

CITY OF PROSPECT
ORDINANCE NO. 632, SERIES 2023

AN ORDINANCE RELATING TO THE AMENDMENT AND MODIFICATION OF CHAPTER 92:
NUISANCES OF THE CODE OF ORDINANCES OF THE CITY OF PROSPECT

WHEREAS, Chapter 92 establishes a code of regulation for nuisances in the City of Prospect; and

WHEREAS, it is the responsibility of the City Council to review ordinances on a periodic basis and amend them as appropriate, and

WHEREAS, it has been determined by City Council that modifications, corrections, additions, and clarifications are necessary to reflect the intent of the City Council,

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS:

Section 1. Chapter 92 is hereby amended and modified as hereinafter set forth with old language struck through, changes, and new language being underlined and reading as follows:

CHAPTER 92: NUISANCES

Section

- 92.01 ~~Definitions~~ Public Purpose
- 92.02 ~~Common Law and Statutory Nuisances- Definitions~~
- 92.03 Certain Conditions Declared a Public Nuisance
- 92.04 ~~Abatement procedure~~ Managed Natural Landscape and Setback
- 92.05 Responsibility for Property Maintenance and Public Nuisance created by others
- 92.06 ~~Suspension of License~~ Emergency Cleanup and/or Abatement
- 92.07 Enforcement
- 92.08 Appeals

- 92.99 Penalty and Suspension of License

§ 92.01 ~~DEFINITIONS PUBLIC PURPOSE.~~

~~For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~NUISANCE. Any condition that:~~

- ~~(1) Is enumerated in § 92.03; or~~
- ~~(2) Is similar in intensity and effect as those conditions listed in § 92.03 and which essentially interferes with the comfortable enjoyment of life and property of others.~~

~~—RUBBISH. Combustible and noncombustible waste materials, except garbage; the term shall include residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior or other packing materials, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, plastic, dust and other similar materials.~~

~~—SCRAP METAL. Pieces or parts of steel, iron, tin, zinc, copper, aluminum, or any alloy thereof, whether covered with porcelain or any other material, whether intact or in parts, which has served its usefulness in its original form and can no longer be used for its originally intended purpose.~~

An obligation of the City of Prospect is to provide for the prevention and abatement of conditions which are offensive or annoying to the senses, detrimental to property values, and neighborhood and community appearance, an obstruction to or interference with the comfortable enjoyment of adjacent and proximate properties or premises, or hazardous or injurious to the health, safety, or welfare of the general public in such ways to constitute a public nuisance; and, to provide standards to safeguard life, health, and public welfare in keeping with the residential character of the City by allowing for the regulation of property and premises maintenance for the following purposes:

- (1) To promote attractive and consistent neighborhood and community appearance,
- (2) To enhance the economic value of the community, and each area in it, through the regulation of the maintenance of property or premises at or above a minimum standard,
- (3) To reduce the threat to health, safety, welfare, appearance, and economic value due to the decline in property condition(s) by lawfully delineating the circumstances under which such condition(s) may be considered illegal and/or abated; and,
- (4) To prevent and abate public nuisances in the best interest of the health, safety, welfare, and comfort of the residents of the City to support maximum use and enjoyment of property or premises.

~~§ 92.02 COMMON LAW AND STATUTORY NUISANCES DEFINITIONS.~~

~~In addition to what is declared in this chapter to be a public nuisance, those offenses which are known to the common law and statutes of Kentucky as public nuisances may be treated as such and be proceeded against as is provided in this chapter or in accordance with any other provision of law.~~

For this chapter, the following words and phrases shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED. In addition to those definitions provided by state codes, local ordinances and case law, the term abandoned means and refers to any item, which has ceased to be used for its designed and intended purpose. The following factors, among others, will be considered in determining whether an item has been abandoned:

(1) Present operability and functional utility so that the item(s) has ceased to be used for its designated and/or intended purpose.

(2) The nature of the area and location of the item. Items such as furniture, toys, bikes, appliances, stoves, refrigerators, freezers, washing machines, dryers, dishwashers, water heaters, television sets, electronic equipment, plastic containers, and the like left outside the home in view for over forty-eight (48) hours and not intended for use or storage in an outdoor environment. (Abandoned Vehicles, see Chapter 95)

ABATE. To repair, replace, remove, destroy, or otherwise remedy the condition in question by such means and in such a manner and to such an extent as the Code Enforcement Officer, or other person or employee or group designated by the City Council to enforce City ordinances in their judgment shall determine is necessary in the interest of the general appearance, health, safety, and welfare of the community.

