

City of Cottonwood Shores

ORDINANCE 8007

AN ORDINANCE OF THE CITY OF COTTONWOOD SHORES, TEXAS DECLARING DEFINITIONS; DECLARING DUMPING, LITTERING, TRASH, GARBAGE, RUBBISH, STAGNANT WATER, BRUSH AND WEEDS AS A PUBLIC NUISANCE; PROVIDING PROCEDURES FOR THE ABATEMENT AND REMOVAL OF SUCH PUBLIC NUISANCES; PROVIDING PENALTY; PROVIDING SEVERABILITY; REPEALING ANY PRIOR ORDINANCE IN CONFLICT WITH THIS ORDINANCE; AND PROVIDING FOR PUBLICATION OF NOTICE OF THIS ORDINANCE.

WHEREAS, Ordinance 3001 of the City of Cottonwood Shores adopted the International Property Maintenance Code of 2006; and

WHEREAS, The City is responsible for the protection of its citizenry;

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

SECTION 1 – History:

- 1. April 05, 2012: Ordinance 8007 adopted, repealing Ordinance 012491-B**
- 2. April 19, 2012: Changes adopted to include abatement on improved as well as unimproved lots.**
- 3. July 5, 2012: Changes adopted to include allowing the Code Official to issue a citation to the property owner requiring their appearance before the Municipal Court**
- 4. August 7, 2014: Amended to add enforcement clause**
- 5. November 6, 2014: Amended notification process**
- 6. October 15, 2015: Amended to include fines for illegal dumping**
- 7. May 19, 2016: Increased fine for Section 4 from \$200.00 to \$1,000.00**
- 8. March 16, 2017: Added definition of Public Nuisance, Stagnant Water. Unimproved/unserved lots are considered natural habitats.**
- 9. May 18, 2017: Added Exhibit A to specify which improved and unimproved lots, within the City Limits, are subject to enforcement under this Ordinance.**

SECTION 2 – DEFINITIONS: Unless specifically defined below, words or phrases used in this Ordinance will be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application

- 1. Brush** will include all trees and shrubbery less than seven (7) feet in height not cultivated and cared for by the person owning or controlling the premises.

2. **Appeals Administrator** means the Mayor or other representative appointed by the City Council of the City of Cottonwood Shores, Texas duly designated and authorized to resolve appeals made under the provisions of this Ordinance.
3. **Code Official** means the representative of the City of Cottonwood Shores, Texas, duly designated and authorized to enforce the provisions of this Ordinance.
4. **Earth and Construction Materials** means earth, rocks, concrete and other waste materials resulting from construction or remodeling of a building or structure.
5. **Garbage** means household waste products including, but not restricted to, food wastes, cans, bottles, rags, paper and food containers.
6. **Improved Lot** means any segregated or defined tract or parcel of land, or two or more such contiguous tracts or parcels of land under one ownership, which meets one or more of the following criteria
 - 6.1. A residence or other structure has been constructed on the lot.
 - 6.2. The lot has been landscaped, terraced or altered in such a manner as to change the natural condition and cause it to stand out among adjacent unimproved properties, or
 - 6.3. Is commonly used for human activities.
7. **Lot** will have its meaning as an improved lot or unimproved lot as defined in this Ordinance, but will also include, in addition to the land within its boundaries, all land adjacent to and extending beyond the property line to the curb line of adjacent streets, and, where no curb exists, to the existing street surface.
8. **Owner** means any individual, partnership, firm, corporation, company or association that is in control of a property as the owner thereof, or any tenant, lessee, or other occupant of property under an existing agreement or understanding with the owner thereof.
9. **Person** means any individual, partnership, firm, corporation, company or association of any kind.
10. **Public Nuisance** is defined as a state of property that obstructs or damages the rights of the community.
11. **Rubbish** and **Trash** mean solid waste consisting of either combustible or noncombustible waste materials; combustible waste materials include paper, rags, cartons, wood, lumber, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and like materials; noncombustible waste materials include glass, crockery, metal cans, metal furniture, and like materials which will not burn at incinerator temperatures of sixteen hundred (1,600) to eighteen hundred (1,800) degrees Fahrenheit.
12. **Stagnant Water** as defined in this Ordinance will only apply to open water containment caused by negligence of individuals. Examples include uncontrolled holding areas caused by rubbish and deliberate actions that cause improper drainage of areas.
13. **Unimproved Lot** means any segregated or defined tract or parcel of land, or two or more such contiguous tracts or parcels of land under one ownership, which does not meet the criteria of an improved lot as defined in this Ordinance and is not in regular use for any activity.
14. **Weeds** mean all uncultivated plant matter, other than brush as defined in this Ordinance and trees, which has grown to a height of more than twelve (12) inches.

