

ORDINANCE 02-05

AN ORDINANCE OF THE CITY OF COMMERCE, AMENDING ARTICLE II OF SECTION 38 OF THE CITY OF COMMERCE CODE OF ORDINANCES OF THE CITY OF COMMERCE, TEXAS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

BE IT ORDAINED BY THE CITY OF COMMERCE, TEXAS:

SECTION 1. AMENDMENT TO ARTICLE II, SECTION 38.

Section 38-28 of the Code of Ordinances currently titled "Growth or accumulation of weeds; rubbish; other unsightly, objectionable, or unsightly matter", is hereby amended so that said section shall reflect the following substitutions, additions and or changes:

Sec. 38-28 Growth or accumulation of weeds; grass; and vegetation.

(a) It shall be unlawful for any person having control of a lot to suffer or permit uncultivated vegetation means weeds, grass or other vegetation excluding trees, flowers, or shrubs, that are not regularly or systematically cut, mowed, pruned, fertilized, or otherwise attended or nurtured so as to induce or maintain a controlled pattern of growth to accumulate on such lot or premises and same is hereby declared a nuisance, and dangerous to the public health and welfare.

(b) In respect to grass or weeds or other vegetation, it shall be unlawful for any person having control or supervision of any lot, tract, or parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, within the corporate limits of the city to suffer or permit grass or weeds or other vegetation, except agriculture crops, trees, shrubs, flowers or other decorative or ornamental plants under cultivation, to grow on an average to a greater height than 12 inches upon the premises, or to leave such weeds or grass upon any premises after the weeds or grass has been cut and same is hereby declared a nuisance, and dangerous to the public health and welfare.

(c) Other accumulations of vegetation. It is unlawful for any owner, occupant, agent, or other person in control of premises to allow fallen trees, fallen tree limbs or fallen branches, brush, or underbrush growth to accumulate upon such premises and same is hereby declared a nuisance, and dangerous to the public health and welfare. However, these restrictions shall not apply to natural or nature parks so designated by the City Council.

(d) The provisions of this section shall be applicable to all railroad rights-of-way within the city.

(e) Refuse, garbage, etc. It shall be unlawful for any person, firm or corporation to deposit anywhere in the city limits any piles of refuse, garbage, offal or carcasses of dead animals and same is hereby declared a nuisance, and dangerous to the public health and welfare. Such refuse must be taken to the city dump grounds or other wise properly disposed of. Any pile of refuse is hereby declared to be a nuisance.

(f) Unsheltered storage of old, unused, etc., objects and equipment. Unsheltered or in public view from the street or other public or private property; storage of old, unused, abandoned or discarded objects or equipment such as furniture, stoves, refrigerators, freezers, washing machines, clothes dryers, cans, containers and the like, as well as scattered or deposited lumber, junk, trash, or debris and other personal property of any kind which is no longer safely usable for

the purposes for which it was manufactured, for a period of thirty (30) days or more (except in licensed junkyards), within the corporate limits of this city is hereby declared to be a nuisance, unlawful, and dangerous to the public health and welfare.

(g) Notice. It shall be unlawful for any person, firm or corporation to permit or maintain the existence of any nuisance on any property under his, her or its control. The building inspector, fire marshal, code enforcement officer or duly appointed agent authorized by the City Manager are each hereby authorized to abate any such nuisance existing in the city, whether such nuisance is specifically recognized by ordinance or not. Provided, however, that whenever the building inspector, fire marshal, code enforcement officer or duly appointed agent authorized by the City Manager shall be of the opinion that a nuisance exists in the city limits, he shall file a written statement to this effect with a duly authorized agent. Said Agent shall thereupon (cause) written notice to be served upon (1) the owner thereof by certified mail addressed to the property owner at the address recorded in the records of the Hunt County Appraisal District, or by personal service and (2) the owner and occupant, if any, thereof by posting the notice in a conspicuous place on the property to which the violation relates. If neither of these two methods of delivery prevails with success, then notice must be given by publication at least once in a local newspaper of general circulation. Notice shall state that such a situation exists and is a nuisance and that same should be remedied at once. Such notice maybe in the following terms:

To: _____ (owner/occupant) known and described as
_____ (address).

You are hereby notified that _____ (describe situation) on the premises above mentioned has been condemned as a nuisance after inspection by _____.

The causes for this decision are _____ (here insert the facts as to the dangerous condition).

You must remedy this condition immediately or the City of Commerce will proceed to do so.

(h) Failure to comply with notice or take appeal. If the person receiving the notice has not complied therewith or taken an appeal from the determination of the officer or employee finding that a nuisance exists, within ten (10) days from the time when this notice is served as outlined in (g) above, the building inspector may proceed to remedy the condition or nuisance. Should said condition or nuisance be remedied by the city at its own expense or by contracting the removal or remedy of the said nuisance or conditions is hereby authorized and created, to be assessed and levied against the realty upon which said condition or nuisance existed, and the city finance officer or other form required by law, to be duly recorded in the appropriate public records of the county, and said lien, as long as same remains unpaid, shall draw interest at the highest rate of interest allowed by law.