ATTRACTIVE NUISANCE. Any condition, instrument or machine which is unsafe, unprotected and may prove detrimental to children whether in a building, on the premises of a building, or on an unoccupied lot. This includes any unfenced swimming pools, abandoned wells, shafts, basements, or excavations; abandoned appliances, and motor vehicles; any structurally unsound fences or structures; or any lumber, trash, fences, debris, or vegetation which may prove hazardous or dangerous to minors. (Swimming Pools, see Chapter 154)

CODE ENFORCEMENT OFFICER. The City Code Enforcement Officer, and, as used herein, any other person, employee, or group designated by the City Council to enforce applicable ordinance(s).

DISMANTLED. That from which essential equipment, parts or contents have been removed or stripped and the outward appearance verifies the removal.

GARBAGE. The animal and plant waste resulting from the handling, preparation, cooking and consumption of food and similar animal and vegetable refuse whether liquid or solid, or any accumulation of any sour, decaying or putrescent substance, either gas, liquid, or solid.

GARDEN. A cultivated area dedicated to growing vegetables, fruits, annual and perennial plants, ornamental grasses, and ground cover in a well-defined location.

GOOD REPAIR. External and/or decorative structural elements of buildings being maintained in a state of repair, which allows that element to provide the functional and safe use for which it was intended.

GROUND COVER. Low growing plants, mulch or rock/gravel.

ILLEGAL DISPLAY OR STORAGE. Items in view that are not in a lawful four wall with roof enclosure and not intended for seasonal or immediate use on the property where displayed, items partially or fully concealed with a covering violate this section, in-view for over 48 hours.

INOPERATIVE. Incapable of functioning or producing activity for mechanical or other reasons.

IN-VIEW. Any nuisance that can be seen from any public view or from any adjacent private property.

INVASIVE PLANT. A plant reproducing outside its native range and/or outside cultivation that disrupts naturally occurring native plant communities by altering structure, composition, natural processes, or habitat quality. Also, any plant on the list of invasive species specified by the Kentucky Exotic Pest Plant Council web site (www.se.eppc.org/ky/list.htm).

LANDSCAPED AREA. The entire parcel less the building footprint, driveway, sidewalks, non-irrigated portions of parking lots, hardscapes such as decks and patios, and other non-porous areas. Water features are included in the calculation of landscaped areas. A landscaped area may include an already existing natural forest area.

LANDSCAPING. Any combination of living plants and non-living landscape material such as rocks, pebbles, sand, mulch, walls, fences, or decorative paving materials.

LIENHOLDER/REAL PROPERTY OWNER. Any person, as defined in this chapter, who has a recorded interest in real property, including mortgagee, beneficiary under a deed of trust, or holder of other recorded liens or claims of interest in real property.

MANAGED NATURAL LANDSCAPE. A planned, intentional, and maintained planted garden designed to promote ecological goals such as, but not limited to:

- a. Supporting beneficial wildlife like butterflies, bees, and birds;
- b. Managing storm water runoff by rain, bog, or swale gardens;
- c. Preventing erosion;
- d. Reducing pollution caused by synthetic fertilizers, herbicides, insecticides, fungicides, and gas-powered garden equipment.

PERSON. Individual, partnership, joint venture, corporation, association, social club, fraternal organization, trust, estate, receiver, or any other entity.

PREMISES/PROPERTY. Any building, lot, parcel, real estate, or land or portion of land whether improved or unimproved, occupied, or unoccupied.

PUBLIC NUISANCE. Any nuisance known at common law or in equity jurisprudence, or any condition defined as a public nuisance under this chapter, and which essentially interferes with the comfortable enjoyment of life and the property of others. A public nuisance occurs when a right that the public shares undergo unreasonable interference.

RESIDENT. Any person over the age of eighteen (18) who lives part or full time at the residence where the violation is alleged to have occurred in the City.

RUBBISH. Combustible and noncombustible waste materials, except garbage; the term shall include residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior or other packing materials, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, plastic, dust, and other similar materials.

SHRUBS OR BUSHES. Any low, multiple-stemmed, woody vegetation.

SCRAP METAL. Pieces or parts of steel, iron, tin, zinc, copper, aluminum, or any alloy, whether covered with porcelain or any other material, whether intact or in parts, which has served its usefulness in its original form and can no longer be used for its originally intended purpose.

