

ORDINANCE NO. 2268

INTRODUCED BY: ALLEN-THOMAS, FRANK, GRIMES, GUARDIOLA, HURST,
HUSEMAN, MADERA, NOBLE, SMITH

AN ORDINANCE AMENDING SECTIONS 3-2304 AND 6-2012, CONSOLIDATING SECTIONS 6-2012 AND 6-2013, AND REPEALING AND SAVING SECTION 6-2013 OF THE COMMERCE CITY REVISED MUNICIPAL CODE TO MODIFY RESPONSIBILITIES AND STANDARDS FOR THE MAINTENANCE OF WEEDS AND GRASSES AND INCREASING PENALTIES FOR NONCOMPLIANCE

WHEREAS, the City of Commerce City ("City") is a home rule municipality organized pursuant to the laws of the State of Colorado; and

WHEREAS, in order to further the City's goals of achieving consistent maintenance standards for an aesthetically pleasing environment and protecting residents and the public from potential safety hazards, the City wishes to revise certain sections of the Commerce City Revised Municipal Code ("Code") that address maintenance responsibilities and requirements of land owners and occupants in the City;

WHEREAS, more specifically, the City seeks to amend and consolidate existing Code Section 6-2012 - Weeds and Vegetation and Section 6-2013 – Unsafe Sidewalks and Rights of Way into new Section 6-2012 – Maintenance of Property to establish more consistent vegetation growth height standards and better delineate the maintenance responsibilities of property owners and occupants, both on their properties and beyond private property lines in the public right-of- way; and

WHEREAS, additionally, the City desires to amend Code Section 3-2304 - Penalties to increase penalties associated with violations of Section 6-2012, including raising the penalty amounts for repeated violations to the maximum permitted under state law; and

WHEREAS, the City Council finds and determines that amending the Code in the manner set forth in the attached Exhibit A and Exhibit B is and shall be in the best interests of the residents of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO AS FOLLOWS:

SECTION 1. That the Commerce City Revised Municipal Code is hereby amended as set forth in "Exhibit A," and "Exhibit B," attached hereto and incorporated herein by reference.


SECTION 2. Except as specifically set forth herein, the provisions of the Commerce City Revised Municipal Code shall remain unchanged and in full force and effect.

SECTION 3. This ordinance shall become effective as provided by the Charter of the City of Commerce City.

INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE ORDERED
THIS 15TH DAY OF MARCH, 2021.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED
THE 19TH DAY OF APRIL, 2021.

CITY OF COMMERCE CITY, COLORADO



Benjamin A. Huseman, Mayor

ATTEST



Dylan A. Gibson, City Clerk

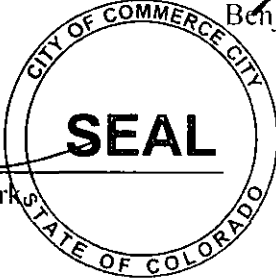


Exhibit A to Ordinance 2268

Sec. 3-2304. - Penalties.

- (a) The following minimum penalties are hereby established for violations prosecuted under this article; provided, however, that the minimum penalties for violations of any provision identified as a civil infraction in chapter 4 of this Code shall be fifty (50) percent of the amounts set forth in this section:
- (1) A minimum penalty of one hundred dollars (\$100.00) shall be imposed against the responsible party for the first violation of a particular code provision within any consecutive twelve-month period.
 - (2) For each successive violation of the same code provision within any twelve-month period, minimum penalties shall be imposed against the responsible party as follows:
 - a. Second violation: three hundred dollars (\$300.00).
 - b. Third violation: five hundred dollars (\$500.00).
 - c. Fourth or greater violation: nine hundred ninety-nine dollars (\$999.00).
 - (3) Notwithstanding the foregoing, the minimum penalties for violations of any provision of section 6-2012(b)(1) of this Code on a property of a size equal to one acre or larger, shall be as set forth in this section:
 - a. First violation: five hundred dollars (\$500.00).
 - b. Second violation: nine hundred ninety-nine dollars (\$999.00).
 - c. Third violation: two thousand six hundred fifty dollars (\$2650.00) or the Maximum Fine, whichever is greater.
 - d. The Maximum Fine shall be two thousand six hundred fifty dollars (\$2650.00) adjusted for inflation on January 1, 2014, and on January 1 of each year thereafter. "Inflation" shall mean the annual percentage change in the United States department of labor, bureau of labor statistics, consumer price index for Denver-Boulder, all items, all urban consumers, or its successor index, currently the index for Denver-Aurora-Lakewood.
 - (34) Where multiple violations of a single Code provision are found, the applicable minimum penalty shall be imposed for each count.
- (b) Payment of a penalty shall neither excuse the failure to correct a violation nor bar further enforcement action by the city.
- (c) All penalties imposed and fees assessed shall be payable to the city.
- (d) The failure of a responsible party to pay the penalties imposed within the time specified in any notice of assessment issued in accordance with this article, or in the enforcement order if a protest hearing was held, may result in the assessment of a late fee in an amount set by city council resolution, and the city manager may refer the matter for collection by whatever means are available to the city.
- (e) Any action or other process provided by law may be maintained by the city to recover or collect any amounts, including late fees, interest and administrative costs, owing under this article.

