

COMMONWEALTH OF KENTUCKY  
CITY OF PROSPECT  
CITY COUNCIL REGULAR MEETING  
Monday, October 16, 2023, 7:00 p.m.

AGENDA

CALL TO ORDER

- Chair: Mayor Doug Farnsley

APPROVAL OF MINUTES

- Approval of Minutes of September 18, 2023 city council meeting.

COMMENTS FROM CITIZENS

MAYOR'S REPORT

- Mayor's update on City matters

FINANCIAL REPORT

COMMISSION & BOARD REPORTS

- Forestation Board

OTHER REPORTS

- Parks & Recreation Advisory Committee
- Library Committee

POLICE REPORT

UNFINISHED BUSINESS

NEW BUSINESS

- **Resolution No. 8, Series 2023**, AUTHORIZATION FOR CITY CLERK TO FILE APPLICATION FOR FEDERAL FINANCIAL ASSISTANCE.
- First reading of **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

ADJOURNMENT

Supporting documents for this meeting's agenda are archived on the city's website calendar:  
<https://www.prospectky.us/>

This meeting will be conducted in part via WebEx and live-streamed to YouTube here:  
[https://www.youtube.com/channel/UCDMvzIGZUk\\_tpL2HXSagU7w](https://www.youtube.com/channel/UCDMvzIGZUk_tpL2HXSagU7w)  
Members of the public may attend in person and see and hear all participating members at  
Prospect City Hall, 9200 US Hwy 42, Prospect, Kentucky.

# CITY COUNCIL REGULAR MEETING MINUTES

September 18, 2023

**Attending In-Person:** Mayor Doug Farnsley; Council Members John Clark, John Evans, Frank Fulcher, Don Gibson, and David Holmes; City Attorney F. Chris Gorman; Police Chief Jeff Sherrard; City Clerk John S. Carter

**Absent:** Council Member Hines

**Participating Remotely:** Director of Public Works Ron Cundiff

## **Call to Order**

Mayor Farnsley called the meeting to order at 7:00 p.m.

## **Political Candidate**

Ms. Claudette Patton introduced herself and her candidacy for the Jefferson County Family Court Judge, to the mayor and council and asked for their support.

## **Approval of Minutes:**

Council Member Gibson moved to approve the minutes of the August 21, 2023 council meeting, seconded by Council Member Clark, and the motion passed unanimously.

## **Comments from Citizens**

- Resident and Parks and Recreation Advisory Committee member, Mrs. Carolyn Embry, spoke in favor of promoting solar energy usage throughout the city and against the proposed Ordinance 631, Series 2023 regulating solar installations.
- Resident Anne Shelby read a letter from Mr. David Wicks and Mrs. Fife Wicks addressed to the mayor and city council encouraging the mayor and city council to embrace solar energy solutions and to oppose Ordinance 631, Series 2023 regulating solar installations.
- Resident John Shelby spoke against the proposed Ordinance 631, Series 2023 regulating solar installations and encouraged the city to promote the use of solar power.

## **Mayor's Report**

- Police Chief Sherrard will speak later about the city's purchase of four Flock cameras to be installed around the city.
- The city finances continue to be strong and sound. The mayor and city clerk are to soon meet with retired CPA Steve Pennington to discuss best practices for the management of the city's cash flow.
- The final free city summer concert featuring The Sheryl Rouse Band on September 10<sup>th</sup> was well attended and enjoyed by all.

- The Fox Harbor Neighborhood Association held their annual neighborhood picnic on Sunday, September 17th.
- Parks and Recreation Advisory Committee member, Sallie Schneider, and a large group of Prospect residents attended “Prospect Day” at the Louisville Racing FC game at Lynne Family Stadium this past Friday, September 15<sup>th</sup>.
- The new city recycling program is now in effect. The city is working with residents who have requested volunteer assistance with moving the recycling cart to and from the street curb. The change to the city’s recycling schedule is expected to save approximately \$200K annually.
- Two significant changes to the proposed amended general fund budget being introduced this evening are additional premiums necessary to increase the city’s liability insurance coverage and funding to cover cost of job retention incentive pay.

### **Financial Report**

- The City Clerk presented a synopsis of the city’s current finances through August 2023.
  - Cash on hand, which includes a checking account, one certificate of deposit [CD], and PNC/Kentucky League of Cities investments., totaled approximately \$2.9 million.
  - Restricted Road Fund revenue totals approximately \$160K.

### **Commission and Board Reports**

On behalf of the Forestation Board, Chair Lee Tucci reported on the Forestation written report.

