

**City of Cottonwood Shores**

**ORDINANCE 5005**

**AN ORDINANCE OF THE CITY OF COTTONWOOD SHORES, TEXAS,  
PROVIDING FOR FIRE CONTROL METHODS AND THE PREVENTION OF  
WILDFIRES, DURING PLANNING; ESTABLISHING PENALTIES AND  
PROVIDING FOR OTHER RELATED MATTERS.**

History: March 2, 2017: Amended to reflect establishment of control methods during planning of developments and enforcement.

**ARTICLE I: STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE  
AND METHODS**

**SECTION A. STATUTORY AUTHORIZATION**

The City of Cottonwood Shores has adopted the International Fire Code, 2006 Edition, as published by the International Code Council, in City Ordinance 3001. This ordinance is intended to further enhance the fire control efforts within the City of Cottonwood Shores, Texas, for wildfires.

**SECTION B. FINDINGS OF FACT**

- (1) Cottonwood Shores is an area that has the potential to be drought prone and where a wildfire (in this document referred to as an outdoor fire) could cause wide spread harm.
- (2) The City of Cottonwood Shores is subject to wildfires that could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures, all of which may adversely affect the public health, safety and general welfare.
- (3) The potential for wildfires is an area of control that City of Cottonwood Shores, Texas wishes to better establish and enforce planning of development, but is not meant to infringe on individual rights.
- (4) There is a desire by City Council to limit property damage and protect community assets

**SECTION C. STATEMENT OF PURPOSE**

It is the purpose of this Ordinance to promote the public health, safety and general welfare and

to minimize public and private losses due to wildfires conditions through defined planning criteria in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for wildfire control projects where possible use of existing local features can become part of a fire-control plan;
- (3) Minimize the need for rescue and relief efforts associated with wildfires and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions; and,
- (5) Minimize damage to public facilities and utilities.

#### **SECTION D. METHODS OF REDUCING WILDFIRE LOSSES**

In order to accomplish its purposes, this Ordinance uses the following methods:

- (1) Restrict, prohibit, or recommend uses in outdoor areas that are dangerous to health, safety or property in times of wildfires or cause increases in wildfire potential.
- (2) Control the possible sources of wildfire fuel leading to the possible spread of the fire.
- (3) Provide guidance to individual home owners on methods to reduce the threat of wildfires.

#### **ARTICLE 2: DEFINITIONS**

- (1) Brush – vegetation under seven (7) feet in height with fibrous stalks not cultivated or cared for by the person owning or controlling the premises.
- (2) Building Scale – This special definition applies to both the developed and undeveloped lands in Cottonwood Shores. However, this ordinance does not change any requirements of the existing building or zoning code. Building scale applies directly to the planning of structures, such as houses, garages, and other accessory structures.
- (3) City – the City of Cottonwood Shores, Texas in Burnet County.
- (4) Individual Lot Scale – This special scale would apply to developed lands, undeveloped lands, and public lands in Cottonwood Shores. Individual lot scale tools are applied to the layout or development of an individual platted lot or parcel. During parcel approval, adequate street access and any required utilities will be reviewed for adequacy. If this is not the case, then additional requirements could apply.

- (5) Neighborhood/Subdivision Scale and – Neighborhood Scale are those that do not cover an entire city or county, but are designed to apply when applications for major new developments are submitted. This ordinance would primarily apply to undeveloped lands within the City of Cottonwood Shores during initial planning and layouts. Applications for the approval of new subdivisions or large Planned Unit Developments (PUDs), would be controlled and involve the layouts and location of lots (which could be in fire risk areas) and streets (which need to be accessible to firefighting equipment). In addition, PUDs or neighborhoods site layout approaches must be reviewed and approved for outdoor fire prevention.
- (6) Weeds – undesirable vegetation generally over twelve (12) inches in height not cultivated or cared for by the person owning or controlling the premises.
- (7) Wildfire – an outdoor fire not maintained or purposely set for a particular reason.

