

COMMONWEALTH OF KENTUCKY
CITY OF PROSPECT
CITY COUNCIL REGULAR MEETING
Monday, July 15, 2024, 7:00 p.m.

AGENDA

CALL TO ORDER

- Chair: Mayor Doug Farnsley

EXPRESSION OF APPRECIATION TO MR. CHRISLER WHITE AND PROCLAMATION DECLARING July 15, 2024 TO BE CHRISLER WHITE DAY IN PROSPECT

APPROVAL OF MINUTES

- Approval of Minutes of the June 14, 2024 special city council meeting, and June 17, 2024 regular council meeting.

COMMENTS FROM CITIZENS

MAYOR'S REPORT

- Mayor's update on City matters.

FINANCIAL REPORTS

- Monthly financial update

COMMISSION & BOARD REPORTS

- Forestation Board

OTHER REPORTS

- Parks and Recreation Advisory Committee
- Investment Committee
- Jefferson County League of Cities

POLICE REPORT

UNFINISHED BUSINESS

- Second reading of **Ordinance 643, Series 2024**, AN ORDINANCE RELATING TO THE AMENDMENT AND MODIFICATION OF CHAPTER 162: SOLAR INSTALLATIONS OF THE CITY OF PROSPECT CODE OF ORDINANCE FOR THAT PURPOSE.

NEW BUSINESS

- First reading of **Ordinance No. 637, Series, 2024**, AN ORDINANCE RELATING TO THE AMENDMENT AND MODIFICATION OF CHAPTER 97: TREES AND FORESTATION OF THE CODE OF ORDINANCES OF THE CITY OF PROSPECT. This ordinance updates and amends the city's forestation ordinance. (Versions A and B will be under consideration)
- First reading of **Ordinance 644, Series 2024**, AN ORDINANCE ENACTING AND ADOPTING THE 2023 SUPPLEMENT TO THE CODE OF ORDINANCES OF THE CITY OF PROSPECT. This ordinance adopts American Legal Publishing's codification of ordinances adopted in 2023.
- **Municipal Order 4, Series 2024**: AN ORDER CONSENTING TO THE NOMINATION BY THE MAYOR OF STEVE PENNINGTON, ROBERT JACOB, M.D. AND DIANE GRAETER OF THE CITY TO SERVE ON THE CITY OF PROSPECT CODE ENFORCEMENT BOARD AND AFFIXING TERMS OF OFFICE THERETO.

ADJOURNMENT

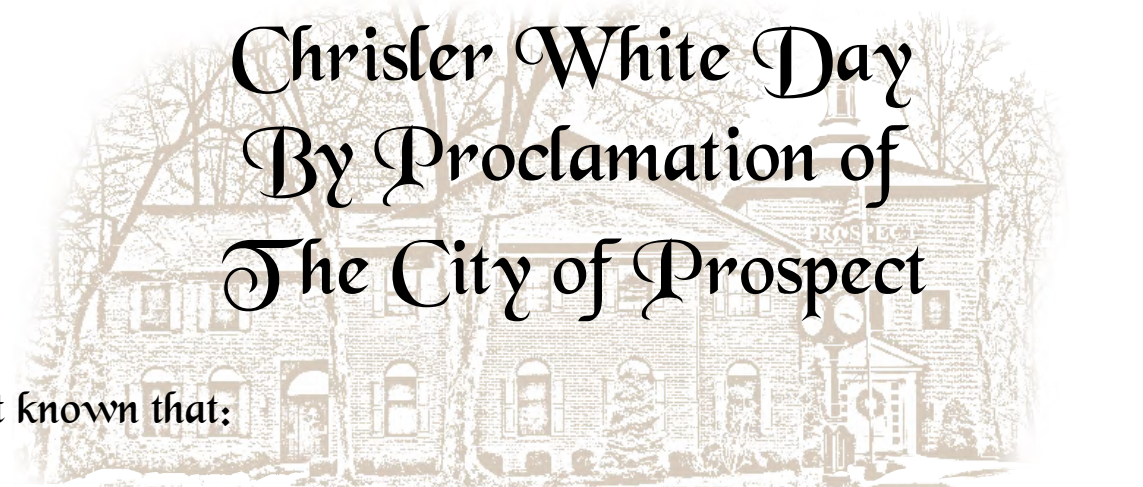
Supporting documents for this meeting's agenda are archived on the city's website calendar:

<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

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.



Chrisler White Day By Proclamation of The City of Prospect

Be it known that:

Whereas: the City of Prospect, Kentucky expresses its appreciation to Chrisler White, volunteer student member of the Prospect Parks and Recreation Advisory Committee, and

Where as: through organization and participation in volunteer activities for the betterment of the Prospect Parks, Chrisler White demonstrates a sense of community engagement, civic service, and stewardship of nature, and

Where as: the volunteer actions inspire the City of Prospect residents to value the impact of community involvement, and to embrace the park systems environmental, aesthetic and recreational benefits.

Now Therefore, let it be known this 15th day of July, 2024 shall be proclaimed as Chrisler White Day and I call on the citizens of the City of Prospect, Kentucky to join in this day of celebration.



Douglas Farnsley
Mayor, City of Prospect, Kentucky



CITY COUNCIL
SPECIAL MEETING MINUTES

June 14, 2024

Attending In-Person: Mayor Doug Farnsley; Council Members John Clark, John Evans, Don Gibson, Sara Hines, and David Holmes; Police Chief Jeff Sherrard; City Administrator and City Clerk John S. Carter

Absent: Council Member Frank Fulcher; City Attorney F. Chris Gorman

Call to Order

Mayor Farnsley called the special meeting to order at 3:00 p.m.

Comments from Citizens

- None

Mayor's Report

- The mayor encouraged citizens to attend upcoming civic events hosted by the city, including a Flag Day celebration scheduled for 11 am on June 15th that will feature Sons for the American Revolution color guard, and Prospect's 1st Kids Fest scheduled for the morning of June 22nd.
- The city is in discussions United States Postal Service about relocating their local branch to another area within the Prospect business district.

New Business

- Council Member Gibson moved for a First reading of **Ordinance 642, Series 2024, 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 Hines. A roll call vote was held: **Yea:** Clark, Evans, Gibson, Hines & Holmes. **Nay:** None. The motion passed 5 – 0.

Adjournment: Council Member Hines moved to adjourn, seconded by Council Member Clark, and the motion passed unanimously. Mayor Farnsley declared the council meeting adjourned at 3:09 p.m.

Prepared by:

Approved:

John S. Carter, City Clerk

Douglass Farnsley, Mayor

This meeting was live-streamed on YouTube.

CITY COUNCIL REGULAR MEETING MINUTES

June 17, 2024

Attending In-Person: Mayor Doug Farnsley; Council Members John Clark, John Evans, Frank Fulcher, Don Gibson, Sara Hines, and David Holmes; Police Chief Jeff Sherrard and Asst. Police Chief Tony Denham; City Administrator and Clerk John S. Carter

Absent: City Attorney F. Chris Gorman.

Participating Remotely: Director of Public Works Ron Cundiff

Call to Order

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

Approval of Minutes:

- Council Member Evans moved to approve the minutes of the May 20, 2024 regular council meeting, seconded by Council Member Clark, and the motion passed unanimously.
- Council Member Clark moved to approve the minutes of the May 30, 2024 special council meeting, seconded by Council Member Hines, and the motion passed unanimously.

Comments from Citizens

- Residents Carolyn Embry and John Shelby spoke in support of the first reading and passage of Ordinance No. 643, Series 2024, amending and modifying Chapter 162: Solar Installations of the City of Prospect Code of Ordinances.

Mayor's Report

- The city recently hosted a well-attended concert by The Rumors at the John Evan Pavilion on June 9th. Several more concerts are scheduled throughout the summer.
- On June 15th the city held an informative Flag Day celebration that featured the Sons of the American Revolution color guard.
- This coming Saturday, June 22nd the city will hold its first "Kidz Fest" in Little Hunting Creek Park, that will include face painting, balloon figures, crafts, games and other activities.
- This evening's agenda includes the council's consideration of an amended solar ordinance. Mr. Steve Ricketts, chairperson for the Kentucky Solar Energy Society, is in attendance this evening and will make remarks and answer questions about the proposed revisions to the city's solar installation ordinance.

Financial Reports

The City Administrator presented a synopsis of the city's finances through May 2024.

- Cash on hand totaled approximately \$3.8 million.

- Revenue has exceeded the budget and expenditures are on target with one month remaining in the fiscal year.
- The total restricted road aid fund is approximately \$288K.

Commission and Board Reports

On behalf of the Forestation Board, Board Chair Linda Knox presented a written and oral report on the following:

- A joint meeting of the Forestation Board and Council Committee was recently held to review and reconcile the two proposed versions of the amended Forestation ordinance. The group agreed to make two minor changes to 'version A' and submit it to the full council for adoption.
- The board reviewed several tree cases currently under evaluation, and proposed a new report form that will include pertinent information needed for code enforcement. The mayor agreed to schedule a meeting with the Police Chief and Code Enforcement Officer to review the new form and discuss its implementation.
- The board will partner with the Parks and Recreation Advisory Committee to man a informational table at the upcoming Fourth of July celebration.