STAGNANT/POLLUTED WATER. Standing water for longer than four days, without proper drainage or disbursement.

STRUCTURE. Anything constructed, built or planted upon, any edifice or building of any kind, object d'art, or any piece of work artificially built up or composed of parts joined together in some definite manner, which structure requires location on the ground or is attached to something having a location on the ground, including fences, gates, garages, carports, swimming and wading pools, patios, outdoor areas, paved areas, walks, tennis courts and similar recreation areas.

TREE. A woody perennial usually having one dominant trunk and a mature height greater than 5 meters (16 feet) as defined by the International Society of Arboriculture (ISA). (*Trees, see Chapter 97*).

TURFGRASS. Continuous plant coverage consisting of a grass species that is mowed to the established height.

UNFIT FOR FURTHER USE. Any household item, object, vehicle, or any device used to carry out a specific function which has served its usefulness (or is no longer being used) and is in its original form and can no longer be used for its originally intended purpose or having defective or missing parts or in such a condition generally as to the unfit for further use or conveyance.

VEHICLE OWNER. The registered owner of a vehicle, the person(s) to whom property tax is assessed on real or personal property, as shown on the last equalized assessment roll of the county, renter(s), lessor(s), and other occupants residing permanently or temporarily on property. (*Abandoned Vehicles, see Chapter 95*).

WASTE. Discarded or unused items, boxes, bags, plastic, paper, clothing, trash, filth, litter, rubbish, debris, building materials of any kind not being utilized for a current lawful ongoing construction project on-site, refuse of any kind left in view for over forty-eight (48) hours.

WEEDS. Plant growth such as but not limited to jimson, burdock, ragweed, thistle, cocklebur, or any other growth of a like kind or any plant growth not intended for aesthetic appeal or other legitimate purpose, such as crops, trees, shrubs, flowers, or ornamental plants.

Whether a certain plant or plant is a weed or ornamental shall be solely determined by the Code Enforcement Officer, after consideration as to whether the plant and planting, taken as a whole, evidences some reasonably discernable and clearly recognizable beautification purpose.

WRECKED. That which has outward manifestation or appearance of damage to parts and contents, which may or may not be essential to operation.

§ 92.03 CERTAIN CONDITIONS DECLARED A PUBLIC NUISANCE

It shall be unlawful for the owner, occupant, or person having control or management of any ~~land~~ property within the city to permit a public nuisance to develop thereon. The making, maintaining, using, placing, depositing, leaving or permitting to be, remain on any public or private property of or exist on any premises, property or right-of way any of the following items, conditions or actions shall constitute a nuisance. ~~However,~~ This enumeration shall not be deemed or construed to be conclusive, limiting or restrictive and includes but is not limited to:

(A) ~~Dangerous buildings adjoining streets. Any building, house, or structure so out of repair and dilapidated that it will, if the condition is allowed to continue, endanger the life, limb, or property of, or cause hurt, damage, or injury to persons or property using or being upon the streets or public way of the city adjoining the premises, by reason of the collapse of the building, house, or structure or by the falling of parts thereof or of objects therefrom.~~ ANIMALS. The failure to keep an animal's pen, yard, lot or other enclosure in a sanitary condition and free from preventable offensive odors. (Animals, see Chapter 90

(B) ~~Dangerous trees or stacks adjoining street. Any tree, stack, or other object standing in such a condition that it will, if the condition is allowed to continue, endanger the life, limb, or property of, or cause hurt, damage, or injury to persons or property upon the public streets or public ways adjacent thereto, by the falling thereof or of parts thereof.~~ COMBUSTIBLE MATERIALS AND UNLAWFUL BURNING. The open burning of any combustible material.

(C) ~~Existence of rubbish. Except during the construction of improvements to property and only for a reasonable period of time, the existence on any premises of filth, junk, refuse, trash, garbage, abandoned materials, metals, lumber, downed branches or limbs, dead bushes or trees, or other waste material which endangers the public health, welfare or safety, or materially interferes with the peaceful enjoyment by owners or occupants of adjacent or neighboring property or the city in general. This shall also include any condition which provides harborage for rats, mice, snakes or other vermin.~~ CONSTRUCTION MATERIALS - STORAGE IN RESIDENTIAL AREAS. The storage or placement of construction or building materials in front or side yards of residential parcels within the City for a period of more than 28 days while active construction is ongoing at the specific address, or for a period of more than 14 days when no construction activity is being conducted at the specific address. This provision shall apply to repairs, remodeling, or additions to an existing residence, but shall not apply to construction of a new residence within the City.