**ARTICLE 3: GENERAL PROVISIONS**

**SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES**

The Ordinance shall apply to all areas being planned that could cause a wildfire hazard within the jurisdiction of the City of Cottonwood Shores as defined by law.

**SECTION B. COMPLIANCE**

No public land use will be changed without full compliance with the terms of this Ordinance and other applicable regulations.

**SECTION C. INTERPRETATION**

In the interpretation and application of this Ordinance, all provisions shall be; (1) considered as minimum requirements; (2) liberally construed in favor of community safety; (3) does not reduce requirements of other ordinances and supersedes any other planning ordinance requirements in terms of fire control; and, (4) deemed neither to limit nor repeal any other powers granted under State statutes.

**SECTION D. WARNING AND DISCLAIMER OR LIABILITY**

The degree of wildfire protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations<sup>1</sup>. This Ordinance

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<sup>1</sup> e.g., Best Practices Guide by the National Fire Protection Agency (NFPA)

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does not imply that land inside or outside the areas of concern will not be affected by wildfires. This Ordinance shall not create liability on the part of the community or any official or employee thereof for any wildfire damages that result from reliance on this Ordinance or any administrative decision lawfully made hereunder.

### **ARTICLE 4: PROVISIONS FOR WILDFIRE HAZARD REDUCTION**

#### **SECTION A. GENERAL REQUIREMENTS**

For the purposes of this ordinance and based on information from the National Fire Prevention Association (NFPA) the City of Cottonwood Shores can be divided into different scales as related to outdoor fires:

- (1) Neighborhood/Subdivision Scale
- (2) Individual Lot Scale
- (3) Building Scale

Based on these scales, the following actions are required (mandatory) or highly recommended as noted.

#### **(1) Neighborhood/Subdivision Scale**

- a. Subdivision layouts must be approved by the City. Minimum distances as provided by the City Building Code must be included in all subdivision layouts. Clustering of structures in the lowest risk areas on the property, while still requiring all structures to be separated by a safe distance to avoid the spread of fires from structure to structure is highly recommended. Maps of fire breaks with a 30 to 50 foot fire protection zone as recommended by NFPA must be submitted as part of the approval process with 30 feet NFPA recommended fire breaks being required on PUD and residential development lands where abutting structures exist or are planned. Fire breaks on the perimeter of all PUD or residential developments must be included in the subdivision layout. Where possible, the use of natural features (e.g., lake, river, wetlands) and man-made features (e.g., roads, utility rights-of-way, ball fields) is highly recommended as fire breaks.

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- b. Structures must be located on the property to maximize the use and effectiveness of defensible space areas. This defensible space area must be shown for a specific building envelope on the subdivision plat. Density modifications or structure reductions based on the presence of wildfire hazards, where wildfire risks are greatest, is highly suggested. Wood piles or storage of flammable materials must be located greater than 30 feet from any principal structure during project development.
- c. Adequate water supply and road access are required in any subdivision plat for fire control purposes. Multiple access points must be provided to any subdivision and access roads widths and gradients must be included to allow emergency vehicles easy access. Clearance heights on subdivision entries and major streets must be twelve (12) feet above street level to allow for emergency vehicles to clear. Major roadways must have adequate width to permit two emergency vehicles to pass with an adequate margin of safety. Street signage must be included to guide emergency service providers. Fire hydrants must be included in new developments and as delineated by NFPA 291, fire hydrants must be clearly marked. These markings must follow standard practice and comply with the color codes shown in the following table.

COLOR	FLOW RATES	ADEQUACY
LIGHT BLUE	1500 GPM or more	Very good flows
GREEN	1000-1499 GPM	Good for residential areas
ORANGE	500-999 GPM	Marginally adequate
RED <sup>2</sup>	Below 500 GPM	Inadequate for Fire Control

### (2) Individual Lot Scale

- a. Individual lot scale requirements must occur during any structure improvement or development of a previously undeveloped lot. Driveways, loading areas, service areas, landscaping, buffering of adjacent uses, site lighting, fencing, and other related standards must comply with all City codes and be constructed in such a way to not hinder any fire prevention quality or exacerbate any possible existing fire hazard.