If the sense requires it, words of the present tense include the future tense, words in the masculine gender include the feminine or neuter gender, words in the singular number include the plural number, and words in the plural number include the singular number.

SECTION 3 – LITTERING, DUMPING OF RUBBISH, TRASH, EARTH AND CONSTRUCTION MATERIALS DEEMED AS A PUBLIC NUISANCE:

It will be unlawful and will be deemed a public nuisance for any person to dump, throw, drop, place, sweep or deposit any trash, rubbish, tires, animal, offal or other substances whatsoever of an offensive nature or deleterious to health; in or upon any lot, street, park or public place, or in or upon the waters of any canal, stream or other watercourse or public waters, or in any drain, sewer or receiving basin within the Corporate limits of the City of Cottonwood Shores, Texas.

SECTION 4 – STAGNANT WATER, WEEDS, BRUSH, RUBBISH, TRASH, EARTH AND CONSTRUCTION MATERIALS DEEMED AS A PUBLIC NUISANCE:

1. It will be unlawful and will be deemed a public nuisance for an owner or occupant of any improved or unimproved lot within the Corporate limits of the City of Cottonwood Shores, Texas, as defined in Exhibit A attached, to fail to keep the property owned or occupied free of stagnant water, weeds, brush, rubbish, trash or garbage (unless placed on property pursuant to and in compliance with other Ordinances or regulations of the City of Cottonwood Shores).

SECTION 5 – NOTIFICATION FOR A PUBLIC NUISANCE:

1. Whenever a public nuisance, as defined by this Ordinance, is alleged to exist on private property or on any public property or public right-of-way, the Code Official will investigate the alleged offense. If the Code Official concurs that a public nuisance exists, the Code Official will place a notice in clear view at the front of the property, and/or mail written notice to remove and abate the public nuisance by first class mail, to the last known address of the perpetrator of the public nuisance, or to the last known owner or occupant of the private premises on which the public nuisance exists, or to the owner or occupant of the premises adjacent to the public property or public right-of-way on which the public nuisance exists, containing the following information:
 - 1.1. Stating the nature of the public nuisance; and
 - 1.2. Stating that the public nuisance must be removed and abated within ten (10) days of receipt of the notice; and
 - 1.3. Stating that the person to whom the notice is directed has the right to contact City Hall to make arrangements to rectify the nuisance before the expiration of the ten (10) day period for removal and abatement.
2. If the written notice is returned undelivered by the United States Post Office, a second, larger copy of the written notice shall be posted in a conspicuous place on the front of the property and official action to abate the nuisance may be continued ten (10) days following the date of the return.
3. If the person entitled to notice fails to either remove or abate the public nuisance or to contact City Hall within ten (10) days after service of written notice, then the Code Official may cause to be filed in Municipal Court a complaint against such person for maintaining a public nuisance in violation of this Ordinance.

SECTION 6 – PENALTY: Any individual who fails to comply with any provision of this Ordinance commits an offense punishable as a City Ordinance violation.

