

AN ORDINANCE OF THE TOWN OF PROSPER, TEXAS, AMENDING SECTION 3.11.001, "ADOPTED," OF ARTICLE 3.11, "PROPERTY MAINTENANCE CODE," OF CHAPTER 3, "BUILDING REGULATIONS," OF THE TOWN'S CODE OF ORDINANCES BY REPEALING SAID SECTION IN ITS ENTIRETY AND REPLACING IT WITH A NEW SECTION 3.11.001, "ADOPTED," OF ARTICLE 3.11, "PROPERTY MAINTENANCE CODE," OF CHAPTER 3, "BUILDING REGULATIONS," OF THE TOWN'S CODE OF ORDINANCES BY ADOPTING THE 2021 EDITION OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE, SAVE AND EXCEPT THE AMENDMENTS SET FORTH HEREIN, SPECIFICALLY (1) REGULATING ALL EXISTING RESIDENTIAL AND NONRESIDENTIAL STRUCTURES AND ALL EXISTING PREMISES BY ESTABLISHING MINIMUM REQUIREMENTS AND STANDARDS FOR PREMISES, STRUCTURES, EQUIPMENT, AND FACILITIES FOR LIGHT, VENTILATION, SPACE, HEATING, SANITATION, PROTECTION FROM THE ELEMENTS, LIFE SAFETY, SAFETY FROM FIRE AND OTHER HAZARDS, AND FOR SAFE AND SANITARY MAINTENANCE; (2) DELINEATING THE RESPONSIBILITY OF OWNERS, OPERATORS AND OCCUPANTS; (3) ADDRESSING THE OCCUPANCY OF EXISTING STRUCTURES AND PREMISES; AND (4) THE ADMINISTRATION, ENFORCEMENT AND PENALTIES WITHIN THE TOWN OF PROSPER, TEXAS; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THIS ORDINANCE.

WHEREAS, the Town Council of the Town of Prosper, Texas ("Town Council"), has investigated and determined that it would be advantageous and beneficial to the citizens of the Town of Prosper, Texas ("Prosper"), to repeal the existing property maintenance code contained in Article 3.11, "Property Maintenance Code," of Chapter 3, "Building Regulations," of the Town's Code of Ordinances and replace it with an updated version of same; and

WHEREAS, the Town Council has further investigated and determined that it would be advantageous and beneficial to the citizens of Prosper to adopt the 2021 Edition of the International Property Maintenance Code, copyrighted by the International Code Council, Inc., save and except the amendments set forth in Exhibit "A," attached hereto and incorporated herein for all purposes.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, THAT:

SECTION 1

The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2

From and after the effective date of this Ordinance, existing Section 3.11.001, "Adopted," of Article 3.11, "Property Maintenance Code," of Chapter 3, "Building Regulations," of the Town's Code of Ordinances is hereby repealed in its entirety and replaced with a new Section 3.11.001, "Adopted," of Article 3.11, "Property Maintenance Code," of Chapter 3, "Building Regulations," of the Town's Code of Ordinances, to read as follows:

"Sec. 3.11.001. Adopted

The 2021 International Property Maintenance Code. copyrighted by the International Code Council, Inc., save and except the amendments set forth in Exhibit "A," attached hereto and incorporated herein for all purposes, is hereby adopted as the property maintenance code for the town, regulating all existing residential and nonresidential structures and all existing premises by establishing minimum requirements and standards for premises, structures, equipment, and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance within the town (the "2021 International Property Maintenance Code"). The 2021 International Property Maintenance Code, save and except the amendments set forth in Exhibit "A," is made a part of this Ordinance as if fully set forth herein. Three (3) copies of the 2021 International Property Maintenance Code, copyrighted by the International Code Council, Inc., are on file in the office of the town secretary, being marked and designated as the 2021 International Property Maintenance Code."

SECTION 3

Any person, firm, corporation, or business entity violating this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction, therefore, shall be fined a sum not exceeding Two Thousand Dollars (\$2,000.00), and each and every day that such violation continues shall be considered a separate offense; provided, however, that such penal provision shall not preclude a suit to enjoin such violation. The Town retains all legal rights and remedies available to it pursuant to local, state and federal law.

SECTION 4

All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portion of conflicting ordinances shall remain in full force and effect.

SECTION 5

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional.