Other Reports

On behalf of the Parks and Recreation Advisory Committee, Committee Chair Linda Wardell presented a written and oral report on the following:

- Site preparation for the Harrods Creek Stream bridge is ongoing.
- Representatives of the Kentuckiana Regional Development Authority (KIDPA) are to soon meet with city officials to discuss applying for a Recreational Trails Grant to fund the Putney Pond Boardwalk project.
- New directional trail markers have been installed in Putney Pond Park and Woodlands.
- The city's public works department has removed all fallen trees that had obstructed park paths after the recent storms.
- The Rumors Band concert held on June 9th was a great success. The next concert will feature The Don Krekel Orchestra on Sunday, July 21st.
- The city's first 'Kidz Fest' is scheduled to take place in Little Hunting Creek Park on Saturday, June 22nd from 10 am to noon.
- Other upcoming events sponsored by the committee include an 'Adopt-a-Highway' cleanup along US 42 in July, and the Harrods Creek Trail Bash scheduled for this coming November.

Council Member Gibson updated the council on the past meeting of the Jefferson County League of Cities [JCLC] meeting. JCLC's sponsored a "City's Night" at a Louisville Bat's game on June 13th. Prospect had the best attendance of all cities with 21 representatives attending the game.

Police Report:

Police Chief Sherrard reported:

- The details of the written report on arrests and call responses were presented.
- The city has a recurring problem with thefts and break-ins related to unlocked vehicles. The Chief urged residents to always lock their vehicles, and to never leave valuables or weapons in an unoccupied vehicle.

Old Business

- Council Member Evans moved for a second reading of **Ordinance 638, Series 2024**, AN ORDINANCE ESTABLISHING AN AD VALOREM TAX RATE FOR THE CITY OF PROSPECT FOR THE FISCAL YEAR BEGINNING JULY 1, 2024, AND ENDING JUNE 30, 2025, seconded by Council Member Clark.
 - Council Member Fulcher moved to amend **Ordinance 638, Series 2024** by amending the ad valorem tax rate to \$0.171 per \$100 of valuation. The motion failed for lack of a second.

A roll call vote was held on second reading of **Ordinance 638, Series 2024**: Yea: Clark, Evans, Gibson, Hines & Holmes. Nay: Fulcher. The motion passed 5 -1

- Council Member Evans moved for a second reading of **Ordinance 639, Series 2024**, AN ORDINANCE ESTABLISHING THE BUDGET FOR THE GENERAL FUND OF THE CITY OF PROSPECT FOR THE FISCAL YEAR BEGINNING JULY 1, 2024, AND ENDING JUNE 30, 2025, seconded by Council Member Gibson.

- Council Member Holmes moved to amend **Ordinance 639, Series 2024** by increasing revenue under Existing Surplus to \$48,707 and increasing expenditures under City Administration to \$970,392, seconded by Council Member Clark. A roll call vote was held: Yea: Clark, Fulcher, Evans, Gibson, Hines & Holmes. Nay: None. The motion passed 6 -0

A roll call vote was held on second reading of **Ordinance 639, Series 2024**, as amended: Yea: Clark, Evans, Gibson, Hines & Holmes. Nay: Fulcher. The motion passed 5 -1.

- Council Member Clark moved for a second reading of **Ordinance 640, Series 2024**, AN ORDINANCE ESTABLISHING THE MUNICIPAL ROAD AID FUND OF THE CITY OF PROSPECT FOR THE FISCAL YEAR BEGINNING JULY 1, 2024 AND ENDING JULY 1, 2025, seconded by Council Member Fulcher. A roll call vote was held: Yea: Clark, Evans, Fulcher, Gibson, Hines & Holmes. Nay: None. The motion passed 6 -0.
- Council Member Gibson moved for a second reading of **Ordinance 641, Series, 2024**, AN ORDINANCE ESTABLISHING A BUDGET FOR THE CAPITAL INVESTMENT FUND OF THE CITY OF PROSPECT FOR THE FISCAL YEAR BEGINNING JULY 1, 2024 AND ENDING JUNE 30, 2025, seconded by Council Member Hines. A roll call vote was held: Yea: Clark, Evans, Fulcher, Gibson, Hines & Holmes. Nay: None. The motion passed 6 -0.
- Council Member Hines moved for a second reading of **Ordinance 642, Series 2024**, 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 Evans. A roll call vote was held: Yea: Clark, Evans, Fulcher, Gibson, Hines & Holmes. Nay: None. The motion passed 6 -0.

New Business

- Council Member Fulcher moved to adopt **Resolution No. 1, Series 2024**, A RESOLUTION OF THE CITY OF PROSPECT ("CITY") REQUESTING THE UNITED STATES POSTAL SERVICE TO RELOCATE LOCAL POST OFFICE WITHIN CITY LIMITS, seconded by Council Member Clark. A roll call vote was held: Yea: Clark, Evans, Fulcher, Gibson, Hines & Holmes. Nay: None. The motion passed 6 -0.

- Council Member Gibson moved to approve **Municipal Order No. 3, Series 2024**, AN ORDER CONSENTING TO THE NOMINATIONS BY THE MAYOR OF CITIZENS OF THE CITY TO SERVE ON THE CITY OF ARCHITECTURAL REVIEW COMMITTEE, seconded by Council Member Holmes. A roll call vote was held: Yea: Clark, Evans, Fulcher, Gibson, Hines & Holmes. Nay: None. The motion passed 6 -0.
- Council Member Holmes moved for a first reading of **Ordinance No. 637, Series, 2024**, AN ORDINANCE RELATING TO THE AMENDMENT AND MODIFICATION OF CHAPTER 97: TREES AND FORESTATION OF THE CODE OF ORDINANCES OF THE CITY OF PROSPECT. The motion failed for lack of a second.
- Council Member Gibson moved for the first reading of **Ordinance 643, Series 2024**, AN ORDINANCE RELATING TO THE AMENDMENT AND MODIFICATION OF CHAPTER 162: SOLAR INSTALLATIONS OF THE CITY OF PROSPECT CODE OF ORDINANCE FOR THAT PURPOSE, seconded by Council Member Hines. A roll call vote was held: Yea: Clark, Fulcher, Gibson, Hines & Holmes. Nay: None. Abstention: Evans. The motion passed 6 -0

Adjournment: Mayor Farnsley declared the council meeting adjourned at 8:02 p.m.

Prepared by:

Approved:

John S. Carter, City Clerk

Douglass Farnsley, Mayor

This meeting was live-streamed on YouTube.

Parks & Recreation Advisory Committee Report to City Council

July 15, 2024

- Parks Updates
 - Harrods Creek Park Stream Crossing Bridge Project—Site preparation continues. The abutment foundations have been completed and the culverts are being removed.
 - Putney Pond & Woodlands Boardwalk Project—Mayor Farnsley, Council Member Don Gibson and Linda Wardell met with Dustin Duncan of KIPDA. We plan to apply for a Recreational Trails Grant for this project. The grant application period is January 1- May 31, 2025. The grant, which requires a 20% mat, will be awarded in early 2026. The plan is to break the project into at least two phases. If we are successful in receiving a grant for phase 1, we will be able to apply for a second grant in a subsequent year.
 - The city has been gifted a delightful sculpture from the Risen family. It has been installed in Little Hunting Creek Park near the John E. Evans Pavilion and Charlotte’s Playground.

- Parks & Recreation Programs and Events
 - Kidz Fest was a very successful event with 150+ in attendance. The music provided by Scene 7 was enjoyed by all, and the craft activities were very popular with the children.
 - The next Pavilion Concert will take place at 7pm on Sunday, July 21. The Boss Hog’s BBQ food truck will begin serving at 6:30. This concert features the Don Krekel Orchestra, a 17-piece orchestra and vocalist.
 - Upcoming Parks sponsored programs include:
 - Adopt-a-Highway cleanup later in the year
 - Harrods Creek Trail Bash in November

**City of Prospect
Investment Summary**

	Market Value as of		Change	Allocation	Current Yield
	3/31/2024	6/30/2024		%	
Republic Bank					
Savings Account	80,054.37	-	(80,054.37)	0%	4.25%
Subtotal Republic	80,054.37	-	(80,054.37)		
KLCIP					
Money Market Fund	2,166,699.80	1,757,551.80	(409,148.00)	53%	4.98%
Enhanced Income Fund	1,502,062.34	1,515,791.06	13,728.72	46%	4.90%
S&P 500 Fund	21,105.25	37,545.09	16,439.84	1%	1.35%
Subtotal KLCIP	3,689,867.39	3,310,887.95	(378,979.44)		
Total	3,769,921.76	3,310,887.95	(459,033.81)	100%	

Change due to:	Republic	KLCIP	Total
Funds withdrawn for Operations	(80,360.27)	(425,000.00)	(505,360.27)
Interest/Dividends/Realized Gains	305.90	45,708.04	46,013.94
Unrealized Gains (Losses)		312.52	312.52
Total Change	(80,054.37)	(378,979.44)	(459,033.81)