<sup>2</sup> Flow rates of this volume are not permitted in new development.

- b. Alterations to an individual lot that require a building permit must also comply with these requirements.
- c. Single-family residential lots previously approved as part of original subdivision approval are exempt as long as major changes to the original plan, as determined by the City Building Inspector, do not occur.
- d. Defensible space for fire control, such as clearing of flammable vegetation away from structures and roads as well as maintaining those areas is highly recommended after construction has occurred. Unmanaged wood piles<sup>3</sup> or storage of flammable materials is recommended to be located greater than 30 feet from any principal structure.
- e. Use of drought resistant and low combustibility plants including Lantana, Prickly Pear Cactus, Agave, Spanish Dagger, all Oaks, Texas Persimmons, Palo Verde, and Mesquite is highly recommended. Dead vegetation should be cleared from near any structure.
- f. Use of rain water or other alternate water sources that comply with other City codes to reduce dead vegetation is highly recommended.

**(3) Building Scale**

- a. These requirements do not change any requirements of the existing building codes. This is especially true of requirements of the International Building Code such as fire retardant roofing material, double paned glass, soffit enclosures, sprinkler systems in large commercial building, fire control devices in commercial building, and access for emergency service providers
- b. It is highly recommended that the outdoor environment of structures be kept clear of dead brush, weeds and vegetation to the extent possible to avoid damage due to wildfires. While removal of brush, weeds, and dead vegetation is recommended, the City reserves the right to issue citations in the event conditions occur that are deemed to create a fire hazard to nearby properties.
- c. It is highly recommended that fire extinguishers should be kept in an easily accessible location and verified annually for operation.

**(4) Overall General Considerations**

- a. The City will participate in planning to provide options to assist citizens in dry brush removal.

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<sup>3</sup> Managed wood piles include cut, stacked fire wood and building supplies.

- b. Citizen outreach programs will be investigated by the City and implemented when practical to further these wildfire prevention measures. These will include:
  - i. Programs to improve street number markings on houses making it easier for emergency services to find a location.
  - ii. Training of City staff and police officers in CPR/AED.
  - iii. Coordination between the Police and Fire Departments.
  - iv. Development between the City and the Volunteer Fire Department to coordinate as well as advertise public fire safety community education training.
  - v. The City will carefully follow all recommended practices to the greatest extent possible for City owned property.

## **SECTION B. SEVERABILITY**

If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

## **SECTION C. 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. Administration and enforcement will consist at three (3) stages of project development: during initial review, during permitting, and in the case of judicial action for non-compliance.

- a. During initial review. Any builder/developer will be made aware of wildfire control requirements contained in this ordinance during any initial discussions, during plan development, and any other contact with City officials. This is especially true of any planned activity involving the Development Committee. The requirements of this ordinance will act as a guide during any decision making process. Input from local fire control organizations will also be considered.
- b. During permitting. During the permitting process, the requirements of this ordinance must be included in any final document or plans.
- c. Judicial action for non-compliance. Non-compliance with this ordinance during project development and implementation will result in injunctive relief and/or a

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criminal violation being brought against the builder of record. Any Police Officer or Code Enforcement Officer is authorized to enforce the provisions of this ordinance once being made aware by City Staff.

**(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.

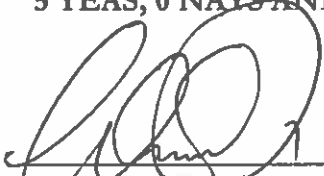
**(3) Civil Remedies**

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.

**ARTICLE 5: EFFECTIVE DATE**

This ordinance of the City of Cottonwood Shores will become effective after passage by the City Council and posting as required by law. 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 Texas Open Meetings Act, Chapter 551, Texas Government Code.

**AMENDED ORDINANCE PASSED AND ADOPTED THIS THE 3<sup>RD</sup> DAY OF MARCH, 2017, 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.**

  
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Donald Orr, Mayor



Attest:

  
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Sheila C. Moore

Sheila C. Moore  
City Administrator/City Secretary