- The city recently recovered \$3,500 from a builder for the cost the city expended to remove a dangerous tree and the fine imposed by the Forestation Board.
- The Board is recommending the planting of nine trees on city property this autumn.
- This year’s Arbor Fest is scheduled for October 21<sup>st</sup>. This year’s leftover trees will be planted in the city’s parks.
- There will be another “Canopy Tree” program this coming January where the city and homeowners share the expense for planting of a shade tree.

### **Other Reports**

On behalf of the Parks and Recreation Advisory Committee, Chair Linda Wardell reported on the Parks and Recreation Advisory Committee’s written report.

- The final free summer concert held on September 10<sup>th</sup> featuring The Sheryl Rouse Band was well attended with approximately 350 people in attendance.
- The Events Subcommittee is currently collecting feedback on this year’s concert series for planning next year’s concert series.
- Louisville Racing FC sponsored “Prospect Day” on September 15<sup>th</sup>. Approximately 50 Prospect residents enjoyed the game and children were able to meet and greet the players after the game.
- The committee has recently selected its new student representative who is a resident of Hunting Creek Subdivision and a senior at St. Xavier High School.
- In early October a group of student volunteers will be planting a “pollinator garden” in Harrods Creek Park.
- A short fence will be installed behind Charlotte’s Playground in Little Hunting Creek Park to provide a barrier between the children’s playground and Little Hunting Creek.

**Police Report:**

Police Chief Sherrard reported:

- The details of the written report on arrests and calls responses were presented.
- The city has purchased four Flock Safety cameras for the scanning of vehicle license plates. The cameras will assist police in identifying and tracking vehicles used in criminal activity.
- The police department has recently received a supply of Naloxone and training on how to administer the drug.

**Unfinished Business**

- Council Member Clark moved for a second reading and passage of **Ordinance No. 630, Series 2023**, AN ORDINANCE AMENDING THE BUDGET FOR THE GENERAL FUND OF THE CITY OF PROSPECT FOR THE FISCAL YEAR BEGINNING JULY 1, 2023 AND ENDING JUNE 30, 2024, seconded by Council Member Holmes. A roll call vote was held: **Yea:** Clark, Evans, Fulcher, Gibson and Holmes. **Nay:** None. The motion passed 5 – 0.
- Council Member Fulcher moved for a second reading and passage of **Ordinance No. 631, Series 2023**, AN ORDINANCE RELATING TO THE REGULATION OF SOLAR INSTALLATIONS AND CREATING A NEW CHAPTER 162 OF THE CITY OF PROSPECT CODE OF ORDINANCES FOR THAT PURPOSE., seconded by Council Member Clark. A roll call vote was held: **Yea:** Clark, Evans, Fulcher, Gibson and Holmes. **Nay:** None. The motion passed 5 – 0.

**New Business**

- Council Member Evans moved to adopt **Municipal Order 3, Series 2023**: AN ORDER CONSENTING TO THE NOMINATION BY THE MAYOR OF TODD EBERLE, OF THE CITY OF PROSPECT ETHICS COMMISSION AND AFFIXING A TERM OF OFFICE THERETO, seconded by Council Member Gibson, and the motion passed unanimously.

**Adjournment:** Council Member Fulcher moved to adjourn, seconded by Council Member Evans, and the motion passed unanimously. Mayor Farnsley declared the council meeting adjourned at 8:55 p.m.

Prepared by:

Approved:

\_\_\_\_\_  
John S. Carter, City Clerk

\_\_\_\_\_  
Douglass Farnsley, Mayor

*This meeting was live-streamed on YouTube.*

## **October 2023 Forestation Board Report**

The Board met on October 12.

The Forestation Board and the mayor have been working on a draft generic letter to be sent to residents who have hazardous trees on their property. The letter will provide specific details on the nature of the hazard and what is required to mitigate the hazard by remediation or removal. The letter will also provide information on the city's Arborfest and Canopy Tree programs through which residents can obtain free or reduced cost replacement trees and planting guidance.

Currently the Board is working with property owners and managers to arrange for mitigation of hazardous trees on Bridgepointe, Sutherland and Gunston Lane locations. In all cases, the responsible parties have agreed to eliminate the hazard without a formal order from Code Enforcement.

On this coming Saturday, October 21 from ten until noon the Board will hold its annual Arborfest. This will involve the distribution of free trees to include pawpaws, Kousa Dogwoods, redbuds, Sun Valley Red Maples, and Sweet Bay Magnolias. An arborist will be present to answer questions on tree selection and planting and literature will be available on all the species. The location is the rear of city hall.