(D) ~~Noxious odors or smoke. Emission into the surrounding atmosphere of odor and stenches, dust, smoke, or other matter which renders ordinary use or physical occupation, or peaceful enjoyment of other property in the vicinity uncomfortable or impossible.~~ DANGEROUS BUILDINGS. Any building, house, or structure so out of repair and dilapidated that it will, if the condition is allowed to continue, endanger the life, limb, or property of, or cause hurt, damage, or injury to persons or property using or being upon the streets or public way of the City adjoining

the premises, by reason of the collapse of the building, house, or structure or by the falling of parts or of objects therefrom.

(1) Any structure/residence unfit and/or unsafe for human habitation or occupancy, or condition to exist in the structure which are dangerous or injurious to the health or safety of the occupants or the structure, the occupants of neighboring structures, or other residences of the City.

(2) Any residence within the City without a safe and operable connection to water, electric/gas, and sewer services.

~~(E) Noise. It shall be unlawful for any person within the city to make, continue, or cause to be made or continued, any unreasonably loud, harsh or excessive noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, unless the making and continuing of the noise is necessary for the protection or preservation of property or the life, health or safety of a person or persons.~~ *DILAPIDATED, DAMAGED, NEGLECTED, OR UNSAFE PREMISES.* Any premises which detrimentally impact the surrounding neighborhood because of dilapidation, deterioration, or decay and/or are unsafe for the purpose for which they are being used, or are not secured, or are improperly secured. Permitting any condition to exist that causes a building or grounds not to be in good repair, such as, but not limited to:

(1) Every window; exterior door; basement; porch; roof; eaves; foundation; exterior wall; exterior stairs; not be reasonably watertight; weather tight; bird, animal, and rodent proof; and not kept in sound condition and good repair;

(2) All exterior wood surfaces, other than decay-resistant woods, not protected from the elements and decay by paint or by other protective covering or treatment. Noticable peeling paint is a violation of this section; and

(3) All gutters, shutters, down spouts, and any other parts of the exterior of the home not maintained in their original condition and fit for their intended purpose.

~~(F) Storage of explosives. The storage of explosive material which creates a safety hazard to other property or persons in the vicinity. This provision shall not apply to the storage of such material by a licensed contractor working on a properly permitted construction, utility or road project.~~ *DRAINAGE EASEMENTS OR PUBLIC RIGHTS OF WAY.* Covering drainage easements or public rights of way in any manner to affect the flow of water over the ground, hinder the natural absorption of the water into the ground, or cause silt to be added to the water flow. Such disruption includes, but is not limited to, paving, graveling, dumping, frequent vehicular use, and the accumulation of debris. Permitting or causing the interface with any obstruction of a drainage ditch, device, or system as to inhibit, alter, or prevent proper drainage patterns.

~~(G) Weeds or grass.~~

~~(1) It shall be unlawful for the owner or occupant of any property within the city which faces or abuts on any city street to permit any grass or weeds or any vegetation whatsoever, not edible or planted for some useful or ornamental purpose, to grow or remain upon such premises~~

~~so as to exceed a height of seven inches, or to emit any unpleasant or noxious odor, or to create a visual hazard at any intersection or roadway. Any grass, weeds, or other vegetation growing upon any premises in the city in violation of any of the provisions of this chapter is hereby declared to be a nuisance and detrimental to the health, safety, cleanliness and comfort of the inhabitants of this city.~~

~~(2) Any owner, tenant or party in control of any premises, whether vacant or occupied, shall remove, trim or cut all grass, weeds or other vegetation growing or remaining upon such premises in violation of the first division of this section.~~

~~(3) When the grass, weeds, and/or other vegetation exceeds the height of seven inches as described in the first division of this section, the owner will be given notice in accordance with § 92.04 hereof to mow said lot to a height of no greater than four inches. This provision shall not apply to timberland, natural wooded areas not part of a lot to which this section otherwise applies nor farm pastureland. EXPLOSIVES. The storage of explosive material which creates a safety hazard to other property or persons. This provision shall not apply to the storage of such material by a licensed contractor working on a properly permitted construction, utility, or road project.~~