(Ord. No. 1848, § 1, 1-10-2011)

Exhibit B to Ordinance 2268

Sec. 6-2012. – Maintenance of Property ~~Weeds and vegetation.~~

(a) Definitions

(a) ~~Definitions.~~ When used in this section, the following words, terms and phrases shall have the meanings ascribed herein:

- (1) *Brush* means the cuttings from trees and/or bushes and shall include fallen branches in excess of two (2) inches thick at the widest point and three (3) feet in length and all stacks of wood, excluding lumber; but including firewood in excess of two (2) neatly stacked cords.
- (2) *Developed property* means any property that is not an undeveloped property ~~upon which a structure has been constructed or that is used for parking or storage.~~
- (3) *Noxious weed* means any plant that has been designated as such on the noxious weed table as may be posted on the city's website or in the City of Commerce City Noxious Weed Management Plan.
- (4) *Poisonous plant* means any plant that may be detrimental to health of persons or animals including, without limitation, poison ivy and ragweed.
- (5) *Property* means the owner or occupant's real property including its fixtures and appurtenances, regardless of size. The phrase "extended property" shall include, in addition to the privately owned property, ~~lot or tract of land,~~ the "adjacent public right of way." The phrase "adjacent public right of way" shall include all land and improvements located in the right of way from the centerline, and in any public alley from the centerline of the alley to the property line. If the centerline is within a roadway, then the extended property shall include only that portion up to the edge of the roadway. ~~sidewalk, curb and/or gutter of any street abutting such lot or tract of land and the area from the property line of the lot or tract of land to the center of any alley abutting the lot or tract of land.~~ The term "property" "adjacent public right of way" shall not include (1) any city-designated open space ~~or trails~~ or (2) center medians within a right of way of a principal or minor arterial roadway.
- (6) *Roadway* means any street or road, regardless of construction method or surface material, regularly open to the public for travel. ~~Weed means any herbaceous plant that, due to height, smell, appearance, or injurious nature, has a blighting influence on the neighborhood.~~
- (7) *Undeveloped property* means any property that lacks structures or is not used for parking or storage ~~and upon which no structure has been constructed~~ serviced by water, sewer, electrical, and natural gas infrastructure.
- (8) *Weed* means any herbaceous plant that, due to height, smell, appearance, or injurious nature, has a blighting influence on the neighborhood.

(b) ~~Prohibitions.~~ Duty to Maintain

(1) ~~Weeds and grass growth.~~

- a. ~~It shall be unlawful for the owner or occupant of any developed property to permit weeds or grass to grow to a height of more than eight (8) inches anywhere on or within the property.~~
- b. (a) ~~It shall be unlawful for~~ The owner or occupant of any undeveloped developed property and any property less than or equal to one (1) acre in size ~~to permit~~ shall maintain weeds ~~or and grass to grow~~ to a height of no more than eight (8) inches anywhere on or within the extended property.
- e. (b) ~~It shall be unlawful for~~ The owner or occupant of any undeveloped property, the size of which is ~~at least greater than one (1) acre and not greater than five (5) acres,~~ ~~to permit~~ shall maintain weeds ~~or and grass to grow~~ to a height of no more than sixteen (16) inches anywhere on ~~or within the property and eight (8) inches anywhere on or within the adjacent public right of way.~~ property.

d. ~~It shall be unlawful for the owner or occupant of any undeveloped property greater than five (5) acres in size to permit weeds or grass to grow to a height of more than sixteen (16) inches on any portion of the property that is within twenty (20) feet of any adjacent developed property, tract, or parcel, or any adjacent road, as measured from the boundary of the right-of-way of the adjacent road that is nearest the undeveloped property.~~

e.(c) Two (2) or more contiguous lots, tracts ~~and/or~~ parcels of undeveloped property under single ownership, whether or not platted, ~~may~~ will be aggregated to constitute a single property for the purposes of this section. Lots, tracts ~~and/or~~ parcels of property separated by a public or private roadway or other right-of-way, regardless of ownership, shall not be considered contiguous for the purposes of this section.

f. (d) Exceptions. Notwithstanding the foregoing, the prohibitions duty to maintain set forth in this subsection (b)(1) shall not apply to the following:

4. i. Ornamental grasses;

ii Wetlands;

2. iii Native grasses and other native plant materials identified in the city's ~~a~~Approved ~~p~~Plant species ~~l~~List; or

3. ~~Any property, regardless of city zoning classification, identified by the Adams County Assessor as agricultural, with the exception of any portion of such property within twenty (20) feet of any street or highway classified by the city as an arterial roadway, the weed and grass growth upon which such portion shall not exceed sixteen (16) inches in height.~~

—iv Public right of way adjacent to Property that (1) has been actively farmed with commercial crops for the last 3 years, (2) is greater than one acre, and (3) lacks curb, gutter, and sidewalk.