Twelve trees are being ordered for planting on city properties in November. The locations include Hunting Creek Drive, Chestnut Hill Drive, Putney Lane, Meadow Way, Autumn Hill Drive and Little Hunting Creek Park.

Lee Tucci

Prospect Parks & Recreation Advisory Committee  
October 16, 2023

- Pollinator Garden—On Saturday, October 7, ten students from St. Xavier High School planted the pollinator garden in Harrods Creek Park. The event was led by committee member Chrisler White. Because we had more than enough volunteers for the actual planting, half of the volunteers picked up trash along the Orange and Blue trails.
- New directional trail signs for Putney Pond & Woodlands have been delivered and will be installed this fall.
- The Pavilion Program Committee has created a Survey Monkey questionnaire to gather feedback on last summer's concert series. Once finalized, it will be available online.
- The Parks & Recreation committee will once again participate in Arborfest on October 21.
- Committee member Sallie Schneider is planning a fall children's craft program tentatively scheduled for Saturday, October 28.
- We learned that the organizer of the annual Harrods Creek Trail Bash has decided not to hold the event this year. We did not have enough notice to find another organizer this year, but plan to offer the run again next year.



# Prospect Police Department

## Report Summary for SEPTEMBER 2023

### ❖ *Arrests*

- ◆ Sep 04: (599) Intimidation / assault (See JC3 & felony rpts same date/ PRO23001106.)

### ❖ *Call Response Reports*

- ◆ Sep 21: (114) Scam victim
- ◆ Sep 15: (111) I.D. fraud
- ◆ Sep 08: (115) Activity suspicious of scam

### ❖ *Code Enforcement Reports*

Nineteen permits were issued in September. Other September issues included:

- ◆ Settled removed tree issue with builder.
- ◆ Unpermitted signs removed
- ◆ House in disrepair
- ◆ Trees overhanging roadway
- ◆ Messy remodel

### ❖ *Felony Reports*

- ◆ Sep 07: (107) Fraudulent use of stolen credit card
- ◆ Sep 04: (106) Intimidation / assault (See JC3 & arrest rpts same date/ N717599 & PRO23001106.)

### ❖ *JC3 Reports*

- ◆ Sep 04: (106) Domestic violence (See arrest and felony rpts same date/ N717599 & PRO23001106 .)

### ❖ *Misdemeanor Reports*

- ◆ Sep 19: (113) TBUT from purse at Kroger
- ◆ Sep 13: (110) TBUT from building

❖ *Total Assists Outside of Prospect – 0*

❖ *Total Citations/Warnings other than Arrests – 19*

❖ *Total Collisions – 4, all non-injury*

❖ *Total People Fingerprinted – 5 non-residents, \$100*



# Prospect Police Department

## Monthly Report of Police Activities

### SEPTEMBER, 2023

<b>Activity</b>	<b>2023</b>	<b>2022</b>
➤ <b>House Checks</b>	1614	1086
➤ <b>Traffic Activity</b>		
Citations / Warnings Issued	19	9
Non-Injury Accidents	4	6
Injury Accidents	0	1
Citizen Assists	5	11
➤ <b>Reports</b>		
Misdemeanor Reports	2	1
Felony Reports	2	1
Call Responses	3	5
Miscellaneous Reports	1	0
Arrests		2
➤ <b>Calls For Service</b>		
Dispatched Runs	94	104
Officer Initiated Runs	97	190
Burglary/Robbery/Fire Alarms	8	21
includes these false alarms	8	17
➤ <b>Code Enforcement Citations</b>	0	0



**COMMONWEALTH OF KENTUCKY  
CITY OF PROSPECT  
RESOLUTION 8, SERIES 2023**

**AUTHORIZATION FOR CITY CLERK TO  
FILE APPLICATION FOR FEDERAL FINANCE ASSISTANCE**

**BE IT RESOLVED BY** the Prospect City Council of the City of Prospect, Kentucky,

**THAT**, John S. Carter, City Clerk, is hereby authorized to execute for and on behalf of the City of Prospect, a public entity established under the laws of the Commonwealth of Kentucky, this application and to file it in the appropriate State office for the purpose of obtaining certain Federal financial assistance under the Disaster Relief Act (Public Law 288, 93<sup>rd</sup> Congress) or otherwise available from the President’s Disaster Relief Fund.

**THAT**, the City of Prospect, a public entity established under the laws of the Commonwealth of Kentucky, hereby authorizes its agent to provide to the State and to the Federal Emergency Management Agency (FEMA) for all matters pertaining to such Federal disaster assistance the assurances and agreements printed on the reverse side hereof.

Passed and approved on this 16<sup>th</sup> day of October, 2023.