1. An offense under **Section 3** of this Ordinance - LITTERING, DUMPING, WEEDS, BRUSH, RUBBISH, TRASH, EARTH AND CONSTRUCTION MATERIALS DEEMED AS A PUBLIC NUISANCE - shall be processed as per the Texas Litter Abatement Act:

- a. Class C Misdemeanor – Amount dumped weighs 5 pounds or less or has a volume of 5

gallons or less: the offense will be filed with the Municipal Court of Cottonwood Shores by complaint or citation issued by any peace officer of the State of Texas and is punishable by the assessment of a fine not to exceed five hundred dollars (\$500.00).

- b. Class B Misdemeanor – Amount dumped weighs more than 5 pounds but less than 500 pounds or has a volume of more than 5 gallons but less than 100 cubic feet, the maximum penalty is: a fine not to exceed \$2,000.00, confinement in jail for a term not to exceed 180 days, or both.
- c. Class A Misdemeanor – Amount dumped weighs 500 pounds or more, but less than 1,000 pounds, or has a volume of 100 cubic feet or more, but less than 200 cubic feet, OR if it was disposed of for a commercial purpose and weighs more than five pounds but less than 200 pounds or has a volume of more than 5 gallons but less than 200 cubic feet, the maximum penalty is: a fine not to exceed \$4,000.00, confinement in jail for a term not to exceed one year, or both.
- d. State Jail Felony – Amount dumped weighs 1,000 pounds or more or has a volume of 200 cubic feet or more OR if it was disposed of for a commercial purpose and weighs 200 pounds or more or has a volume of 200 cubic feet or more, or is contained in a closed barrel or drum, the maximum penalty is: confinement in a state jail for not more than two years, but not less than 180 days, and the individual may also be fined an amount not to exceed \$10,000.00.

2. An offense under **Section 4** of this Ordinance – STAGNANT WATER, WEEDS, BRUSH, RUBBISH, TRASH, EARTH AND CONSTRUCTION MATERIALS DEEMED AS A PUBLIC NUISANCE – shall be filed with the Municipal Court of Cottonwood Shores by complaint or citation issued by any peace officer of the State of Texas and is punishable by the assessment of a fine not to exceed one thousand dollars (\$1,000.00) and each day of such violation shall be a separate violation.

SECTION 7 – SEVERABILITY: If any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this Ordinance will not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion thereof, or provisions or regulations contained herein, will become inoperative or fail by reason of any unconstitutionality of any other portion hereof and all provisions of this Ordinance are declared to be severable for that purpose.

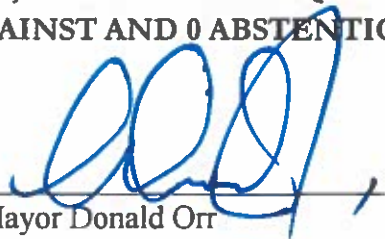
SECTION 8 – REPEAL OF PRIOR ORDINANCES: Upon the effective date of this Ordinance, any prior Ordinance or part thereof in conflict with this Ordinance or any part hereof will be deemed and is hereby repealed and rendered null and void.

SECTION 9 – PUBLICATION: The descriptive caption of this Ordinance is hereby ordered to be published in the official newspaper of the City of Cottonwood Shores, Texas and said Ordinance will take effect from and after such publication.

ORIGINAL

SECTION 10 – OPEN MEETING: 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 Texas Open Meetings Act, Chapter 551, Texas Government Code.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF COTTONWOOD SHORES, TEXAS, AT A MEETING ON THE 16TH DAY OF MARCH 2017, THERE BEING A QUORUM PRESENT, WITH 3 VOTES IN FAVOR, 0 VOTES AGAINST AND 0 ABSTENTIONS.