(2) *Diseased or dead woody vegetation.* All trees, shrubs, bushes, hedges and other woody vegetation within the city shall be adequately pruned or removed when such trees, shrubs, bushes, hedges or other woody vegetation harbor insects or disease that constitute a threat to other trees, shrubs, bushes, hedges or other woody vegetation or constitute a hazard in general to the public health, safety and welfare. The stump of any tree removed due to disease must be completely removed from the ground unless, in the opinion of a certified arborist, the diseased stump poses no danger to surrounding vegetation. Stumps that do not pose a danger to surrounding vegetation may remain on the property at a height not to exceed twenty-four (24) inches.

(3) *Poisonous plants and noxious weeds.* ~~It shall be unlawful for t~~The owner or occupant of any property ~~to permit~~ shall maintain the property such that ~~the growth of any~~ no noxious weed or poisonous plant grows upon such the property and shall not ~~or to~~ allow seed, pollen or other particles or emanations from such noxious weeds and poisonous plants to be carried from such property ~~into any public place.~~

(4) *Brush.* It shall be unlawful for the owner or occupant of any property to permit brush to remain upon such extended property for more than fourteen (14) days.

(5) *Encroachment of vegetation on public spaces.* ~~It shall be unlawful for t~~The owner or occupant of any property shall ~~to fail to~~ cut, trim, prune or remove as necessary any trees and other vegetation located upon such extended property in accordance with the following requirements:

a. Vegetation other than trees shall be maintained so as not to encroach upon the plane of a public sidewalk or ~~street~~ roadway.

b. Tree branch growth shall be maintained to a height not lower than ten (10) feet above any public sidewalk and not less than fifteen (15) feet above the travel lanes of any street or alley.

- c. Branches, trees and other vegetation shall be maintained so as not to obscure any street name signs, traffic signs, traffic control devices or sight triangles.
- d. Branches or trees that are broken, hanging, decayed or that otherwise threaten public property or the safe use thereof shall be removed.

(Ord. No. 1895, § 1, 6-4-12; Ord. No. 2051, § 1, 6-15-15; Ord. No. 2080, § 1, 6-6-16)

~~Sec. 6-2013.~~

(6) Unsafe sidewalks and rights-of-way.

~~(a) Hazards and obstructions:~~

~~(a)(1) It shall be unlawful for~~ The owner or occupant of any building, property or lot in the city ~~to fail to~~ shall maintain the ~~sidewalks adjacent to such~~ extended property and the sidewalks adjacent to or within such extended property, including those on public rights-of-way, in a clean and repaired condition and free of hazards and obstructions, including, but not limited to, tree limbs, trash containers and sports equipment.

~~(b) (2) It shall be unlawful for~~ The owner or occupant of any building, property or lot in the city ~~to~~ shall not deposit, place or otherwise locate, fail to remove or ~~to allow the deposition, placement or location, upon any public sidewalk or right-of-way adjacent to such building extended property or lot any hazard or obstruction.~~ For the purposes of this subsection (6)b, "hazard or obstruction" includes, but is not limited to ~~including, but not limited to,~~ tree limbs, trash, debris, containers and sports equipment.

~~(bc) Duty to remove Snow and ice.~~

~~(1) It shall be unlawful for~~ The owner or occupant of any building, property or lot in the city ~~to fail to~~ shall remove the ~~accumulation of snow, sleet, hail and or ice from the sidewalks adjacent to such property, including those on public rights-of-way, within twenty-four (24) hours from immediately following the last accumulation~~ cessation of the such snow, sleet, hail or ice.

~~(2) It shall further be unlawful for any~~ No person, other than an employee or agent of the city acting in the course of scope of their employment, ~~to~~ shall deposit, or cause to be deposited, any snow, sleet, hail or ice against any fire hydrant, official traffic control device or other appurtenance, or onto any public or private property that is not owned by, occupied by or otherwise under the legal control of the person without the express consent of the owner or occupant of the property.

(Ord. No. 1848, § 1, 1-10-2011)

Sec. 6-2013 - Reserved.