Earnings on all accounts since 12/31/2023

January - March 2024	41,454.48
April - June 2024	46,326.46
Total	87,780.94

Added Value of S&P 500 Funds

Actual Earnings	1,395.86
Earnings if it stayed in original funds	425.00
Added Value of S&P Investment	970.86

KLCIP S&P Fund Return:

Feb-5.01%
 March-3.10%
 April-4.06%
 May-4.7%
 June-Not yet available

**CITY OF PROSPECT
ORDINANCE NO. 643, SERIES 2024**

**AN ORDINANCE RELATING TO THE AMENDMENT AND MODIFICATION OF CHAPTER 162:
SOLAR INSTALLATIONS OF THE CITY OF PROSPECT CODE OF ORDINANCE FOR THAT PURPOSE**

WHEREAS, the Prospect City Council is committed to ensuring the efficient and economical development of residential and small commercial solar energy systems, while protecting public health, safety, welfare, and property values in the city; and

WHEREAS, Chapter 162 establishes a code of regulations for solar installation in the City of Prospect; and

WHEREAS, it is the responsibility of the City Council to review ordinances periodically and amend them as appropriate, and

WHEREAS, it has been determined 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 162 is hereby amended and modified as hereinafter set forth with old language struck through, changes, and new language being underlined and reading as follows:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF PROSPECT, KENTUCKY:

Section 1. Chapter 162 is hereby amended and modified as hereinafter set forth with old language struck through, changes, and new language being underlined and reading as follows:

§162.01 REQUIREMENTS FOR SOLAR PANEL INSTALLATIONS.

(A) ~~Review and Application~~ General Regulations

- (1) ~~Purpose. The purpose and intent of this section is to allow the use of solar energy within the city as a clean, alternative energy source, and to provide regulations that will protect public health, safety, and welfare. Therefore, no person shall construct, erect, maintain, extend, or remove a solar collector or solar energy system in the residentially zoned sections of the city without compliance with the provisions of this section~~ Solar energy systems require both an approved electrical and building permit prior to installation.
- (2) Application. Commercial and residential solar installations require a letter of compliance from the city. An application for a letter of compliance shall include the following:
 - (a) Applicant shall file with the City Clerk an application on a form prescribed by the city and pay the filing fee of \$300.
 - (b) The application shall include photographs of the property's existing conditions, including renderings or ~~catalog cuts~~ design layouts of the proposed solar energy system. A plot/sketch plan to indicate the elevation ~~of~~ where the modules and external system components (inverters/load centers) ~~solar energy~~

~~system is are to be installed on the building, and the required setback to meet prevailing building codes and include property setbacks and the total solar collector surface area.~~

~~(c) For pitched roof mounted solar systems, the elevation must show the highest finished height of the system and the height of the finished roof surface on which it is mounted.~~

~~(d)~~ (c) For flat roof-mounted solar energy systems, the elevations shall show the highest finished height of the system, the required setback to meet prevailing building codes, the method of roof attachment, and the highest point of the roof, including any parapets on the building.

(B) Design Regulations

~~(a)~~ (1) ~~Design regulations~~ Ground-mounted solar energy systems are ~~prohibited in residential use districts, only roof-mounted collectors are allowed for commercial or agricultural locations only, subject to the following development standards.~~

(a) A maximum fixed array height of 12' at maximum design tilt.

(b) A minimum 50' setback from adjacent property boundaries. This setback can be waived in writing by the adjacent property owner to whom the property line or residence setback is applicable.

(c) Full screening by vegetation or existing structures from the sightline of adjacent dwellings.

(d) Located only in the rear yard of a commercial property or on farm agricultural land.

~~(a)~~ (2) Roof-mounted solar energy systems are allowed for residential and commercial locations, subject to the following development standards:

~~(b)~~ (a) No permit shall be issued for any solar energy system until a plan of such device(s) showing the location, material, and type of construction is delivered to and approved by the Mayor or his or her designee, and ~~such location thereof is in keeping with and does not detract from the surrounding neighborhood, and is located so as not to be installed on the primary residence's roofline facing the street or seen from the primary residence's street address façade~~ is judged to meet the specific design and construction criteria outlined in this ordinance.

~~(c)~~ (b) Any appurtenant equipment shall be set back a minimum of 15 feet from all property lines and a minimum of 30 feet from all dwellings located on adjacent lots. ~~Roof-mounted systems shall comply with all building setbacks in the applicable zoning district and shall not extend beyond the exterior perimeter of the building on which the system is mounted.~~ Solar collectors shall be mounted directly on, and not change the roof pitch, nor may they extend beyond the roof peak, or be elevated more than 9" from the roof plane.

~~(d)~~ (c) Solar collectors shall be flush mounted on pitched roofs. Solar collectors may be bracket mounted on flat roofs. Solar collectors may only be mounted on lawfully permitted principal or accessory structures. Solar collectors may be ballast or attachment mounted on flat roofs

providing Kentucky Building Code requirements on structural integrity are met.

~~(e) (d) All solar energy systems shall use colors that blend with the color of the roof or other structure. Reflection angles from collector surfaces shall be oriented away from neighboring windows. Where necessary, screening may be required to address glare. Solar collectors may only be mounted on lawfully permitted principal or accessory structures.~~

~~(f) (e) No signage or graphic content may be displayed on the solar collection system except the manufacturer's badge, safety information and equipment specification information. Said information shall be depicted within an area no more than 36 square inches in size solar collectors shall be placed on roof surfaces facing the front right of way unless they are of the building integrated PV (BIPV) (invisible) shingle type.~~

~~(g) -Standards and certification. Solar energy systems shall meet the minimum standards outlined by the National Electric Code (NEC), Institute of Electrical and Electronics Engineers (IEEE) and the Underwriters Laboratory (UL) or other standards as determined by the Planning Commission. Solar energy systems shall be certified by Underwriters Laboratories, Inc. All grid connected systems shall have an agreement with the local utility prior to the issuance of a building permit. A visible external disconnect must be provided if required by the utility.~~

~~(h) (f) If the solar energy system remains nonfunctional or inoperative for a continuous period of one year, the system shall be deemed to be abandoned and constitute a public nuisance. Exceptions are permitted for actions related to utility or solar installers technical, commercial or legal compliance. In such situations, a two-year grace period will be allowed. The owner shall remove any abandoned system at their expense. Removal includes the entire structure including transmission equipment.~~

§162.02 PENALTIES

(A) Any person who violates any provision of this Ordinance shall be fined not less than \$100.00 nor more than \$500. Any continuing violation of this Ordinance shall be considered a separate and distinct offense on each day a violation occurs or continues, and a separate penalty may be imposed.

SECTION 2: That this Ordinance shall take effect from and after its passage, signing, and publication as required by law.

First Reading this 17th day of June 2024.

Passed on Second Reading this _____ day of _____ 2024.

By a vote of _____ aye and _____ nay of the City Council.

APPROVED/VETOED:

Douglass Farnsley
Mayor

ATTEST:

John S. Carter
City Clerk

**CITY OF PROSPECT
ORDINANCE NO. 637, SERIES 2024**

**AN ORDINANCE RELATING TO THE AMENDMENT AND MODIFICATION OF CHAPTER 97: TREES
AND FORESTATION OF THE CODE OF ORDINANCES OF THE CITY OF PROSPECT**

WHEREAS, Chapter 97 establishes a code of regulation for trees and forestation 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 97 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 97: TREES AND FORESTATION

Section

- 97.00 Public Purpose
- 97.01 Definitions
- 97.02 Creation of Forestation Board
- 97.03 Term of office of Forestation Board
- 97.04 Compensation
- 97.05 Duties and responsibilities of the Forestation Board/City Tree Plan
- 97.06 Operation of Forestation Board
- 97.07 Native and non-native tree species permitted or prohibited
- 97.08 Spacing of street trees
- 97.09 Distance from curb and sidewalk
- 97.10 Planting distance from street corners and hydrants
- 97.11 Planting distance from utilities
- 97.12 Public tree care
- 97.13 Remedial action by property owner regarding dead, diseased or infected trees
- 97.14 Topping, disfiguring and damaging of trees
- 97.15 Pruning, corner clearance, street lamp and traffic control obstruction
- 97.16 Removal or damage to public trees
- 97.17 Nominations for designation of protected or historic trees
- 97.18 Pruning, removal or excavation relating to protected or historic trees
- 97.19 Interference with Forestation Board
- 97.20 Arborist permit, bond, insurance and agreed standards

97.21 Review by City Council

97.99 Penalty

§ 97.00 PUBLIC PURPOSE.

It is the role of city government to provide an environment which actively supports the health and economic welfare of residents. This obligation extends to the desirability of creating and maintaining a healthy and sustainable tree canopy. Accordingly, the City Council finds and declares that the purpose of this chapter is to:

- a. Create a Forestation Board, and
- b. Define its duties and responsibilities.

§ 97.01 DEFINITIONS.

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

ARBORIST. An individual engaged in the profession of arboriculture who, through experience, education and related training, possesses the competence to provide for or supervise the management of trees and other woody plants.