SECTION 6

This Ordinance shall become effective after its passage and publication, as required by law.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 24th DAY OF JANUARY, 2023.

APPROVED:

David F. Bristol, Mayor

ATTEST:

Michelle Lewis Sirianni, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney

EXHIBIT A

Amendments to 2021 International Property Maintenance Code

Preface to Amendments to International Property Maintenance Code. The governing regulations are the 2021 International Property Maintenance Code, and the amendments described below. In the event of a conflict with the 2021 International Property Maintenance Code and any of the amendments, the amendment shall control.

Section 101.1 Title. These regulations shall be known as the Property Maintenance Code of the Town of Prosper, Texas, hereinafter referred to as “this code”.

Section 101.3 Intent. This code shall be construed to secure its expressed intent, which is to ensure public health, safety, and welfare, insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein. Repairs, alterations, additions to and change of occupancy in existing buildings shall comply with the Town of Prosper’s Building, Electrical, Mechanical, Plumbing, Fire, and Health Codes, as they currently exist or may be amended, and the Town of Prosper Zoning and Subdivision Ordinances, as they currently exist or may be amended.

Section 102.3 Application of other Codes. Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the Town of Prosper Building, Electrical, Mechanical, Plumbing, Fire, and Health & Sanitation Codes as they currently exist or may be amended, and the Town of Prosper Zoning and Subdivision Ordinances, as they currently exist or may be amended. Nothing in this code shall be construed to cancel, modify or set aside any provision of the Town of Prosper Zoning and/or Subdivision Ordinances, as they currently exist or may be amended. Likewise, if there is a conflict between this code and Section 3.12, “Vacant and Substandard Structures,” of Chapter 3, “Building Regulations,” of the Town of Prosper’s Code of Ordinances; Section 3.12 “Vacant and Substandard Structures” of Chapter 3, “Building Regulations,” of the Town of Prosper’s Code of Ordinances, shall exclusively control.

Section 102.7 Referenced Codes and Standards. The codes and standards referenced in this code shall be the Town of Prosper Zoning and Subdivision Ordinances, as they currently exist or may be amended, and the Building, Electrical, Mechanical, Plumbing, Fire, and Health & Sanitation Codes adopted by the Town of Prosper, as they currently exist or may be amended. Where differences occur between provisions of this code and the referenced standards, the most restrictive code shall apply.

Section 103.5 Fees. The fees are established in appendix A of the Code of Ordinances.

Section 104.1 General. The code official or his/her designee shall enforce the provisions of this code.

Section 106.4 Violation Penalties. Any owner of record who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the time limits provided by the Town of Prosper. Each day that a violation continues after due notice has been serviced shall be deemed a separate offense.

106.4.1 Citations: Work or Improvements by Prosper; Charges against Owner. If the

owner fails or refuses to comply with the demand for compliance in the notification within the requirements of such notification, the Town of Prosper may:

- (a) issue citations as provided in Section 107, Notices and Orders, as it currently exists or may be amended; and
- (b) do work or make improvements required to abate the violation(s), pay for the work done or improvements made, and charge the expenses to the owner of the property as provided herein. The property owner will have twenty (20) days to reimburse the Town of Prosper from the completion date of such work to abate the violation(s) at property.

106.4.2 Assessment of Expenses; Lien.

- (a) In the event the Owner fails or refuses to pay such expenses charged to the owner, within twenty (20) days after the abatement work is completed, a lien may be obtained. The lien and other expenses incurred by the Town of Prosper may be filed against the property. Expenses will include, but not be limited to the following:
 - (1) Fees for service work to abate violation(s);
 - (2) Administrative Fee established in appendix A of the Code of Ordinances.
 - (3) Fees to file lien;
 - (4) Fees to release lien;
 - (5) Postage fees;
 - (6) Courier fees;
 - (7) Legal fees; and
 - (8) Any other fees charged to the Town of Prosper.

To obtain a lien, the Town Manager or his/her designee, or the Town of Prosper's Code Enforcement Official, Health Authority, or other authorized Town Official or employee, must file a statement of the expenses incurred to correct the condition of the real property with the County Clerk of the County in which the property is located. The statement must also state the name of the Owner, if known, and the legal description of the property. The lien attaches upon filing of the statement with the County Clerk.