38.29 Violations: penalties

(a) Initial violations. Any person, firm or corporation violating any provision of this article by permitting a nuisance to remain after notice and due notice given to the owner as provided in subsection (a), shall be fined not less than one dollar (\$1.00) nor more than two thousand dollars (\$2000.00) for each offence; and a separate offence shall be deemed committed on each day during or on which a violation occurs or continues.

(b) Repeat violations within one year. In the original notice of violation under this Section, the City of Commerce shall inform the property owner that future violations on the same property that occur within one year of the date of the original notice may be corrected by the City without further notice and at the owner's expense, and that expenses may be assessed against the property. Such notice for future violations within one year shall also require a posting on the property pursuant to subsection a, even if the original notice is by mail, personal service or by posting on the property.

38.30

(a) Liens for demolition and abatement. If the notice requirement have been met, the City's expenses to correct any violation under this Article may be assessed against the owners of all outstanding interest in the tract involved at the following rate:

SCHEDULE OF FEES:

For major equipment (tractor and mower)	\$75.00/hr x no. hrs =\$_____ per hour
For equipment operators/laborers	\$30.00 x no. hrs. =\$_____ per hour
Fee for program administration	\$90.00
Fee for transporting waste to landfill Per trip	\$65.00
Late fee for failure to pay bill within 15 days of receipt	\$100.00
Tire disposal (per tire)	\$3.00
Battery disposal (per battery)	\$2.00
Appliance/furniture/junk/rubbish Disposal (per appliance/item)	\$10.00

(b) An itemized bill of such costs shall be mailed by the Community Development Department to each owner if the address is known.

(c) If the bill for the City's expense in correcting any violation of this Article is not paid within fifteen (15) days after the date of receipt, the Community Development Department may assess a late fee after reviewing the particular circumstances and the owner's level of cooperation. The Department Leader of the Community Development Department or designee is hereby designated by the City Manager as the appropriate City employee responsible for filing vegetation/debris liens. If a bill remains unpaid, the Department Leader of the Community Development Department or designee may file a statement of such bill and the reasons therefore with the County Clerk. From the date of such filing, City shall have a lien on the lot or parcel upon which such expenses are incurred second only to tax liens and liens for street improvements. The amount of debt on liens for rubbish, trash, garbage, refuse, junk, and debris violations only shall accumulate interest at the rate of ten (10) percent per annum from the date on which payment was due. For any debt and interest, suite may be instituted and recovery and foreclosure had in the name of the city. In such suits the aforementioned statement, or certified copy thereof, shall be deemed prima facie evidence of the debt and interest thereon.

38-31 All ordinances and parts of ordinances inconsistent with or in conflict with the provisions of this Ordinance shall be and the same are hereby expressly repealed.

38-32 If any section, subsection, word, sentence, or phrase of this ordinance is declared to be invalid it shall not affect the validity of this ordinance.

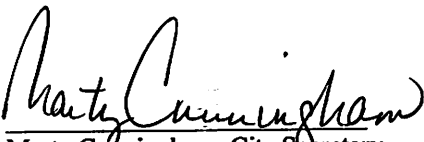
38-33 - 38-55 Reserved

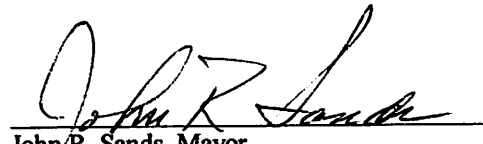
PASSED AND APPROVED on the **FIRST READING** at a regular meeting of the City Council of the City of Commerce, Texas on this the 19th day of March 2002.

PASSED AND APPROVED on the **SECOND READING** at a regular meeting of the City Council of the City of Commerce, Texas on this the 3rd day of April 2002.

ATTEST:

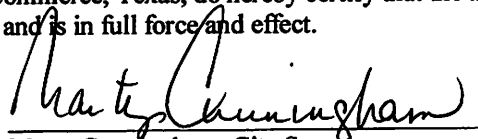
CITY OF COMMERCE:


Marty Cunningham, City Secretary


John R. Sands, Mayor

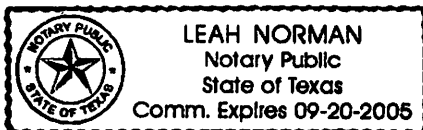
(seal)

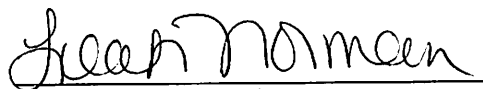
I, Marty Cunningham, City Secretary of the City of Commerce, Texas, do hereby certify that the above is a true and correct copy of an ordinance, and that the same has not been repealed and is in full force and effect.


Marty Cunningham, City Secretary

(seal)

Sworn to and subscribed before me, on this the 5th day of April 2002 to certify which witness my hand and seal of office.




Notary Public, State of Texas

(seal)