CITY. The City of Prospect, Kentucky.

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

HISTORIC TREES. Any public tree found by the arborist for the city or by resolution of the Prospect Forestation Board of the city to be of notable historic interest because of its age, type or size; or a tree which traces its ancestry through seed or propagation to an historic event or notable personage including trees descendant from a tree found at an historic location and trees descendant from a tree planted by a prominent individual.

PARK TREES. Trees located within the city's established parks, open areas, landscaped areas, open lawn areas, confined spaces around buildings, recreational facilities, plazas, parking lots, buffers, and recreational areas of the city.

PROTECTED TREES. Any public tree within the corporate limits of the City of Prospect with a circumference of 42 inches or more, measured at four feet above natural grade, and which is deemed by the arborist for the city or by resolution of the Prospect Forestation Board to have significant or historical interest to the city.

PUBLIC SHRUBS OR BUSHES. Any low, multiple-stemmed, woody vegetation located within the public right-of-way, within the city's established parks, open areas, landscaped areas, open lawn areas, plazas, parking lots, buffers, and recreational areas of the city.

PUBLIC TREES. Collectively include "street trees", "park trees" and "trees on other public properties" as further defined in this chapter.

STREET TREES. Trees located within the public street right-of-way of the city.

TREES ON OTHER PUBLIC PROPERTIES. Trees within greenways, along trails, in riparian zones and drainage areas, in buffers, or in utility easements within the city. This type of forestation is commonly identified with densely wooded areas or flood plains adjacent to streams and creek banks.

TRENCH OR TRENCHING. A linear cut in the ground exceeding 12 feet in length and of such depth as to significantly affect the tree roots of a public tree in the area of the trench. A trench or trenching on private land falls within the definition of regulated trenching in situations where such trenching affects roots of trees on public land.

§ 97.02 CREATION OF FORESTATION BOARD.

There is hereby created and established a Forestation Board for the City of Prospect, Kentucky, which shall consist of ~~five~~ seven members, at least five of whom are citizens, and residents of the city, ~~who~~ No more than two of the members may be residents of nearby communities. Board members shall be appointed by the Mayor with the approval of the City Council. The Forestation Board shall exist as a distinct administrative board ~~with independent authority.~~

§ 97.03 TERM OF OFFICE OF FORESTATION BOARD.

The term of office for the ~~five~~ seven persons appointed by the Mayor to the Forestation Board shall be three years, except that the term of ~~two~~ three of the members appointed initially shall be for one year, and the term of ~~two~~ four members of the first Board shall be for two years. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term.

§ 97.04 COMPENSATION.

The members of the Forestation Board of the City of Prospect shall serve without compensation.

§ 97.05 DUTIES AND RESPONSIBILITIES OF THE FORESTATION BOARD/CITY TREE PLAN.

- A) It shall be the responsibility of the Forestation Board to study, investigate, counsel, develop and administer a written City Tree Plan for the care, preservation, pruning, planting, replanting, removal, or disposition of trees and shrubs along streets, in parks and in other public areas. Said plan shall be updated annually and delivered to the Mayor and City Council no later than the last Friday in April of each year, that date coinciding with National Arbor Day observance. Upon acceptance and approval of the plan by the City Council, it shall constitute the official comprehensive tree plan for the City of Prospect, Kentucky. The Board, when requested by the City Council, shall consider, investigate, and make recommendations upon any special matter or question coming within the scope of its work.
- B) Among the duties of the Forestation Board shall be to help educate the citizens of the city to the environmental benefits of the city's tree canopy.

C) The board shall also make itself and the city's arborist available upon request of a city resident for assistance in assessing potentially dangerous and/or diseased trees on their private property located within the city's limits.

§ 97.06 OPERATION OF THE FORESTATION BOARD.

The Forestation Board shall select its own officers, and keep a written record of its findings and written reports of its meetings. A majority of the members shall constitute a quorum for the transaction of business.

§ 97.07 NATIVE AND NON-NATIVE TREE SPECIES PERMITTED OR PROHIBITED.

The Forestation Board shall formulate an official Native and Non-Native Tree Species Listing for the City of Prospect in consultation with a professional arborist or professional forester retained by the city and/or the Kentucky Division of Forestry. The list shall be approved by the Mayor and City Council. The list shall specifically address both allowed and non-allowed species and shall be broken down into categories of small, medium, and large trees as well as native and non-native categories. No species other than those included in this list may be planted as street trees, park trees or trees on other public properties without written permission of the Forestation Board. ~~The initial listing of allowed and non-allowed trees shall be published by resolution of the Forestation Board no later than 60 days after the adoption of this section. Thereafter, said~~ The official listing shall be included in the Annual Report of the Forestation Board to the Mayor and City Council, when modified or updated and submitted no later than the last Friday in April of each year. The listing of allowed and non-allowed trees shall be kept on file with the city, shall be reviewed and updated at least annually, but may be updated with approval of the Mayor at such times as circumstances require.

§ 97.08 SPACING OF STREET TREES.

The spacing of street trees will be in accordance with the three size classifications as set out by the Forestation Board in its most recently updated official listing, and unless specifically approved in writing by the Forestation Board, no newly planted trees may be planted closer together than the following distances: small trees, 30 feet; medium trees, 40 feet; and large trees, 50 feet. When planting new street trees near existing mature trees, a minimum distance must separate the trees based upon one-third of the new tree's mature spread.

§ 97.09 DISTANCE FROM CURB AND SIDEWALK.

The distance which trees may be planted from curbs or curb lines and sidewalks will be in accordance with the classifications of trees as set out by the Forestation Board in its most recently updated official listing, and no newly planted trees may be planted closer than four (4) feet to any curb or sidewalk ~~than the following distances: small trees, two feet; medium trees, three feet; and large trees, four feet.~~

§ 97.10 PLANTING DISTANCE FROM STREET CORNERS AND HYDRANTS.

No street tree or park tree shall be planted closer than 20 feet to any street corner, measured from the point of the nearest intersection's curbs and curb lines. No tree shall be planted closer than ten feet from any fire hydrant or utility pole. No shrubs or bushes located in the public right-of-way shall be planted closer than 20 feet from any street corner or intersection if said plant or bush obstructs visual site lines of any vehicle operator or creates any other health or safety hazard.

§ 97.11 PLANTING DISTANCE FROM UTILITIES.

No tree, whether on public or private property within the city, other than those classified as "small trees" as set out by the Forestation Board in its most recently updated official Tree Listing, may be planted under or within ten lateral feet of any overhead utilities wire.

§ 97.12 PUBLIC TREE CARE.

The city shall have the right to plant, prune, maintain; and to remove public trees, stumps, plants, or shrubs within the lines of all streets, alleys, lanes, and other public grounds as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The city, in consultation with the Forestation Board, and a professional arborist or professional forester retained by the city if deemed appropriate, may remove or cause or order to be removed or remediated any public tree or any portion thereof which is in an unsafe condition or which by reason of its nature is injurious due to fungus, insects, or other pests. All contractual work or labor conducted on behalf of the city in planting, pruning, maintaining or removing public trees or stumps shall be done in accordance with current American National Standards for Arboricultural Operations Safety Requirements (ANSI Z133-1) and current American National Standards for Tree Care Operations – Tree, Shrub, and Other Woody Plant Maintenance (ANSI A300). The Mayor or City Administrator shall notify the Forestation Board whenever it is necessary for said Board to make determinations to effectuate the provisions of this chapter.

§ 97.13 REMEDIAL ACTION BY PROPERTY OWNER REGARDING DEAD, DISEASED OR INFECTED TREES.

~~The city, upon written confirmation from the Forestation Board, in consultation with a professional arborist or professional forester retained by the city if deemed appropriate, shall have the right to cause the removal or remediation of any tree or any portion of a tree located on private property within the city when that tree presents an unsafe condition constituting a hazard to life or property, or presents a threat or potential threat of the spread of disease to other trees within the city due to injurious fungus, insects, or other pests. If the owners of said trees decline for any reason to remove or remediate trees as required under this section, the city may provide written notice, via regular mail or posting on the property, advising the owners to conduct removal or remediation. If removal or remediation is not conducted within 45 calendar days, the city may provide further written notice, via regular mail or posting on the property, advising the owner of the city's intent to remove or remediate said trees. The owners shall have ten days from the receipt or posting of said notice to file a written appeal of the proposed~~

removal or remediation to the Forestation Board. The Forestation Board shall have 30 days to issue a written ruling on such appeal. The city in consultation with the Forestation Board may determine that a tree or any portion of a tree located on private property within the city presents an unsafe condition constituting a hazard to life or property or presents a threat or potential threat of the spread of disease to other trees within the city due to injurious fungus, insects, or other pests. Should such a determination be made, the city shall notify the owner of the tree's condition. Thereafter, the city may notify the owner of required remediation. Within 14 days of receipt of such notice, the owner may file a written appeal of the proposed remediation. Any such appeal may be supported by a written report or finding from a ISA certified (International Society of Arboriculture), professional arborist or by other evidence. The Forestation Board shall within 30 days issue a written ruling on the appeal. Absent an appeal and within the 14-day period, the property owner shall provide written confirmation of intent to remediate and a schedule for remediation. If remediation is not completed within 45 calendar days, the city may provide further written notice advising the owner of the city's intent to remove or otherwise remediate the tree or trees. Any entry by the city or contractor selected by the city on to private property to evaluate, remediate, or remove a tree shall be undertaken in compliance with state and federal law, and with reasonable notice having been provided to the owner of the property. The notice shall further advise the owner: 1) of the city's intent to assess the owner the costs incurred by the city and any related fine that may be imposed on the owner, and 2) of the city's intent to assert a lien on the property if payment is not received by the city within 30 days.

