

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, AMENDING SUBPART (E) OF SUBSECTION 7.11, "AMORTIZATION OF NONCONFORMING USES OR STRUCTURES," OF SECTION 7, "NONCONFORMING USES AND STRUCTURES," OF CHAPTER 1, "GENERAL PROVISIONS, ADMINISTRATION AND PROCEDURES," OF THE TOWN'S ZONING ORDINANCE, BY PROVIDING FOR AMORTIZATION PROCEDURES CONSISTENT WITH SENATE BILL 929; AMENDING SUBPART (A), "ZONING CHANGES," OF SUBSECTION 8.2, "PUBLIC HEARING AND NOTICE," OF SECTION 8, "CHANGES AND AMENDMENTS TO ALL ZONING ORDINANCES AND DISTRICTS AND ADMINISTRATIVE PROCEDURES," OF CHAPTER 1, "GENERAL PROVISIONS, ADMINISTRATION AND PROCEDURES," OF THE TOWN'S ZONING ORDINANCE, BY PROVIDING FOR NOTICES RELATIVE TO A CHANGE IN A ZONING REGULATION THAT COULD RESULT IN A NONCONFORMING USE, CONSISTENT WITH SENATE BILL 929; PROVIDING FOR A PENALTY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the 88th Legislature recently passed Senate Bill 929 relative to nonconforming uses of property and notice to property owners, and it is the desire of the Town Council to fully comply with such legislation; and

**WHEREAS**, after public notice and public hearing as required by law, the Planning and Zoning Commission of the Town of Prosper, Texas, has recommended amending the Town's Zoning Ordinance to encompass those amendments as set forth herein; and

**WHEREAS**, after public notice and public hearing as required by law, and upon due deliberation and consideration of the recommendation of said Planning and Zoning Commission and of all testimony and information submitted during said public hearing, the Town Council of the Town of Prosper, Texas, has determined that it is in the public's best interest and in furtherance of the health, safety, morals, and general welfare of the citizens of the Town to amend the Town's Zoning Ordinance as set forth herein.

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

**SECTION 1**

All of the above premises are hereby found to be true and correct legislative and factual findings of the Town of Prosper, and they are hereby approved and incorporated into the body of this Ordinance as if restated herein in their entirety.

**SECTION 2**

From and after the effective date of this Ordinance, Subpart (E) of Subsection 7.11, "Amortization of Nonconforming Uses or Structures," of Section 7, "Nonconforming Uses and Structures," of Chapter 1, "General Provisions, Administration and Procedures," of the Town's Zoning Ordinance is hereby amended to read as follows:

- "E. The Board of Adjustment shall, in accordance with Section 211.019 of the Texas Local Government Code, as amended, utilize the procedures and owner or lessee compensation criteria contained in said Section in the event the Town determines that a nonconforming use of property shall cease."

### **SECTION 3**

From and after the effective date of this Ordinance, Subpart A, "Zoning Changes," of Subsection 8.2, "Public Hearing and Notice," of Section 8, "Changes and Amendments to all Zoning Ordinances and Districts and Administrative Procedures," of Chapter 1, "General Provisions, Administration and Procedures," of the Town's Zoning Ordinance is hereby amended to read as follows:

#### **"8.2 PUBLIC HEARING AND NOTICE**

##### **A. Zoning Changes.**

1. Prior to making its report to the Town Council, the Planning and Zoning Commission shall hold at least one public hearing on each application. Prior to the tenth day before the hearing date before the Planning and Zoning Commission, written notice of each public hearing before the Planning and Zoning Commission on a proposed change in a zoning classification shall be sent to each owner, as indicated by the most recently approved municipal tax roll, of property within 200 feet of the property in which the change in classification is proposed. The notice may be served by its deposit in the municipality, properly addressed with postage paid, in the United States mail. Notice of Town Council hearing shall be given by publication in the official newspaper of the town, stating the time and place of such hearing, a minimum of 15 days prior to the date of the public hearing.
2. In addition to the foregoing notice, the Town shall provide written notice of each public hearing regarding any proposed adoption of or change to a zoning regulation or boundary under which a current conforming use of a property is a nonconforming use if the regulation or boundary is adopted or changed. The notice shall:
  - (a) be mailed by United States mail to each owner of real or business personal property where the proposed nonconforming use is located as indicated by the most recently approved municipal tax roll and each occupant of the property not later than the 10th day before the hearing date;
  - (b) contain the time and place of the hearing; and
  - (c) include the following text in bold 14-point type or larger:  
"THE TOWN OF PROSPER IS HOLDING A HEARING  
THAT WILL DETERMINE WHETHER YOU MAY LOSE

THE RIGHT TO CONTINUE USING YOUR PROPERTY  
FOR ITS CURRENT USE. PLEASE READ THIS NOTICE  
CAREFULLY.”

\* \* \*

#### **SECTION 4**

Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. 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 or invalid.

#### **SECTION 5**

All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict, and any remaining portions of said ordinances shall remain in full force and effect.

#### **SECTION 6**

Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by fine not to exceed the sum of two thousand dollars (\$2,000.00) for each offense.

#### **SECTION 7**

This Ordinance shall become effective from and after its adoption and publication as required by law; however, the provisions of this Ordinance shall not be applicable to any residential development or tract of land for which one or more final plats has been approved by the Town as of the effective date of this Ordinance.

**DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF  
THE TOWN OF PROSPER, TEXAS, ON THIS 12TH DAY OF SEPTEMBER, 2023.**

---

**David F. Bristol, Mayor**

**ATTEST:**

---

**Michelle Lewis Sirianni, Town Secretary**

**APPROVED AS TO FORM AND LEGALITY:**

---

**Terrence S. Welch, Town Attorney**