the time the new tenants apply for utility service or the owner/landlord/local contact provides new tenant information as described above;
- (B) The tenant may not occupy the property until the inspection is completed and a Certificate of Habitability (COH) is attained.
- (C) The City Administrator may order the inspection of the interior and/or exterior of a rental property if any of the following circumstances exist:
- 1) The City receives a written or oral complaint from a tenant, neighbor, code officer, public works' employee, police officer, or other interested party concerning a rental property indicating a current violation of the City of Cottonwood Shores Code of Ordinances, any of the international building codes, state law, or federal law or where the premises appear to be unsafe, dangerous, or hazardous to the public health or safety;
 - 2) Upon the first-time registration of a rental property with the City required by this article;
 - 3) The failure of an owner to register rental property as required by this article;
- OR
- 4) At any time the rental property is vacant, or without a tenant.
- (B) When a habitability inspection is ordered, a preliminary inspection shall be conducted by a City code official or building inspector working at the direction of the City. This preliminary inspection is to identify issues of substantial concern that affect the habitability of the property involved, not merely aesthetic or surface level concerns. Dangerous electrical problems, water leaks, structural damage/insufficiencies, plumbing/sewer blockages, gas leaks, and other major problems will be the

ORIGINAL

type of issues the City will be assessing.

- (C) The preliminary inspection shall be conducted within ten (10) days of the City Administrator's order.
- (D) A written report of the preliminary inspection of habitability shall be delivered to the City Administrator, the occupants of the home and owner/landlord or local contact within two (2) days of the preliminary inspection. Actual notice must be achieved to the owner/landlord and/or local contact. This report shall contain a comprehensive list of any issues that require repair/remedy/correction with reference to the applicable law, regulation, and/or code offended. If no actionable issues are present, a written report detailing the preliminary inspection findings and passing performance shall be served on all parties with a COH, to close out the inspection.
- (E) If actionable dangerous issues exist in the preliminary inspection report, the owner/landlord has five (5) business days to remedy the issues and provide the code official proof of such compliance. During this period the owner/landlord shall have the occupants of the home vacate said rental property if applicable. The cost of any remedy is the responsibility of owner/landlord and not the tenant(s) or the City.
- (F) Proof of compliance may be achieved by photos, receipts of materials/work or affidavits of compliance. and/or a
- (G) A second inspection by the City code official or inspector working at the direction of the City shall be ordered.
- (H) Failure to remedy a dangerous issue identified in the preliminary inspection within five (5) business days, and/or the failure to provide proof of a remedy to all of the dangerous issues identified in the preliminary report, is a violation of this article and may result in the issuance of a criminal citation for the failure to comply. Additionally, a noncompliant owner/landlord, will also face a citation for each and every specific code, regulatory, and or state law violation present at the time. The preliminary inspection report shall serve as a warning to the owner/landlord.
- (I) An owner/landlord of rental property, that wishes to contest the findings of a preliminary inspection report, may, at their own expense, seek an independent inspection of the Rental property. A written report of this independent inspection shall be filed with the City Administrator before the expiration of the five (5) day period for compliance. Such inspection must be conducted by a licensed building inspector, registered and licensed through the Texas Real Estate Commission. If this written independent inspection report conflicts in a substantial way with the preliminary inspection report, no citations may be issued for an offense under this article, until the matter is heard before the governing body of the municipality - the City Council. The owner/landlord shall be notified of the date and time of the meeting and be allowed to present their position to the full City Council. The City Administrator shall be responsible for determining whether the independent inspection report and preliminary inspection report are substantially in conflict and invoke a hearing before the City Council. The decision before the City Council on such an issue is whether to authorize the issuance of citations, to designate a period for compliance, and/or to close out an ordered inspection file.
- (J) The Owner/landlord of the rental property shall permit the City code official and/or building inspector working at the direction of the City, to enter the rental property (exterior and interior)

ORIGINAL

when necessary to review compliance with this article for the purposes of performing an inspection and/or to follow-up on a previous inspection. If the property to be inspected is occupied by a tenant or tenants, consent must be achieved of at least one occupant of legal age and authority to provide consent. If no consent of the occupants can be achieved, the City shall be responsible for seeking and obtaining a valid administrative search warrant issued by a court of competent jurisdiction to allow the designated building inspector or City code official access to perform the inspection. The time period for inspection completion shall toll during any days where a warrant is being sought to allow entry, and shall not be held against the owner/landlord for purposes of this article.

- (K) Any and all costs incurred by the City for third party inspection services related to compliance with this article shall be billed and collected from the owner/landlord. Failure to reimburse the City may lead to a civil collection action against owner/landlord, including attorney's fees and interest.

SECTION IV - ENFORCEMENT

The Code Official or any Peace Officer shall have the authority to direct a citation be issued for a violation of the provisions of this article. Due diligence will be employed in ascertaining the true owner/landowner or responsible party of the rental property subject to prosecution. The City Administrator shall use all available public records (CAD, water, voting, etc.) to identify such person(s)/entities. In no case shall a separate citation be issued to more than one owner for the same occurrence or offense.

SECTION V – PUBLICATION

The City Secretary is hereby directed, if required by law, to post or publish in the official newspaper of the City, the caption, publication clause and effective date clause of this ordinance in one issue of the official newspaper of the City, provided that the official newspaper is a weekly paper, in accordance with Section 52.011 of the Texas Local Government Code. The City Secretary is also hereby directed to incorporate the provisions of this Ordinance into the City of Cottonwood Shores Code of Ordinances by placing it on the City's website.

SECTION VI - PERSON IN VIOLATION OF ORDINANCE

The individual cited will be the property owner, primary occupant, or person in general control of the property or event.

SECTION VII - 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 person violating any provision of this article is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation is hereby declared a:

- (A) Criminal prosecution. Any person or entity violating any provision of this Ordinance shall, upon conviction, be fined a sum not exceeding two thousand dollars (\$2,000.00). Each day that a provision of this article is violated shall constitute a separate offense. An offense is a Class C misdemeanor.
- (B) Allegation and evidence of a culpable mental state is not required for the proof of an offense defined by this chapter.

ORIGINAL

- (C) 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, including, but not limited to the following:
- 1) Injunctive relief to prevent specific conduct that violates this Ordinance or to require specific conduct that is necessary for compliance; and
 - 2) A civil penalty up to one hundred dollars (\$100.00) a day when it is shown that the defendant was actually notified of the provisions and after receiving notice committed acts in violation of, or failed to take action necessary for compliance with this Ordinance; and
 - 3) Other available relief.

SECTION VIII - SEVERABILITY

Should any section or part of this Ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstance thereof ineffective or inapplicable such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect impair or invalidate the remaining portions thereof but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this Ordinance are declared to be severable.

SECTION IX - REPEAL OF CONFLICTING ORDINANCES

All ordinances or parts of ordinances inconsistent with or in conflict with this Ordinance are hereby repealed to the extent of such inconsistency or conflict.

SECTION X - SAVINGS CLAUSE

All rights and remedies of the City are expressly saved as to any and all violations of the provisions of any ordinances affecting noise or the regulation of noise as a nuisance within the City which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION XI - EFFECTIVE DATE

This Ordinance shall take effect immediately from and after its passage.

SECTION XII - 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, Texas Government Code.

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 3 YEAS, 1 NAY AND 0 ABSTAINS.



Donald Orr, Mayor

ORIGINAL

ATTEST:


Sheila C. Moore
City Administrator/City Secretary