\_\_\_\_\_  
Douglass Farnsley, Mayor

I, John S. Carter, duly appointed and City Clerk of the City of Prospect, do hereby certify that the above is a true and correct copy of a resolution passed and approved by the City Council of the City of Prospect, on the 16<sup>th</sup> day of October, 2023.

Date: October 16, 2023

\_\_\_\_\_  
John S. Carter, City Clerk

## APPLICANT ASSURANCES

The applicant hereby assures and certifies that he will comply with the FEMA regulations, policies, guidelines and requirements including OMB's Circulars No. A-95 and A-102, and FMC 74-4, as they relate to the application, acceptance and use of Federal funds for this Federally-assisted project. Also, the Applicant gives assurance and certifies with respect to and as a condition for the grant that:

1. It possesses legal authority to apply for the grant, and to finance and construct the proposed facilities; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.
2. It will comply with the provisions of: Executive Order 11988, relating to Floodplain Management and Executive Order 11990, relating to Protection of Wetlands.
3. It will have sufficient funds available to meet the non-Federal share of the cost for construction projects. Sufficient funds will be available when construction is completed to assure effective operation and maintenance of the facility for the purpose constructed.
4. It will not enter into a construction contract(s) for the project or undertake other activities until the conditions of the grant program(s) have been met.
5. It will provide and maintain competent and adequate architectural engineering supervision and inspection at the construction site to insure that the completed work conforms with the approved plans and specifications; that it will furnish progress reports and such other information as the Federal grantor agency may need.
6. It will operate and maintain the facility in accordance with the minimum standards as may be required or prescribed by the applicable Federal, State and local agencies for the maintenance and operation of such facilities.
7. It will give the grantor agency and the Comptroller General, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the grant.
8. It will require the facility to be designed to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by the Physically Handicapped," Number A117.1-1961, as modified (41 CFR 101-17-7031). The applicant will be responsible for conducting inspections to insure compliance with these specifications by the contractor.
9. It will cause work on the project to be commenced within a reasonable time after receipt of notification from the approving Federal agency that funds have been approved and will see that work on the project will be prosecuted to completion with reasonable diligence.
10. It will not dispose of or encumber its title or other interests in the site and facilities during the period of Federal interest or while the Government holds bonds, whichever is the longer.
11. It agrees to comply with Section 311, P.L. 93-288 and with Title VI of the Civil Rights Act of 1964 (P.L. 83-352) and in accordance with Title VI of the Act, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this agreement. If any real property or structure is provided or improved with the aid of Federal financial assistance extended to the Applicant, this assurance shall obligate the Applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.
12. It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
13. It will comply with the requirements of Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (P.L. 91-646) which provides for fair and equitable treatment of persons displaced as a result of Federal and Federally assisted programs.
14. It will comply with all requirements imposed by the Federal grantor agency concerning special requirements of law, program requirements, and other administrative requirements approved in accordance with OMB Circular A-102, P.L. 93-288 as amended, and applicable Federal Regulations.
15. It will comply with the provisions of the Hatch Act which limit the political activity of employees.
16. It will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act, as they apply to hospital and educational institution employees of State and local governments.
17. (To the best of his knowledge and belief) the disaster relief work described on each Federal Emergency Management Agency (FEMA) Project Application for which Federal Financial assistance is requested is eligible in accordance with the criteria contained in 44 Code of Federal Regulations, Part 206, and applicable FEMA Handbooks.
18. The emergency or disaster relief work therein described for which Federal Assistance is requested hereunder does not or will not duplicate benefits received for the same loss from another source.
19. It will (1) provide without cost to the United States all lands, easements and rights-of-way necessary for accomplishments of the approved work; (2) hold and save the United States free from damages due to the approved work or Federal funding.
20. This assurance is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, reimbursements, advances, contracts, property, discounts of other Federal financial assistance extended after the date hereof to the Applicant by FEMA, that such Federal Financial assistance will be extended in reliance on the representations and agreements made in this assurance and that the United States shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the applicant, its successors, transferees, and assignees, and the person or persons whose signatures appear on the reverse as authorized to sign this assurance on behalf of the applicant.
21. It will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, Public Law 93-234, 87 Stat. 975, approved December 31, 1973. Section 102(a) requires, on and after March 2, 1975, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Director, Federal Emergency Management Agency as an area having special flood hazards. The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance.
22. It will comply with the insurance requirements of Section 314, PL 93-288, to obtain and maintain any other insurance as may be reasonable, adequate, and necessary to protect against further loss to any property which was replaced, restored, repaired, or constructed with this assistance.
23. It will defer funding of any projects involving flexible funding until FEMA makes a favorable environmental clearance, if this is required.
24. It will assist the Federal grantor agency in its compliance with Section 106 of the National Historic Preservation Act of 1966, as amended, (16 U.S.C. 470), Executive Order 11593, and the Archeological and Historic Preservation Act of 1966 (16 U.S.C. 469a-1 et seq.) by (a) consulting with the State Historic Preservation Officer on the conduct of investigations, as necessary, to identify properties listed in or eligible for inclusion in the National Register of Historic places that are subject to adverse effects (see 36 CFR Part 800.8) by the activity, and notifying the Federal grantor agency of the existence of any such properties, and by (b) complying with all requirements established by the Federal grantor agency to avoid or mitigate adverse effects upon such properties.
25. It will, for any repairs or construction financed herewith, comply with applicable standards of safety, decency and sanitation and in conformity with applicable codes, specifications and standards; and, will evaluate the natural hazards in areas in which the proceeds of the grant or loan are to be used and take appropriate action to mitigate such hazards, including safe land use and construction practices.