- (b) The Town of Prosper's lien shall be a prior lien on such property, second only to tax liens and liens for street improvements. The lien amount shall include simple interest, which shall accrue at the rate of ten percent (10%) per annum on the date the expenses were incurred by the Town of Prosper. The Town of Prosper may bring suit for foreclosure to recover the expenditures and the interest due.

Section 107.3 Method of Service. Such notice shall be deemed to be properly served if a copy thereof is:

- (a) Delivered personally to the property Owner and/or to the person responsible for the violation in writing;
- (b) Sent by letter addressed to the property Owner at the property Owner's address as recorded in the appraisal district records of the appraisal district in which the property is located or sent by letter addressed to the person responsible for the violation; or
- (c) If personal service of the property Owner cannot be obtained, then:
 - (1) by publication in the Town's official newspaper at least once; or

- (2) by posting on or near the front door of each building on the property to which the violation relates; or
 - (3) by posting a notice to a placard attached to the building or stake driven into the ground on the property to which the violation relates.
- (d) If the Town mails a notice to the property owner in accordance with this Section, and the United States Postal Service returns the notice as “refused,” “unclaimed,” or if the address required by subsection 107.3(2) was used and the notice is returned as “not deliverable as addressed” (or equivalent marking), the validity of the notice is not affected, and is considered as delivered.

Section 109.5 Costs of Emergency Repairs. Costs incurred in the performance of emergency work shall be paid by the Town of Prosper and may be reimbursed by the property owner. The Town of Prosper may seek reimbursement from the property owner for the performance of emergency work. The legal counsel of the Town of Prosper may institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

Section 111.1 Written Explanation for Appeal. The Town of Prosper Construction Board of Appeals will serve as the Board of Appeals. Any person directly affected by a decision of the code official or his/her designee or a notice or order issued under this code shall have the right to appeal to the Construction Board of Appeals, provided that a written explanation for appeal is filed within twenty (20) days after the day the decision, notice or order was served. A written explanation for appeal shall be based on a claim that the true intent of this code or the rules legally adopted there under have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

Section 202 Definition of “Easement.” The definition of an “easement” shall be the definition of that term as found in the Town of Prosper Subdivision Ordinance as it currently exists or may be amended.

Section 302.4 Vegetation & Weeds. All premises and exterior property shall be maintained free from vegetation that creates a nuisance and shall meet the requirements as defined in the Town of Prosper Unsightly Vegetation, Trash, and Debris, Ordinance No. 04-118, as it currently exists or may be amended. Vegetation shall exclude regularly cultivated flowers and gardens located on private property. Landscape beds shall be maintained as originally planted. A property owner may elect to make landscape bed improvements or remove landscape beds at a property, unless otherwise required. Trees and shrubs and the like shall be maintained. Vegetation shall not encroach into a pedestrian walkway or vehicular traveled way. Landscape beds not maintained shall be presumed to be a nuisance, objectionable, unsanitary, and unsightly.

Upon failure of the property owner having ownership of a property when the violation was initially observed and requested to abate said violation after service of a notice of violation, the owner shall be subject to prosecution in accordance with Section 106.4 and as prescribed by the Town of Prosper. Upon failure to comply with the notice of violation, any duly authorized employee or official of the Town of Prosper or agent hired by the Town of Prosper shall be authorized to enter upon the property in violation and correct the violation thereon. All costs of such corrections shall be paid by the owner responsible for the property to the Town of Prosper at the rates and fees referenced in Section 106.4 until such fee is reimbursed for services rendered.

Section 302.7 Accessory Structures. All accessory structures, including detached garages,

fences and walls, shall be maintained structurally sound and in good repair. Fences and retaining walls that are broken, loose, damaged, missing parts (i.e. pickets, slates, posts, wood rails, brick, and panels) shall be repaired, replaced, or removed. Each structural or decorative member of a fence or retaining wall shall be free of deterioration and be compatible in size, material, and appearance with the remainder of the fence or retaining wall. A fence or retaining wall that has deteriorated to a condition that is likely to fall or if any portion of the fence is more than 15 degrees out of vertical alignment shall be repaired, replaced or removed. Fences or retaining walls shall not be externally braced in lieu of replacing or repairing steel post, columns, or other structural members.