~~(H) Open wells. Any open, uncovered, or insecurely covered cistern, cellar, well, pit, excavation, or vault situated upon private premises in any open or unfenced lot or place. HAZARDOUS MATERIALS OR PETROLEUM PRODUCTS. Oil, grease, paint, other petroleum products, hazardous materials, volatile chemicals, pesticides, herbicides, fungicides, or waste (solid, liquid, or gaseous), which is determined by the Fire Department or Code Enforcement Officer, to constitute a fire or environmental hazard, or to be detrimental to human life, health, or safety.~~

~~(I) Trees and shrubbery obstructing streets and sidewalks. Trees, overhanging branches, hedges, shrubs, or weeds on the sidewalks or public ways of the city or on private property adjacent to a public way which encroach upon or obstruct a sidewalk or public way or which obstruct the vision of any vehicle operator or obstruct any traffic sign so as to create a hazard to the safe operation of vehicle. When any such conditions are observed by city personnel, the owner will be given notice in accordance with § 92.04 thereof to correct the problem specified in the notice. The required minimum clearance above city streets is 13 feet six inches and above sidewalks is seven feet. HEALTH HAZARDS. Creation of any situation that attracts vermin, rodents, insects, or animals or is otherwise injurious to public health.~~

~~(J) Keeping of animals. The failure to keep an animal's pen, yard, lot, or other enclosure in a sanitary condition and free from preventable offensive odors. HEAVY EQUIPMENT. The operation of heavy equipment within the City except as necessary for construction projects for which a building permit has been issued by the City, but only during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, exclusive of legal holidays.~~

~~(K) Operation of heavy equipment. The operation of heavy equipment within the city except as necessary for construction projects for which a building permit has been issued by the city or other appropriate jurisdiction, but only during the hours of 8:00 a.m. to 5:00 p.m., Monday~~

~~through Friday, exclusive of legal holidays.~~ INCOMPLETE PROJECTS. Any renovation or construction to structures or grounds not completed through consistent sustained effort and no such building or grounds under construction or renovation may be allowed to be uncompleted for an unreasonable length of time, given due consideration to the type of project. A period of one hundred twenty (120) days without consistent, sustained effort to complete the project shall be an unreasonable length of time, without sufficient, specific, written explanation for said delay.

~~(L) Failure to remove snow and ice. The failure to remove snow and ice from parking lots and sidewalks in commercial areas of the city within 24 hours of the cessation of a snowstorm, sleet storm or freezing rainstorm.~~ JUNK; SCRAP METAL. The storage of junk, auto parts, tires, scrap metal stored on premises more than seventy-two (72) hours and in view from a public street, walkway, alley, or other public property within the City limits except on premises authorized by the City for such purposes. Abandoned, dismantled, wrecked, inoperable, and discarded objects, equipment, or appliances such as, but not limited to, water heaters, refrigerators, furniture which is not designed for outdoor use, household fixtures, toys, bikes, machinery, electronic equipment, or cans or containers, plastic, or other material, standing or stored on property or on sidewalks or streets

~~(M) The disruption of vegetation covering drainage easements or public rights of way in any manner so as to affect the flow of water over the ground, hinder the natural absorption of the water into the ground, or cause silt to be added to the water flow. Such disruption includes, but is not limited to: paving, graveling, dumping, frequent vehicular use, and the accumulation of debris.~~ LIGHTS. (Lights, see Chapter 159).

~~(N) Storage of construction materials in residential areas. The storage or placement of construction or building materials in front or side yards of residential parcels within the city for a period of more than 28 days while active construction is ongoing at the specific address, or for a period of more than 14 days when no construction activity is being conducted at the specific address. This provision shall apply to repairs, remodeling, or additions to an existing residence, but shall not apply to construction of a new residence within the city.~~ NOISE ENCROACHMENT, SOUND SYSTEMS.

(1) Residential. Using, operating, or permitting for any noncommercial purpose any loudspeaker, public address system, mobile sound vehicle or similar device between the hours of 11:00 p.m. and 7:00 a.m., prevailing local time, such that the sound therefrom creates a noise disturbance across a dwelling unit boundary.

(2) Vehicular. The use of any mechanical loudspeaker or other device, amplifier, or noisemaker on any moving or standing vehicle within the City between the hours of 11:00 p.m. and 7:00 a.m.

(O) NOISE FROM MOTOR VEHICLES. Discharge into the open air of exhaust from any motor vehicle except through a suitable and efficient muffler or other device which will effectively prevent loud or explosive noises. (Ord. 131974, passed 6-24-74)

(P) NOXIOUS ODORS OR SMOKE. Emission into the surrounding atmosphere of odor, dust, smoke, or other matter which renders ordinary use or physical occupation of other property in

the vicinity uncomfortable or impossible.