## STATE ASSURANCES

The State agrees to take any necessary action within State capabilities to require compliance with these assurances and agreements by the applicant or to assume responsibility to the Federal government for any deficiencies not resolved to the satisfaction of the Regional Director.

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 his/her/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, or 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](http://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; and 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.

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 self-supporting woody plant having a single trunk or a multi-trunk of lower branches, growing to a mature height of at least twelve (12) feet. (*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. Boxes, bags, plastic, paper, clothing, discarded or unused items, trash, filth, waste material (solid or liquid), litter, rubbish, debris, building materials or any kind not being utilized for a current lawful ongoing construction project on-site, containers or 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, or other person, committee, or board as may be designated by the City Council to enforce City ordinances, 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.

(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 accumulation of residue, including but not limited to, ashes, leaves, wood, lumber, limbs, twigs, storm debris and/or any residue from the burning of any combustible material is not permitted.

(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) All residences within the City shall have 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, which is not lead-based paint, or by other protective covering or treatment. Any 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, the City Code Enforcement Officer, or other person or employee as may be designated by the City Council to enforce City ordinances 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 must be 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. 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.

(S) TREES AND SHRUBS. Vegetation obstructing streets and sidewalks or creating an unsafe condition. 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 obstructs a sidewalk, or obstructs the vision of any vehicle operator, or obstructs any traffic sign to create a hazard to the safe operation of vehicles shall be prohibited. Any tree, stack, or other object standing in such a condition that is likely to, if the condition is allowed to create an imminent danger to life, limb or property, or cause hurt, damage, or injury to persons or property by falling or of parts shall be prohibited. When any such conditions are observed by City personnel, the owner will be given notice in accordance with § 92.06 or 92.07 to correct the problem specified in the notice. The required minimum clearance above city streets is thirteen feet six inches and above sidewalks is seven feet. (Trees, see § 97.15)

(T) 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 refuse 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.

The containers for such items must be removed from view of any public street one day before collection and by the day after collection. Recyclable items which have not been recycled within thirty (30) days of being deposited on the property which are determined by the City Code Enforcement Officer, or other person or employee as may be designated by the City Council to enforce City ordinances to constitute a fire hazard or to be detrimental to human life, health, or safety.

(U) WATER CONTAINERS. Swimming pool, pond, spa, 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 City Code Enforcement Officer, or other person or employee as may be designated by the City Council to enforce City ordinances to be detrimental to life, health or safety.

(V) 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.

(W) 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 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 City Code Enforcement Officer, or other person designated by the City Council to enforce City ordinances, 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. RIGHT OF ENTRY. The Code Enforcement Officer, or other person or employee as may be designated by the City Council to enforce City ordinances may always enter any property or premises to perform any duty imposed by this chapter if there is cause to believe a violation of provisions of this chapter.~~

~~—(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 may be accomplished by the City Code Enforcement Officer, or other person or employee designated by the City Council to enforce City ordinances. 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 or designated person will first contact, either in person, by telephone or by email, the owner, operator, agent, occupant, or 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 email, 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 to 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 City Code Enforcement Officer, or other designated person to enforce City ordinances, 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, or other designated person to enforce City ordinances 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 16<sup>th</sup> day of October 2023

Passed on Second Reading this \_\_\_\_\_ day of \_\_\_\_\_ 2023.

By a vote of \_\_\_\_\_ aye and \_\_\_\_\_ nay of the City Council.

APPROVED:

ATTEST:

\_\_\_\_\_  
Douglass Farnsley  
Mayor, City of Prospect

\_\_\_\_\_  
John S. Carter  
City Clerk