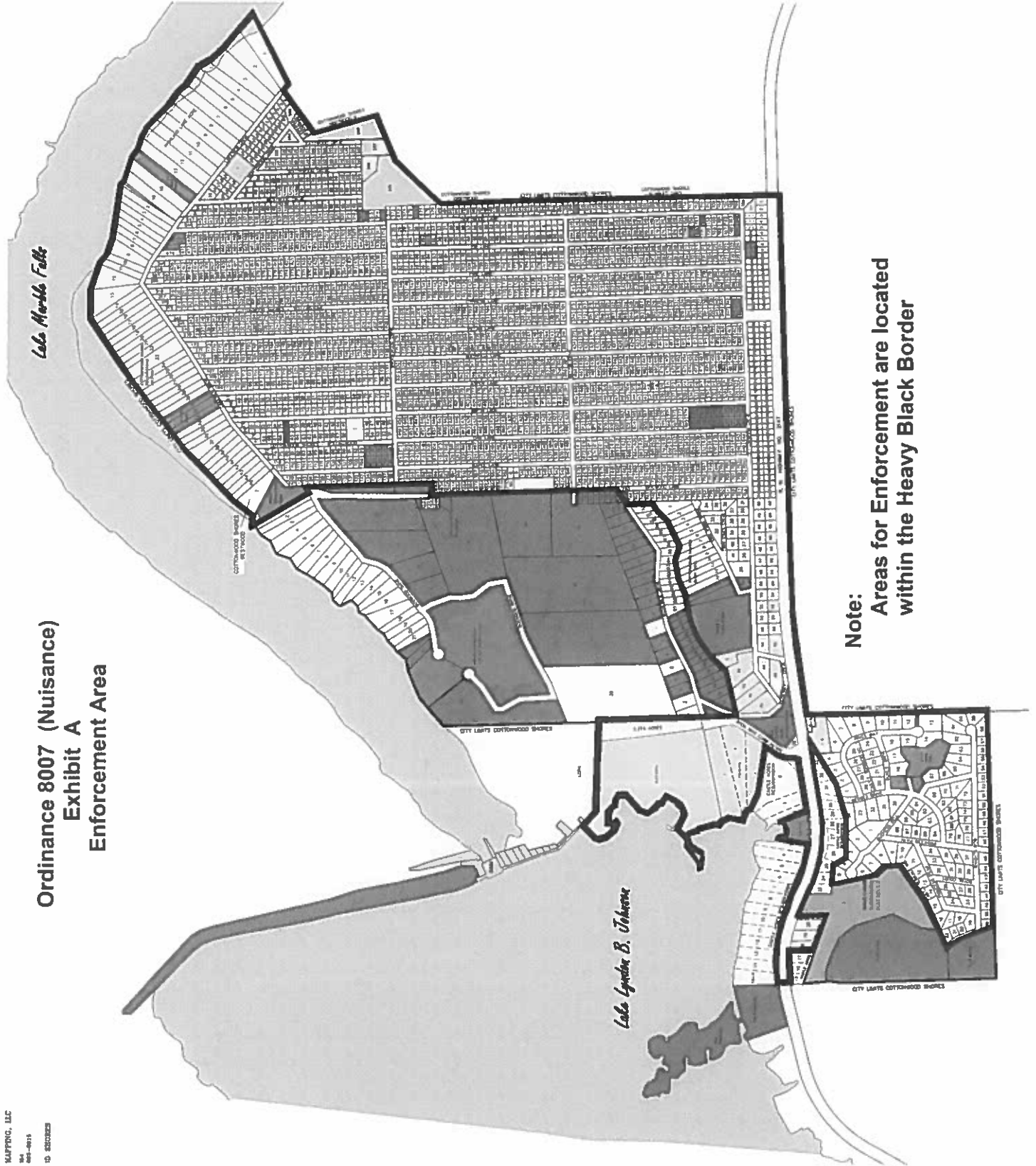
Mayor Donald Orr





Sheila C. Moore,
City Administrator/City Secretary

Ordinance 8007 (Nuisance) Exhibit A Enforcement Area



Note:
Areas for Enforcement are located
within the Heavy Black Border