(Q) RUBBISH AND WASTE. An accumulation on any premises of filth, refuse, trash, garbage, discarded food, or other waste material which endangers the public health, welfare, or safety, or materially interferes with the peaceful enjoyment by owners or occupants of adjacent property or the City in general. The dropping, deposit, or acquiesce in the dropping, depositing, scattering of waste material in any manner, in or on any public or private property, not including normal yard maintenance material.

(R) SNOW AND ICE. The failure to remove snow and ice from parking lots and sidewalks in commercial areas of the City within 24 hours of the cessation of a snowstorm, sleet storm or freezing rainstorm.

(S) WASTE RECEPTACLES. Containers for discarded materials, yard waste, and recyclables which are left in view from the public roadway following the day of the regularly scheduled pick-up for the property; no garbage, yard waste or recycling items shall be placed out for collection in view of a public street more than eighteen (18) hours prior to the collection day.

(T) WATER CONTAINERS. Swimming pool, other body of water, or excavation which is abandoned, unattended, unsanitary, empty, or contains stagnant/polluted water or is not securely fenced, or (if not in use) does not have a secure and safe cover, which will not collect water and is effective and suitable, or which is determined by the Code Enforcement Officer to be detrimental to life, health or safety.

(U) WEEDS OR TURFGRASS.

(1) TURFGRASS. Permitting turfgrass to grow more than seven inches on property which faces or abuts on any street. When the turfgrass exceeds the height of seven inches the owner will be given notice in accordance with § 92.04 hereof to mow said lot to a height of no more than four inches. This provision shall not apply to timberland, natural wooded areas not part of a lot to which this section otherwise applies, nor farm pastureland.

(2) WEEDS. Permitting any plant growth other than trees, ornamental, edible or useful plants, or shrubs, to grow to a height exceeding seven (7) inches.

(V) ANY OTHER CONDITION. on a property which meets the following requirements: Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, to interfere with the comfortable enjoyment of life or property.

§ 92.04 ABATEMENT PROCEDURE. LANDSCAPE UNLIKE NEIGHBORING PROPERTIES, INCLUDING MANAGED NATURAL LANDSCAPE, AND SETBACK.

(A) ~~It shall be unlawful for the owner, occupant, or person having control or management of any land within the city to permit a public nuisance, health hazard, or source of filth to develop thereon.~~ PERMIT. An owner, authorized agent, or authorized occupant of any privately owned lands or premises may, consistent with this subsection and all other applicable laws, statutes, rules, and ordinances, install and maintain a landscape significantly different from neighboring

properties. Before the installation of the landscape, a permit for such a landscape is required. Detailed plans must be submitted to the City for a permit. The City administration shall refer the plans to a Landscape Review Committee of three qualified residents appointed by the Mayor, subject to confirmation by the City Council. The Committee shall determine whether the plan is compatible with surrounding landscapes. A denial of a permit may be appealed to the Code Enforcement Board.

The permit shall cost \$50.00

~~(B) Upon the failure of the owner of the property to eliminate the nuisance, health hazard or source of filth, when requested to do so by the authorized city official, the authorized city official is authorized to send its agents or employees upon the property to remedy the situation.~~ SETBACK. The proposed landscape shall be set back from the street by at least 5 feet and shall not encroach adjoining properties. The setback shall not apply to small mailbox gardens. Turfgrass or ground cover shall be used in the setback.

~~(C) The city shall have a lien against the property for the reasonable value of labor and materials used in remedying the nuisance situation. The affidavit of the authorized city official shall constitute prima facie evidence of the amount of the lien and the regularity of the proceedings pursuant to KRS 381.770 and this section, and shall be recorded in the office of the County Clerk. The lien shall be notice to all persons from the time of its recording and shall bear interest at the rate established by the city thereafter until paid. The lien created shall take precedence over all subsequent liens, except state, county, school board, and city taxes, and may be enforced by judicial proceeding. In addition to this remedy or any other remedy authorized by law, the owner of a property upon which a lien has been attached pursuant to this section shall be personally liable for the amount of the lien, including all interest, civil penalties, and other charges and the city may bring a civil action against the owner and shall have the same remedies as provided for the recovery of a debt owed.~~ PLANNED AND MAINTAINED. A Managed Natural Landscape is not a formerly mowed lawn allowed to grow wild, does not contain noxious weeds or invasive species. It is regularly tended, weeded, trimmed, and pruned and has a defined border, such as a dug border, or the use of edging material like stone, brick, metal, or plastic. It may contain trees, shrubs, perennials, annuals, ornamental grasses, and/or ground cover. Dead trees and shrubs shall be removed by the end of the current planting season.

