

**City of Cottonwood Shores**

**ORDINANCE 8007**

**AN ORDINANCE OF THE CITY OF COTTONWOOD SHORES, TEXAS DECLARING DEFINITIONS; DECLARING 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 FOR REVIEW OF APPEALS; PROVIDING PENALTY; PROVIDING SEVERABILITY; REPEALING ANY PRIOR ORDINANCE IN CONFLICT WITH THIS ORDINANCE; AND PROVIDING FOR PUBLICATION OF NOTICE OF THIS ORDINANCE.**

**WHEREAS,** Ordinance 3017 of the City of Cottonwood Shores adopted the International Property Maintenance Codes; 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. August 16, 2018: Updated IBC

**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 under 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 Commission 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, or
  - 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. The lot is used to hold a residential or commercial septic field whether absorption or evaporative type.
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. "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.
11. "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.
12. "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.
13. 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, 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 any person to throw, drop, place, sweep or deposit any trash, rubbish, weeds, brush, offal or other substances whatsoever of an offensive nature or deleterious to health; in or upon any street, sidewalk, park or other 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.
2. It will be unlawful and will be deemed a public nuisance for an owner or occupant of any improved lot within the Corporate limits of the City of Cottonwood Shores, Texas to fail to keep the property owned or occupied by him and the sidewalks adjoining such property 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).

3. It will be unlawful and will be deemed a public nuisance for an owner of any unimproved lot within the corporate limits of the City of Cottonwood Shores, Texas to fail to keep such unimproved lot free of rubbish, trash or garbage.

**SECTION 4 – 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 mail written notice to remove and abate the public nuisance, by certified mail with a five (5) day return receipt requested, to the perpetrator of the public nuisance, if known, 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 a hearing, upon request, and that request for such hearing must be made 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, 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 request a hearing 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 5 – HEARING, RESOLUTION OF, REMOVAL AND ABATEMENT:**

1. Any hearing conducted upon request of any person entitled to written notice as set out in this Ordinance, made within ten (10) days after receipt thereof, will be conducted by the Appeals Administrator no less than two (2) days and not more than ten (10) days after receiving the request.
2. Upon hearing the evidence and arguments of all persons entitled to and having requested said hearing as set out herein, the Appeals Administrator will issue a resolution either dismissing the written notice or ordering the public nuisance removed and abated by the person requesting the hearing within ten (10) days following the date of the resolution.
3. Should the resolution of removal and abatement fail to be complied with in the time period specified therein; the Code Official will issue a citation to the property owner requiring their appearance before the Municipal Court of the City of Cottonwood Shores, Texas 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.

An offense under this section shall be filed with the Municipal Court of Cottonwood Shores by complaint or citation issued by the Code Official or any peace officer of the State of Texas and

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is punishable by the assessment of a fine not to exceed two hundred dollars (\$200.00) 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.

**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.

**AMENDED ORDINANCE PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF COTTONWOOD SHORES, TEXAS, AT A MEETING ON THE 16<sup>TH</sup> DAY OF AUGUST 2018, WITH 3 VOTES IN FAVOR, 0 VOTES AGAINST AND 0 ABSTENTIONS.**



Donald Orr, Mayor



Attest:



Sheila C. Moore  
City Administrator/City Secretary