§ 97.14 TOPPING, DISFIGURING AND DAMAGING OF TREES.

It shall be unlawful for any person, firm, or city department to top or significantly disfigure any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes or certain trees under utility wires and other obstructions where alternative pruning practices are impractical may be exempt from this chapter by written decision of the Forestation Board. No person shall, with respect to any street tree, park tree or other tree on public property, intentionally damage, cut, carve, attach any rope, wire, nails, advertising posters, or other contrivance to said trees; allow any gaseous, liquid, chemical, or solid substance which is harmful to trees to come in contact with said trees or the base of said trees; or set fire or permit fire to burn when such fire or heat from fire will injure any portion of said trees.

§ 97.15 PRUNING, CORNER CLEARANCE, STREET LAMP AND TRAFFIC CONTROL OBSTRUCTION.

The owner of any tree overhanging a street or right-of-way within the city shall prune the branches so that such branches do not obstruct the light from any street lamp, impede the flow of pedestrian or vehicular traffic, or obstruct the view of any street intersection. In such ~~intersection~~ situations there shall be a clear space of ~~eight~~ thirteen feet, six inches above the surface of the street or seven feet above the sidewalk. Owners shall remove all dead, diseased, or dangerous trees or broken or decayed limbs which may constitute a threat to public safety when they interfere with the proper spread of light along the street from a street light or interfere

with visibility of any traffic control device or sign. If said owners fail to prune trees as required under this section, the city may provide written notice, via regular mail or via a posting on the property, advising the owners to conduct appropriate pruning. If the pruning is not conducted within 25 calendar days after receipt of notice, the city may conduct the pruning and assess the costs to the owners, for which a lien may attach, if payment is not received by the city within 30 days after notice of the costs assessed to the owners.

§ 97.16 REMOVAL OR DAMAGE TO PUBLIC TREES.

No person or business shall damage any public tree in the city including any shade or ornamental tree along sidewalks or other public ways of the city or remove any public tree in the city including any shade or ornamental tree along sidewalks or other public ways of the city without first obtaining written permission from the Forestation Board, in consultation with a professional arborist or professional forester if deemed appropriate. No person shall excavate any ditches, tunnels, trenches or create a new driveway within a radius of 15 feet from any public tree, without first obtaining written permission from the Forestation Board.

It shall be unlawful for any utility to trim any tree located in the public right-of-way within the City of Prospect without first contacting the Prospect Forestation Board to give them detailed information regarding the scope of the work to be performed. In some cases, a meeting with the City Forester may be necessary. Any trimming to be done must be done in a manner determined by the Forester to be the least detrimental to the health of a tree or trees where consistent with the requirements of the appropriate safety code in effect in the Commonwealth of Kentucky.

§ 97.17 NOMINATIONS FOR DESIGNATION OF PROTECTED OR HISTORIC TREES.

Any owner of lands within the City of Prospect, including the city itself, may nominate a tree on their land to be designated as a "protected tree" or "historic tree" as defined in this chapter. Nominations for such designations shall be submitted to the Forestation Board in writing and be accompanied by documentation supporting the designation. The Forestation Board may conduct hearings on protected or historic tree nominations. The Forestation Board shall make their determination regarding designation within 90 days from receipt of the written nomination or within 45 days after a final hearing regarding designation, whichever date occurs later. The designation of a tree as a "protected tree" or "historic tree" shall attach to and run with the land as a binding designation for subsequent owners. However, nothing shall prevent a landowner later in time from the owner who originally obtained "protected" or "historic" designation, from petitioning the Forestation Board to remove such designation for good cause shown. A record of all trees within the city designated as "protected" or "historic" shall be kept on file at the Prospect City Hall and an updated listing of all such trees shall be included in the annually updated City Tree Plan. The Forestation Board, in its discretion, may require as a condition of determining a tree or trees to be "protected" or "historic," that the landowner requesting such designation agree to the city recording a document signed by said landowner requesting that the designated tree or trees be included in a written covenant running with title to the land.

§ 97.18 PRUNING, REMOVAL OR EXCAVATION RELATING TO PROTECTED OR HISTORIC TREES.

No person or business shall remove or prune a "protected" or "historic" tree designated as such by the Forestation Board without first obtaining written permission from the Forestation Board, in consultation with a professional arborist or professional forester if deemed appropriate. No person or business shall excavate any ditches, tunnels, trenches or lay any driveway within a radius of 20 feet from any "protected" or "historic" tree, without first obtaining written permission from the Forestation Board, in consultation with a professional arborist or professional forester if deemed appropriate.

§ 97.19 INTERFERENCE WITH FORESTATION BOARD.

In compliance with § 97.13, no person or business shall prevent, delay, or interfere with the Forestation Board or any of its agents or servants while engaging in the evaluation of trees, in the planting, cultivating, mulching, pruning, spraying, removing or otherwise caring for trees as authorized under this chapter.

§ 97.20 ARBORIST PERMIT, BOND, INSURANCE AND AGREED STANDARDS.

It shall be unlawful for any person or company to engage in the business or occupation of pruning, treating, or removing (street or park) trees within the city without first applying for and obtaining a permit. The permit fee shall be \$40 annually; however, no permit shall be required of any utility or public service company or city employee doing such work in the pursuit of their public service endeavors. Before any permit shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$1,000,000 for bodily injury and \$500,000 for property damage, agreeing to indemnify the city or any person injured or damage resulting from the pursuit of such endeavors as herein described. This coverage shall include premises and/or operations, independent contractors, products and/or completed operations, broad form property damage, explosion/collapse/underground (XCU) coverage, and a contractual liability endorsement. Further, before any permit shall be issued, each applicant shall first file evidence of workers compensation insurance coverage. Finally, before any permit shall be issued, the individual or company shall confirm their agreement to follow current American National Standards for Arboricultural Operations Safety Requirements (ANSI Z133.1) and current American National Standards for Tree Care Operations — Tree, Shrub, and Other Woody Plant Maintenance (ANSI A300).

§ 97.21 REVIEW BY CITY COUNCIL.

The City Council shall have the right to review the conduct, acts, and decisions of the city and/or the Prospect Forestation Board. Any person may appeal any ruling or order of the city and/or the Forestation Board to the City Council which may in its discretion afford a full hearing of the matter and make a final decision. A request for review of conduct, acts and decisions made by the city and/or the Forestation Board ~~Requests for reviews of Forestation Board conduct, acts and decisions~~ must be filed in writing with the City Clerk or City Administrator within 20 days of the final action taken by the City and/or of the Forestation Board.

§ 97.99 PENALTY.

Any person or company found to have violated any provision of this chapter shall be subject to a fine levied by the city not less than \$50 nor more than \$750 to be determined by the city Forestation Board with the option of a fine and/or the requirement to plant a tree . Each tree affected by any violation of this chapter shall be considered as a separate offense and shall carry a separate fine. If as a result of the violation of this chapter, the injury, mutilation or death of a tree, shrub, or other plant located private or on city owned property is caused, the cost of repair or replacement, or the appraised dollar value of such tree, shrub, or other plant, shall be borne by the party in violation. The value of trees and shrubs shall be determined in accordance with applicable references or resources ~~set out in the most recently updated City Tree Plan.~~

In the event a builder and/or a Prospect lot owner or any entity controlled by such builder or property owner fails to pay a fine assessed under any provision of this ordinance or fails to repay the City for costs incurred by the City in remediating a hazardous tree situation on property within Prospect within thirty days of receiving notice of such obligation, no permits of any kind required by the City for any other project shall be issued until said fine and/or costs are paid.

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

First Reading this _____ day of _____ 2024

Passed on Second Reading this _____ day of _____ 2024.

By a vote of _____ aye and _____ nay of the City Council.