(D) MANAGED NATURAL LANDSCAPE. The proposed gardens, including natural landscapes that are in public view, shall be permitted in both front and back residential yards, but limited to not more than 50% of the square footage of each excluding driveways, patios, and sidewalks. The balance of the landscaping in front and back residential yards shall be turf grass, ground cover, or similar in nature to that of the properties of the that neighborhood in general.

§ 92.05 RESPONSIBILITY FOR PROPERTY MAINTENANCE AND PUBLIC NUISANCE CREATED BY OTHERS. For the purposes of this chapter, it shall not be essential that the nuisance be created or contributed to by the owner, occupant, or person having control or management of the premises, but merely that the nuisance be created or contributed to by licensees, invitees, guests, tenants, lessees, or other persons for whose conduct the owner or operator is responsible, or by

~~persons for whose conduct the owner or operator is not responsible, but by the exercise of reasonable care ought to have become aware~~

(A) *CREATED BY OTHERS.* For the purposes of this chapter, it shall not be essential that the public nuisance be created or contributed to by the owner, occupant, or person having control or management of the premises, but merely that the nuisance be created or contributed to by licensees, invitees, guests, or other persons for whose conduct the owner or operator is responsible, or by persons for whose conduct the owner or operator is not responsible, but by the exercise of reasonable care ought to have become aware.

(B) *RESPONSIBILITY.* The owner or resident of any property within the City shall be responsible for the maintenance of property and premises in a manner consistent with the provisions of this chapter and the Code of Ordinances of the City of Prospect, Metro Louisville Ordinances, Land Development Code, Kentucky Revised Statutes, and the Kentucky Building Code, or other appropriate laws.

§ 92.06 -SUSPENSION OF LICENSE EMERGENCY RIGHT TO REMEDY, ABATEMENT

~~—(A) Whenever it is brought to the attention of the City Council that a nuisance exists and the City Council deems that there is an immediate threat to the public health, safety, welfare, the City Council may by majority vote suspend the license of any person conducting business upon the premises where the nuisance exists. *ABATEMENT OF PUBLIC NUISANCES.* To enforce the provisions of this chapter, when the Code Enforcement Officer finds and determines that the severity of the violation warrants immediate action, the person may cause the clean up or abatement of the violation. The cost of such cleanup or abatement may be recovered by the City in a civil action, adding the cost to the property tax bill, or by placing a lien on the property. Such emergency cleanup or abatement will not relieve the lienholder/real property owner or other responsible party of further action which may be taken by the City Council or its duly authorized agents and representatives, including but not limited to, liability for any violations of this chapter, or any other applicable provisions of state law and local ordinances.~~

~~—(B) The City Clerk shall cause notice of the suspension to be served personally upon the licensee or at the premises where the nuisance exists.~~

~~—(C) Upon application of the licensee, the City Council may remove the suspension upon such terms as it may direct.~~

§ 92.07 EMERGENCY RIGHT TO REMEDY ENFORCEMENT

~~If it is perceived by the city that the condition of a property or any structure thereon is an immediate danger to the health, safety, or welfare of the city, then an authorized city official may immediately send its agents or employees upon the property to remedy the condition of the property in order to ensure the health, safety or welfare of the city. Should such emergency action be undertaken, the city shall bill the property owner for all costs incurred by the city and shall have the right to place a lien on the property for said costs.~~

(Code Enforcement, see Chapter 39)

(A) METHODS OF ENFORCEMENT. Enforcement of this chapter shall be accomplished by the Code Enforcement Officer. If practicable, the process will include until there is a remedy, in this order: a personal contact, written warning, citation, abatement, and legal action.

(B) ENFORCEMENT PROCEDURES AND NOTICE.

(1) The standards and procedures for the enforcement of this ordinance under KRS 381.770 as follows:

(a) Whenever such a situation is discovered, the Code Enforcement Officer will first contact, either in person, by telephone or by email, the person having control or management of the property to remedy the nuisance. Except in cases of emergency, the City shall consider next a verbal warning specifying a reasonable time as first step in eliminating the nuisance.

(b) If the person cannot be contacted or will not remedy the nuisance the Code Enforcement Officer shall give the written notice or the citation to any one or more or all: the owner, operator, agent, occupant, or person having control or management of the property of ten (10) days to remedy such situation.