Section 302.7.1 Portable Storage Container(s) and/or unit(s). It shall be unlawful for any person, occupant, or owner to place on any public street or Town right-of-way a portable storage container(s) and/or unit(s) including but not limited to PODS, Mobile Mini, Smart Box, and Mini Storage Units. Furthermore, such portable storage container(s) and or unit(s) shall not be placed on any property for a period longer than Forty-five (45) consecutive days.

Section 304.7 Roofs and Drainage. The roof and flashing shall be sound, tight, and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

Section 304.14 Insect Screens. At all times every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm), and every swinging door shall have a self-closing device in good working condition .

Section 308.2. Disposal of Garbage. Every occupant of a structure shall dispose of garbage, trash and/or any other debris in a clean and sanitary manner by placing such garbage, trash and other debris into a municipality approved garbage container for disposal or dispose of garbage, trash, and other debris at an approved facility.

Section 308.2.2 Refrigerators & Other Similar Equipment. Appliances, furniture, and other similar household equipment and debris shall not be discarded, abandoned or stored in any manner that may create an attractive nuisance for children or pets or in a manner that may create a life/safety hazard.

Section 308.3.1. Garbage Facilities. The owner of every dwelling or rental dwelling shall supply all of the following: an approved mechanical food waste grinder in each dwelling unit, unless, otherwise provided, and an approved outside, covered garbage container.

Section 308.4 Residential Bulk Waste. Every occupant of a residential structure shall place bulk waste, including but not limited to vegetation, tree limbs, appliances, furniture or any household goods intended for disposal no earlier than 48 hours prior to the scheduled date for bulk pick-up. If required, it shall be the responsibility of the occupant to notify the bulk collection agency of the need to collect the material.

Section 309.4 Multiple Occupancy. The owner of a structure containing two or more dwelling units, a multiple occupancy, a rooming house or a nonresidential structure shall be responsible

for extermination in the public or shared areas of the structure and exterior property. If infestation is caused by failure of an occupant to prevent such infestation in the area occupied, the occupant shall be responsible for the extermination, unless exempt by contractual agreement.

Section 309.5 Occupant. The occupant of any structure shall be responsible for the continued rodent and pest-free condition of the structure, unless exempt by contractual agreement.

Section 404.7 Food Preparation. All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage. All spaces to be occupied or utilized for food preparation purposes shall comply with the Town of Prosper's Health & Sanitation Code, as it currently exists or may be amended.

Section 602.2 Residential Occupancies. Dwellings shall be provided with heating facilities capable of maintaining a room temperature of sixty-eight degrees Fahrenheit (68°F), or twenty degrees Celsius (20°C), in all habitable rooms, bathrooms and toilet rooms. Cooking appliances shall not be used to provide space heating to meet the requirements of this Section. Space heaters shall not be used as a primary source to provide heat for habitable rooms, bathrooms, and toilet rooms.

Section 602.3. Heat Supply. Every owner and operator of any building who rents, leases or lets one or more dwelling units, rooming unit, dormitory or guestroom on terms, either expressed or implied, to furnish heat to the occupants thereof, shall supply heat at all times to maintain a temperature of not less than sixty-eight degrees Fahrenheit (68°F), or twenty degrees Celsius (20°C), in all habitable rooms, bathrooms, and toilet rooms.

Section 602.4 Occupiable Work Spaces. Indoor occupied work spaces shall be supplied with heat at all times to maintain a temperature of not less than sixty-five degrees Fahrenheit (65°F), or eighteen degrees Celsius (18°C), during the period the spaces are occupied. All 'Exceptions' listed in this Section are included.

Section 701.2 Responsibility. The owner of the premises shall provide and maintain such fire safety facilities and equipment in compliance with these requirements of the Town of Prosper's Fire Code and Building Codes, as they currently exist or may be amended. A person shall not occupy as an owner, occupant or permit another person to occupy any premises that do not comply with the requirements of Chapter 7 of this code.

Chapter 8 - Referenced Standards. Unless otherwise noted, the adoption of the 2015 International Property Maintenance Code, with amendments, will refer to the Town of Prosper's Zoning and Subdivision Ordinances as they currently exist or may be amended, the Building, Fire, Plumbing, Mechanical, Electrical, Health & Sanitation Codes, and any other ordinance or code adopted by the Town of Prosper, as they currently exist or may be amended. The Town of Prosper rescinds reference to the International Zoning Code.