APPROVED/VETOED:

ATTEST:

Douglass Farnsley
Mayor, City of Prospect

John S. Carter
City Clerk

CITY OF PROSPECT
ORDINANCE NO. 637, SERIES 2024

AN ORDINANCE RELATING TO THE AMENDMENT AND MODIFICATION OF CHAPTER 97: TREES
AND FORESTATION OF THE CODE OF ORDINANCES OF THE CITY OF PROSPECT

WHEREAS, Chapter 97 establishes a code of regulation for trees and forestation 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 97 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 97: TREES AND FORESTATION

Section

- 97.01 ~~Definitions~~ Public Purpose
- 97.02 ~~Creation of Forestation Board~~ Definitions
- 97.03 ~~Term of office of Forestation Board~~ Forestation Board

- 97.04 ~~Compensation~~ Terms of Office
- 97.05 ~~Duties and responsibilities of the Forestation Board/City Tree Plan~~ Compensation of Members
- 97.06 ~~Operation of Forestation Board~~ Duties and Responsibilities
- 97.07 ~~Native and non-native tree species permitted or prohibited~~ Planting Distance from Street Corners, Hydrants, and Utilities
- 97.08 ~~Spacing of street trees~~ Responsibilities for Pruning, Corner Clearance, Street Lamp and Traffic Control Obstruction
- 97.09 ~~Distance from curb and sidewalk~~ Remedial Action on Private Property
- 97.10 ~~Planting distance from street corners and hydrants~~ Review by City Council
- ~~97.11 Planting distance from utilities~~
- ~~97.12 Public tree care~~
- ~~97.13 Remedial action by property owner regarding dead, diseased or infected trees~~
- ~~97.14 Topping, disfiguring and damaging of trees~~
- ~~97.15 Pruning, corner clearance, street lamp and traffic control obstruction~~
- ~~97.16 Removal or damage to public trees~~
- ~~97.17 Nominations for designation of protected or historic trees~~

~~97.18 Pruning, removal or excavation relating to protected or historic trees~~

~~97.19 Interference with Forestation Board~~

~~97.20 Arborist permit, bond, insurance and agreed standards~~

~~97.21 Review by City Council~~

97.99 Penalty

§ 97.01 ~~DEFINITIONS~~ PUBLIC PURPOSES.

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

~~ARBORIST. An individual engaged in the profession of arboriculture who, through experience, education and related training, possesses the competence to provide for or supervise the management of trees and other woody plants.~~

~~CITY. The City of Prospect, Kentucky.~~

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

~~HISTORIC TREES. Any public tree found by the arborist for the city or by resolution of the Prospect Forestation Board of the city to be of notable historic interest because of its age, type or size; or a tree which traces its ancestry through seed or propagation to an historic event or notable personage including trees descendant from a tree found at an historic location and trees descendant from a tree planted by a prominent individual.~~

~~PARK TREES. Trees located within the city's established parks, open areas, landscaped areas, open lawn areas, confined spaces around buildings, recreational facilities, plazas, parking lots, buffers, and recreational areas of the city.~~

~~PROTECTED TREES. Any public tree within the corporate limits of the City of Prospect with a circumference of 42 inches or more, measured at four feet above natural grade, and which is deemed by the arborist for the city or by resolution of the Prospect Forestation Board to have significant or historical interest to the city.~~

~~PUBLIC SHRUBS OR BUSHES. Any low, multiple stemmed, woody vegetation located within the public right of way, within the city's established parks, open areas, landscaped areas, open lawn areas, plazas, parking lots, buffers, and recreational areas of the city.~~

~~PUBLIC TREES. Collectively include "street trees", "park trees" and "trees on other public properties" as further defined in this chapter.~~

~~STREET TREES. Trees located within the public street right of way of the city.~~

~~TREES ON OTHER PUBLIC PROPERTIES. Trees within greenways, along trails, in riparian zones and drainage areas, in buffers, or in utility easements within the city. This type of forestation is~~

~~commonly identified with densely wooded areas or flood plains adjacent to streams and creek banks.~~

~~—TRENCH OR TRENCHING. A linear cut in the ground exceeding 12 feet in length and of such depth as to significantly affect the tree roots of a public tree in the area of the trench. A trench or trenching on private land falls within the definition of regulated trenching in situations where such trenching affects roots of trees on public land.~~

It is the role of city government to provide an environment which actively supports the health and economic welfare of residents. This obligation extends to the desirability of creating and maintaining a healthy and sustainable tree canopy. Accordingly, the City Council finds and declares that the purpose of this chapter is to:

- a. Create a Forestation Board, and
- b. Define its duties and responsibilities.

§ 97.02 CREATION OF FORESTATION BOARD DEFINITIONS.

~~There is hereby created and established a Forestation Board for the City of Prospect, Kentucky, which shall consist of five seven members, citizens, and residents of the city, who shall be appointed by the Mayor with the approval of the City Council. The Forestation Board shall exist as a distinct administrative board with independent authority.~~

For this chapter, the following definitions shall apply unless the context clearly indicates a different meaning.

ARBORIST. An individual engaged in the profession of arboriculture who through experience, education, and related training possesses the competence to provide for, or supervise the management of trees and other woody plants. Professional certification is preferred.

PUBLIC TREES. Collectively includes trees within public rights of way, Prospect parks, landscaped areas, or other public properties.

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

STREET TREES. Trees growing within a public street right-of-way, often within a residential front yard

TREES. Any woody perennial usually having one dominant trunk and a mature height greater than five meters.

§ 97.03 TERM OF OFFICE OF FORESTATION BOARD.

~~—The term of office for the five seven persons appointed by the Mayor to the Forestation Board shall be three years, except that the term of two three of the members appointed initially shall~~

~~be for one year, and the term of two four members of the first Board shall be for two years. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term.~~

The Forestation Board for the City shall consist of seven members who are citizens, and residents of the city. They shall be recommended by the Forestation Board, appointed by the Mayor, and approved by the City Council. The Forestation Board shall exist as a distinct administrative board, elect its own officers, and keep written records of its findings, minutes of its meetings, and reports. A majority of the members shall constitute a quorum for the transaction of business.

§ 97.04 ~~COMPENSATION~~ TERMS OF OFFICE OF FORESTATION BOARD.

~~—The members of the Forestation Board of the City of Prospect shall serve without compensation.~~

The term of office for the persons appointed to the Forestation Board shall be three years. If a vacancy occurs during the term of any member, a successor shall be appointed for the unexpired portion of the term through the process indicated in § 97.03.

If a member is absent from three regularly scheduled meetings in any twelve-month period, the position shall be declared vacant.

§ 97.05 ~~DUTIES AND RESPONSIBILITIES OF THE FORESTATION BOARD/CITY TREE PLAN~~ COMPENSATION OF MEMBERS.

~~—It shall be the responsibility of the Forestation Board to study, investigate, counsel, develop and administer a written City Tree Plan for the care, preservation, pruning, planting, replanting, removal, or disposition of trees and shrubs along streets, in parks and in other public areas. Said plan shall be updated annually and delivered to the Mayor and City Council no later than the last Friday in April of each year, that date coinciding with National Arbor Day observance. Upon acceptance and approval of the plan by the City Council, it shall constitute the official comprehensive tree plan for the City of Prospect, Kentucky. The Board, when requested by the City Council, shall consider, investigate, and make recommendations upon any special matter or question coming within the scope of its work.~~

The members of the Forestation Board shall serve without compensation.

§ 97.06 ~~OPERATION OF THE FORESTATION BOARD~~ DUTIES AND RESPONSIBILITIES.

~~—The Forestation Board shall select its own officers, and keep a written record of its findings and written reports of its meetings. A majority of the members shall constitute a quorum for the transaction of business.~~

~~—It shall be the responsibility of the Forestation Board to study, investigate, counsel, develop and administer a written City Tree Plan for the care, preservation, pruning, planting, replanting, removal, or disposition of trees and shrubs along streets, in parks and in other public areas. Said plan shall be updated annually and delivered to the Mayor and City Council no later than the last Friday in April of each year, that date coinciding with National Arbor Day observance. Upon acceptance and approval of the plan by the City Council, it shall constitute the official comprehensive tree plan for the City of Prospect, Kentucky. The Board, when requested by the City Council, shall consider, investigate, and make recommendations upon any special matter or question coming within the scope of its work.~~

The duties and responsibilities of the Forestation Board are as follows:

(A) Tree Canopy. The Forestation Board is responsible for overseeing the health and welfare of the city's tree canopy and the planting and maintenance of the City's public trees. The Forestation Board shall consider, investigate, and make recommendations to the Mayor and/or City Council on any matter within the responsibilities of the Board. For additional clarification of these responsibilities see Chapter 92: Nuisances, 92.04 (S) – Trees and Shrubs and Chapter 150: Building Regulations, 150.56 – Procedure for Obtaining Permit.

(B) Comprehensive City Tree Plan/Annual Report. The Board shall develop and administer a written tree plan for the planting, maintenance, replanting, removal, or disposition of public trees and shrubs and for the enhancement of the City tree canopy.

The Forestation Plan/Annual Report shall be updated and delivered annually to the Mayor and City Council no later than the last Friday in April of each year coinciding with National Arbor Day observance, for their acceptance and approval. It shall constitute the official comprehensive tree plan for the City for that year.

(C) Education. The Board shall formulate and amend the Prospect *Official Public Tree Listing* in consultation with a professional Kentucky arborist or professional forester. The list shall be subject to approval by the Mayor and City Council. The official listing shall be included, if modified, with the Annual Report of the Forestation Board to the Mayor and City Council.

The Board will create other educational materials to encourage understanding of the importance of the tree canopy and shall prepare and implement a process for providing educational and reasonable advisory technical services to property owners on an observed or requested basis.

The FORESTATION BOARD shall make itself and/or the city Arborist available upon request of a city resident for assistance in assessing potentially dangerous and/or diseased trees on their private property within the city. Such services shall be at no cost to residents as available, practical, and subject to budgetary constraints.