(c) The notice shall be served by certified mail, or by personal service. If by mail, it may be addressed to the last known address of the owner of the said property, as it appears on the current tax assessment roll. The failure of any or all the addressees to receive the notice shall not invalidate any of the proceedings. Further, the posting of notice of a hearing or order pursuant to this chapter shall be conclusively deemed to be adequate notice to all occupants, users or possessors of the property or its contents, and the failure of any such occupant, user, or possessor to see, read, understand, or otherwise receive the notice shall not invalidate any of the proceedings.

Upon the failure of the owner of the property to comply, the City is authorized to send employees or persons hired by the City upon said property to remedy the situation.

Abatement, see § 92.06.

(2) The City shall have a lien right against the property for the reasonable value of labor and materials used in remedying the nuisance situation. The affidavit of the Code Enforcement Officer shall constitute prima facie evidence of the amount of the lien and the regularity of the proceedings pursuant to this chapter and KRS 381.770, and shall be recorded in the Office of the Jefferson County Clerk. The lien shall be the notice to all persons as from the time of its recording and shall bear legal interest until paid, compounded monthly, and may be enforced by judicial proceedings.

(3) In addition to the remedy prescribed in the previous sections of this chapter or any other remedy authorized by law, the owner of a property upon which a lien has been attached pursuant to this section shall be personally liable for the amount of the lien, including all interest, civil

penalties, and other charges and the City may bring a civil action against the owner and shall have the same remedies as provided for the recovery of a debt owed.

(C) COSTS OF ENFORCEMENT. In any civil action commenced by the City under this chapter, the City shall be entitled to recover from the defendant of such action, reasonable attorneys' fees, costs of suit, any other costs of enforcement, including but not limited to, inspection costs and cleanup or abatement costs.

§ 92.08 APPEALS

Any action taken by the Code Enforcement Officer may be appealed to the Code Enforcement Board by any person cited.

Such appeal must be in writing, stating with specificity the grounds of the appeal and it must be filed with the City Clerk within the same time allowed for abatement (without extension). The grounds for the appeal shall be stated in such appeal in detail. Such appeal shall be heard by the Code Enforcement Board within sixty (60) days of it being filed with the City Clerk.

While such appeal is pending, the abatement notice shall be held in abeyance. Code Enforcement Board decisions may be appealed to the Prospect City Council. Such appeals must be in writing by both the appellant and the Prospect administration. These documents will be provided to the Council Members at least 2 business days before the scheduled hearing.

§ 92.99 ~~PENALTY~~ PENALTIES

(A) FINES. Whoever violates any provision of this chapter shall be fined not less than \$25 nor more than \$500 for the first offense. Each day's continued violation shall constitute a separate offense and repeat offenses shall be subject to increased fines as follows:

- (1) Second violation within a two-year period, minimum \$50;
- (2) Third violation within a two-year period, minimum \$100; and
- (3) Fourth and subsequent violations within a two-year period, minimum \$250.

(B) All fines are in addition to any expenses incurred by the city because of the violation, including court costs.

(C) This chapter shall be subject to enforcement by the Code Enforcement Board. A violation of this chapter shall be considered a civil offense in accordance with KRS 65.8808.

(B) SUSPENSION OF LICENSE AND PENALTY TO PERSON DOING BUSINESS

(1) Whenever it is brought to the attention of the City Council that a public nuisance exists and the City Council deems that there is an immediate threat to the public health, safety, welfare, the City Council may by majority vote suspend the license of any person conducting business upon the premises where the public nuisance exists.

(2) The City Clerk shall cause notice of the suspension to be served personally upon the licensee or at the premises where the public nuisance exists.

(3) Upon application of the licensee, the City Council may remove the suspension upon such terms as it may direct.

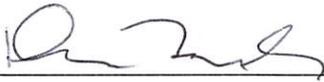
Section 2. This Ordinance shall take effect from and after its passage, signing, and publication as required by law.

First Reading this 16th day of October 2023

Passed on Second Reading this 18th day of December 2023.

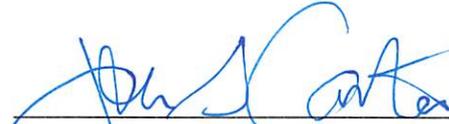
By a vote of 5 aye and 1 nay of the City Council.

APPROVED:



Douglass Farnsley
Mayor, City of Prospect

ATTEST:



John S. Carter
City Clerk