(D) The FORESTATION BOARD shall schedule regular meetings at least bi-monthly and include the schedule in the Annual Tree Plan.

(E) The Forestation Board shall prepare and submit a comprehensive budget request annually for sufficient funding to accomplish their duties and responsibilities in accordance with the annual City Tree Plan.

(F) The Forestation Board shall participate in review of all relevant applications for permits for conformance with relevant ordinances.

(G) The Forestation Board shall provide a guide which will serve as an objective basis for review in all relevant applications for permits. Such guide will be included in the Annual Tree Plan approved by the City Council.

Trees and shrubs in the public right of way shall be planted and maintained according to the standards in 97.07, so they do not obstruct the vision of a vehicle operator or a traffic sign or encroach upon a sidewalk. The cost of care, remediation, or removal of a street tree located on private property shall be the responsibility of the property owner.

~~§ 97.07 NATIVE AND NON-NATIVE TREE SPECIES PERMITTED OR PROHIBITED PLANTING DISTANCE FROM STREET CORNERS, HYDRANTS, AND UTILITIES.~~

~~The Forestation Board shall formulate an official Native and Non-Native Tree Species Listing for the City of Prospect in consultation with a professional arborist or professional forester retained by the city and/or the Kentucky Division of Forestry. The list shall be approved by the Mayor and City Council. The list shall specifically address both allowed and non-allowed species and shall be broken down into categories of small, medium, and large trees as well as native and non-native categories. No species other than those included in this list may be planted as street trees, park trees or trees on other public properties without written permission of the Forestation Board. The initial listing of allowed and non-allowed trees shall be published by resolution of the Forestation Board no later than 60 days after the adoption of this section. Thereafter, said The official listing shall be included in the Annual Report of the Forestation Board to the Mayor and City Council and submitted no later than the last Friday in April of each year. The listing of allowed and non-allowed trees shall be kept on file with the city, shall be reviewed and updated at least annually, but may be updated with approval of the Mayor at such times as circumstances require.~~

A tree may not be planted closer than twenty feet to any street corner, measured from the point of the nearest intersection's curbs and curb lines or closer than ten feet from a fire hydrant or utility pole. No shrubs or bushes located in the public right-of-way shall be planted closer than twenty feet from any street corner or intersection if they obstruct visual site lines of a vehicle operator or create any other health or a safety hazard.

Only "small trees" as set out by the Forestation Board in its most recently updated official Tree Listing, may be planted under or within ten lateral feet of any overhead utilities wire on public or private property.

§ 97.08 SPACING OF STREET TREES. RESPONSIBILITIES FOR PRUNING, CORNER CLEARANCE, STREET LAMP AND TRAFFIC CONTROL OBSTRUCTION.

~~—The spacing of street trees will be in accordance with the three size classifications as set out by the Forestation Board in its most recently updated official listing, and unless specifically approved in writing by the Forestation Board, no newly planted trees may be planted closer together than the following distances: small trees, 30 feet; medium trees, 40 feet; and large trees, 50 feet. When planting new street trees near existing mature trees, a minimum distance must separate the trees based upon one third of the new tree's mature spread.~~

The owner of any tree overhanging a street shall prune the branches so that they do not obstruct the light from any streetlamp, impede the flow of pedestrian or vehicular traffic, or obstruct the view of any street intersection. There shall be a clear space of thirteen feet, six inches above a street or eight feet above a sidewalk.

Owners shall remove all dead, diseased, or dangerous trees or broken or decayed limbs which constitute an imminent threat to public safety, when they interfere with the proper spread of a streetlight, or with the visibility of a traffic control device or sign.

If an owner fails to prune trees as required under this section, the City may provide written notice, via regular mail or via a posting on the property, advising the owners to conduct appropriate maintenance. If the owners do not complete the maintenance within twenty-five (25) calendar days after receipt of notice, the City may conduct the maintenance and assess the costs to the owners on the next property tax notice.

§ 97.09 DISTANCE FROM CURB AND SIDEWALK. REMEDIAL ACTION ON PRIVATE PROPERTY.

~~—The distance which trees may be planted from curbs or curb lines and sidewalks will be in accordance with the classifications of trees as set out by the Forestation Board in its most recently updated official listing, and no newly planted trees may be planted closer to any curb or sidewalk than the following distances: small trees, two feet; medium trees, three feet; and large trees, four feet.~~

The City shall have the right to cause the removal or remediation of any tree, or any portion of a tree located on private property, in accordance with state and federal law, if that tree presents an imminent threat to the general public. Costs of such remediation or removal shall be borne by the city.

The property owner may appeal to the City Council. See § 97.10 below.

§ 97.10 PLANTING DISTANCE FROM STREET CORNERS AND HYDRANTS. REVIEW BY CITY COUNCIL.

~~—No street tree or park tree shall be planted closer than 20 feet to any street corner, measured from the point of the nearest intersection's curbs and curb lines. No tree shall be planted closer than ten feet from any fire hydrant or utility pole. No shrubs or bushes located in the public right-of-way shall be planted closer than 20 feet from any street corner or intersection if said plant or bush obstructs visual site lines of any vehicle operator or creates any other health or safety hazard.~~

The City Council shall have the right to review the conduct, acts, and decisions of the Forestation Board. The Forestation Board shall provide notice in writing to the property owner and the City Council of any directive. A property owner may appeal a directive of the Forestation Board to the City Council, which may in its discretion afford a full hearing of the matter and make a final decision.

Requests for reviews of Forestation Board conduct, acts and decisions must be filed in writing with the City Clerk within twenty (20) days of the final action of the Forestation Board.

~~§ 97.11 PLANTING DISTANCE FROM UTILITIES.~~

~~—No tree, whether on public or private property within the city, other than those classified as "small trees" as set out by the Forestation Board in its most recently updated official Tree Listing, may be planted under or within ten lateral feet of any overhead utilities wire.~~

~~§ 97.12 PUBLIC TREE CARE.~~

~~—The city shall have the right to plant, prune, maintain, and to remove public trees, stumps, plants, or shrubs within the lines of all streets, alleys, lanes, and other public grounds as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The city, in consultation with the Forestation Board, and a professional arborist or professional forester retained by the city if deemed appropriate, may remove or cause or order to be removed or remediated any public tree or any portion thereof which is in an unsafe condition or which by reason of its nature is injurious due to fungus, insects, or other pests. All contractual work or labor conducted on behalf of the city in planting, pruning, maintaining or removing public trees or stumps shall be done in accordance with current American National Standards for Arboricultural Operations Safety Requirements (ANSI Z133.1) and current American National Standards for Tree Care Operations — Tree, Shrub, and Other Woody Plant Maintenance (ANSI A300). The Mayor or City Administrator shall notify the Forestation Board whenever it is necessary for said Board to make determinations to effectuate the provisions of this chapter.~~

~~§ 97.13 REMEDIAL ACTION BY PROPERTY OWNER REGARDING DEAD, DISEASED OR INFECTED TREES.~~

~~—The city, upon written confirmation from the Forestation Board, in consultation with a professional arborist or professional forester retained by the city if deemed appropriate, shall have the right to cause the removal or remediation of any tree or any portion of a tree located on private property within the city when that tree presents an unsafe condition constituting a hazard to life or property, or presents a threat or potential threat of the spread of disease to other trees within the city due to injurious fungus, insects, or other pests. If the owners of said trees decline for any reason to remove or remediate trees as required under this section, the city may provide written notice, via regular mail or posting on the property, advising the owners to conduct removal or remediation. If removal or remediation is not conducted within 45 calendar days, the city may provide further written notice, via regular mail or posting on the property, advising the owner of the city's intent to remove or remediate said trees. The owners shall have ten days from the receipt or posting of said notice to file a written appeal of the proposed removal or remediation to the Forestation Board. The Forestation Board shall have 30 days to issue a written ruling on such appeal.~~

~~§ 97.14 TOPPING, DISFIGURING AND DAMAGING OF TREES.~~

~~—It shall be unlawful for any person, firm, or city department to top or significantly disfigure any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes or certain trees under utility wires and other obstructions where alternative pruning practices are impractical may be exempt from this chapter by written decision of the Forestation Board. No person shall, with respect to any street tree, park tree or other tree on public property, intentionally damage, cut, carve, attach any rope, wire, nails, advertising posters, or other contrivance to said trees; allow any gaseous, liquid, chemical, or solid substance which is harmful to trees to come in contact with said trees or the base of said trees; or set fire or permit fire to burn when such fire or heat from fire will injure any portion of said trees.~~

~~§ 97.15 PRUNING, CORNER CLEARANCE, STREET LAMP AND TRAFFIC CONTROL OBSTRUCTION.~~

~~—The owner of any tree overhanging a street or right of way within the city shall prune the branches so that such branches do not obstruct the light from any street lamp, impede the flow of pedestrian or vehicular traffic, or obstruct the view of any street intersection. In such intersection situations there shall be a clear space of eight feet above the surface of the street or sidewalk. Owners shall remove all dead, diseased, or dangerous trees or broken or decayed limbs which may constitute a threat to public safety when they interfere with the proper spread of light along the street from a street light or interfere with visibility of any traffic control device or sign. If said owners fail to prune trees as required under this section, the city may provide written notice, via regular mail or via a posting on the property, advising the owners to conduct appropriate pruning. If the pruning is not conducted within 25 calendar days after receipt of~~

~~notice, the city may conduct the pruning and assess the costs to the owners, for which a lien may attach, if payment is not received by the city within 30 days after notice of the costs assessed to the owners.~~

~~§ 97.16 REMOVAL OR DAMAGE TO PUBLIC TREES.~~

~~—No person or business shall damage any public tree in the city including any shade or ornamental tree along sidewalks or other public ways of the city, or remove any public tree in the city including any shade or ornamental tree along sidewalks or other public ways of the city without first obtaining written permission from the Forestation Board, in consultation with a professional arborist or professional forester if deemed appropriate. No person shall excavate any ditches, tunnels, trenches or create a new driveway within a radius of 15 feet from any public tree, without first obtaining written permission from the Forestation Board.~~

~~§ 97.17 NOMINATIONS FOR DESIGNATION OF PROTECTED OR HISTORIC TREES.~~

~~—Any owner of lands within the City of Prospect, including the city itself, may nominate a tree on their land to be designated as a "protected tree" or "historic tree" as defined in this chapter. Nominations for such designations shall be submitted to the Forestation Board in writing and be accompanied by documentation supporting the designation. The Forestation Board may conduct hearings on protected or historic tree nominations. The Forestation Board shall make their determination regarding designation within 90 days from receipt of the written nomination or within 45 days after a final hearing regarding designation, whichever date occurs later. The designation of a tree as a "protected tree" or "historic tree" shall attach to and run with the land as a binding designation for subsequent owners. However, nothing shall prevent a landowner later in time from the owner who originally obtained "protected" or "historic" designation, from petitioning the Forestation Board to remove such designation for good cause shown. A record of all trees within the city designated as "protected" or "historic" shall be kept on file at the Prospect City Hall and an updated listing of all such trees shall be included in the annually updated City Tree Plan. The Forestation Board, in its discretion, may require as a condition of determining a tree or trees to be "protected" or "historic," that the landowner requesting such designation agree to the city recording a document signed by said landowner requesting that the designated tree or trees be included in a written covenant running with title to the land.~~

~~§ 97.18 PRUNING, REMOVAL OR EXCAVATION RELATING TO PROTECTED OR HISTORIC TREES.~~

~~—No person or business shall remove or prune a "protected" or "historic" tree designated as such by the Forestation Board without first obtaining written permission from the Forestation Board, in consultation with a professional arborist or professional forester if deemed appropriate. No person or business shall excavate any ditches, tunnels, trenches or lay any driveway within a~~

~~radius of 20 feet from any "protected" or "historic" tree, without first obtaining written permission from the Forestation Board, in consultation with a professional arborist or professional forester if deemed appropriate.~~

~~§ 97.19 INTERFERENCE WITH FORESTATION BOARD.~~

~~No person or business shall prevent, delay, or interfere with the Forestation Board or any of its agents or servants while engaging in the planting, cultivating, mulching, pruning, spraying, removing or otherwise caring for trees as authorized under this chapter.~~

~~§ 97.20 ARBORIST PERMIT, BOND, INSURANCE AND AGREED STANDARDS.~~

~~It shall be unlawful for any person or company to engage in the business or occupation of pruning, treating, or removing (street or park) trees within the city without first applying for and obtaining a permit. The permit fee shall be \$40 annually; however, no permit shall be required of any utility or public service company or city employee doing such work in the pursuit of their public service endeavors. Before any permit shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$1,000,000 for bodily injury and \$500,000 for property damage, agreeing to indemnify the city or any person injured or damage resulting from the pursuit of such endeavors as herein described. This coverage shall include premises and/or operations, independent contractors, products and/or completed operations, broad form property damage, explosion/collapse/underground (XCU) coverage, and a contractual liability endorsement. Further, before any permit shall be issued, each applicant shall first file evidence of workers compensation insurance coverage. Finally, before any permit shall be issued, the individual or company shall confirm their agreement to follow current American National Standards for Arboricultural Operations Safety Requirements (ANSI Z133.1) and current American National Standards for Tree Care Operations — Tree, Shrub, and Other Woody Plant Maintenance (ANSI A300).~~

~~§ 97.21 REVIEW BY CITY COUNCIL.~~

~~The City Council shall have the right to review the conduct, acts, and decisions of the Prospect Forestation Board. Any person may appeal any ruling or order of the Forestation Board to the City Council which may in its discretion afford a full hearing of the matter and make a final decision. Requests for reviews of Forestation Board conduct, acts and decisions must be filed in writing with the City Clerk or City Administrator within 20 days of the final action of the Forestation Board.~~¹¹

§ 97.99 PENALTY.

~~Any person or company found to have violated any provision of this chapter shall be subject to a fine not less than \$50 nor more than \$750 to be determined by the Forestation Board. Each tree affected by any violation of this chapter shall be considered as a separate offense and shall carry a separate fine. If as a result of the violation of this chapter, the injury, mutilation or death of a tree, shrub, or other plant located on city owned property is caused, the cost of repair or replacement, or the appraised dollar value of such tree, shrub, or other plant, shall be borne by the party in violation. The value of trees and shrubs shall be determined in accordance with applicable references or resources set out in the most recently updated City Tree Plan.~~

Any violation of provisions of this chapter shall be declared a nuisance and administered through the Code Enforcement Officer and the provisions of §92.04 ABATEMENT PROCEDURE.

The Forestation Board shall notify in writing the Code Enforcement Officer of any violation to be declared a nuisance under this Ordinance.

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

First Reading this _____ day of _____ 2024

Passed on Second Reading this _____ day of _____ 2024.

By a vote of _____ aye and _____ nay of the City Council.

APPROVED/VETOED:

ATTEST:

Douglass Farnsley
Mayor, City of Prospect

John S. Carter
City Clerk

**CITY OF PROSPECT
ORDINANCE NO. 644, SERIES 2024**

**AN ORDINANCE ENACTING AND ADOPTING THE 2023 SUPPLEMENT
TO THE CODE OF ORDINANCES OF THE CITY OF PROSPECT**

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio has completed the 2023 Supplement to the Code of Ordinances of the City of Prospect, which supplement contains all ordinances of a general nature enacted since the prior supplement to the Code of Ordinances of this municipality; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make references to sections of the Kentucky Revised Statutes; and

WHEREAS, it is the intent of the City Council of the City of Prospect to accept these updated sections in accordance with the changes of the law of the Commonwealth of Kentucky;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF PROSPECT, KENTUCKY:

SECTION 1: That the 2023 Supplement of the Code of Ordinances of the City of Prospect, Kentucky, as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, be and the same is hereby adopted by reference as if set out in its entirety.

SECTION 2: That this Ordinance shall take effect from and after its passage, signing, and publication as required by law.

First Reading this 15th day of July 2024

Second Reading this _____ day of _____ 2024

APPROVED:

ATTEST:

Douglass Farnsley
Mayor

John S. Carter
City Clerk

**CITY OF PROSPECT, KENTUCKY
MUNICIPAL ORDER NO. 4, SERIES 2024**

**AN ORDER CONSENTING TO THE NOMINATION BY THE MAYOR OF CITIZEN OF THE CITY TO SERVE ON
THE CITY OF PROSPECT CODE ENFORCEMENT BOARD AND AFFIXING TERM OF OFFICE THERETO**

WHEREAS, the City Council of the City of Prospect has established a Code Enforcement Board to hear and adjudicate allegations of violations of ordinances of the City of Prospect; and

WHEREAS, Ordinance 601 of the City of Prospect, adopted on October 19, 2020, provides for 6 citizens, each of whom must be at least 21 years of age and a resident of the city for at least one year prior to their appointment, to serve on the Code Enforcement Board, 5 of whom as regular members and 1 as an alternate; and

WHEREAS, Ordinance 601 establishes the procedure for appointing members to the Code Enforcement Board; and

WHEREAS, the resignation of two Code Enforcement Board members and the death of one Code Enforcement member, has created vacancies; and

WHEREAS, Mayor Farnsley nominates the following to serve a term as set forth herein, beginning July 15, 2024:

- Steve Pennington is to serve a term of 3 years, ending on July 15, 2027.
- Robert Jacob, M.D. is to serve a term of 3 years, ending on July 15, 2027.
- Diane Graeter is to serve a term of 3 years, ending on July 15, 2027.

NOW, THEREFORE, IT IS HEREBY ORDERED BY THE CITY COUNCIL OF THE CITY OF PROSPECT, KENTUCKY:

The City Council of the City of Prospect, Kentucky consents to the mayor's nomination to fill the above-stated position on the City of Prospect Code Enforcement Board for the term as stated.

PASSED AND APPROVED THIS 15th day of July 2024.

Attest:

Douglass Farnsley
Mayor, City of Prospect, Kentucky

John S. Carter
City Clerk