

COMMONWEALTH OF KENTUCKY
CITY OF PROSPECT
CITY COUNCIL REGULAR MEETING
Monday, March 18, 2024, 7:00 p.m.

AGENDA

CALL TO ORDER

- Chair: Mayor Doug Farnsley

SPECIAL GUEST

- [Ms. Kate Farrow](#), candidate for the Kentucky House of Representatives, District 48.

APPROVAL OF MINUTES

- Approval of Minutes of the February 20, 2024 city 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
- Jefferson County League of Cities

POLICE REPORT

UNFINISHED BUSINESS

- Second reading of **Ordinance 633, Series 2024**, AN ORDINANCE RELATING TO THE AMENDMENT AND MODIFICATION OF CHAPTER 37, TAXATION OF THE CODE OF ORDINANCES OF THE CITY OF PROSPECT. This ordinance changes the date by which the clerk is to mail real estate tax bills from August 20th to August 30th.
- Second reading of **Ordinance 634, Series 2024**, AN ORDINANCE RELATING TO THE AMENDMENT AND MODIFICATION OF CHAPTER 32, CITY COUNCIL: RULES OF PROCEDURE OF THE CODE OF ORDINANCES OF THE CITY OF PROSPECT. This ordinance changes the dates of regularly scheduled council meetings that fall on Federal Holidays.

- Second reading of **Ordinance 635, Series 2024**, AN ORDINANCE RELATING TO THE AMENDMENT AND MODIFICATION OF CHAPTER 150, BUILDING REGULATIONS CODE OF ORDINANCES OF THE CITY OF PROSPECT. This ordinance requires builders to consult with the Forestation Board regarding the removal and replacement of live trees before the issuance of a building permit.

NEW BUSINESS

- **Municipal Order 1, Series 2024**: AN ORDER CONSENTING TO THE NOMINATION BY THE MAYOR OF HERB SHULHAFFER AND LEE TUCCI, OF THE CITY TO SERVE ON THE CITY OF PROSPECT FORESTATION BOARD AND AFFIXING TERMS OF OFFICE THERETO.
- First reading of **Ordinance 636, 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.
- 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)

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.

CITY COUNCIL
REGULAR MEETING MINUTES

February 20, 2024

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

Absent: Council Member Sara Hines

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 January 8, 2024 council meeting, seconded by Council Member Clark, and the motion passed unanimously.

Comments from Citizens

- None

Mayor's Report

- A trial date of September 17, 2024 has been set for LDG vs. City of Prospect litigation. The mayor anticipates holding an executive session with the city council and city attorneys in the near future.
- The state-enacted moratorium on city annexations is set to end this July 2024. An annexation committee chaired by Council Member Gibson has been created to discuss whether the city should pursue annexation of areas contiguous to the city.
- The mayor delivered his State of the City address that will be published in the Prospect Newsletter, Vol. 1, 2024.

Financial Reports

The City Clerk presented a synopsis of the city's finances through January 2024.

- Cash on hand totaled approximately \$2.9 million.
- Revenue for the fiscal year through January totals approximately \$2.9 million and expenditures total approximately \$1 million.
- The city has exceeded the budget for Police Capital expenditures due to a police car that was totaled and replaced. An amended budget for the current fiscal year will be introduced for consideration at the March 2024 regular council meeting.

On behalf of Strothman & Company, PSC, Bill Meyers presented the findings of the audit report for the 2022/2023 fiscal year.

- Council Member Gibson questioned the auditors on why they recommended that the city move from cash-based accounting to modified accrual-basis accounting. Mr. Meyers advised that it is customary for most municipalities to operate on a modified accrual basis.

Commission and Board Reports

On behalf of the Ethics Commission, Chairperson John Embry stated that all ethics forms had been completed and returned, except those from two committee members. The 2024 ethics forms are due no later than March 1, 2024.

On behalf of the Forestation Board, Chairperson Lee Tucci reported on the Forestation's written report.

- The city was re-certified by the National Arbor Day Foundation as a "Tree City" and received its seventh "growth award" for the creation of the city tree canopy program.
- The Kentucky League of Cities [KLC] and Ecotech have donated a dogwood tree to be planted at the entrance of The Landings.
- A memorial tree for Mrs. Linda Wardell's mother will soon be planted in Harrods Creek Park.
- The board has received six tree requests via this spring's Tree Canopy Program.
- The board has initiated remedial requests for hazardous trees located at New Bern Court, Sutherland Farm Road, Gunston Lane, and US 42.
- Chase Bank has not yet responded to the board's recommendations regarding tree preservation at their proposed building site.
- The board supports proposed Ordinance 635, Series 2024 that requires builders to consult with the Forestation Board about replacing any live trees that are to be removed during construction.

On behalf of the Investment Committee, Chairperson Susan Nicholson, reported on the committee's annual report.

- An overview of the committee's creation and its members was presented.
- The city council adopted an Investment Policy on January 25, 2023. That policy largely mirrored the model policy provided by KLC. The committee has thoroughly reviewed the policy and with the advice from KLC will recommend some changes to the policy to simplify and add clarity to it.
- The city's investments for 2023 have been largely comprised of various certificates of deposit, and more recently investment in the KLC Investment Pool Program managed by PNC Bank.
- The committee will meet every quarter to review city investment performance, reallocation, and other investment opportunities.
- In 2023 the city's investments have earned \$126,736 in interest.

Other Reports

On behalf of the Parks and Recreation Advisory Committee, Member Sallie Schneider reported on the committee's written report.

- Bornstein Construction is finalizing design plans for the Harrods Creek Stream Crossing Bridge.
- The committee has held several events and programs in the past month:
 - On January 27th a children's craft event was held in the library and attended by several children and their families.

- The committee's first nature series lecture was also held on January 27th in the council's chamber and was attended by 22 people. Mr. Jacob Crider, Educator and Naturalist for Creasey Mahan Nature Preserve, spoke and answered questions on Kentucky Geology.
- The second lecture scheduled for February 24th will also be led by Mr. Jacob Crider. The topic of discussion will be Kentucky amphibians and will feature live animals.
- The John Evans Pavilion Concert Series for Spring and Summer of 2024 is in the planning stage. The committee has already booked Shakespeare in the Park's production of "A Midsummer's Night Dream" on April 28th. Additional events will be announced as they are scheduled.
- The committee is planning a new event aimed specifically at children and their families to be held on Saturday, June 22nd.
- The Harrods Creek Trail Bash will return this year to Harrods Creek Park. This 5K and 10K trail run is scheduled for Sunday, November 17, 2024.

Council Members Holmes and Fulcher reported that the Council Committee is reviewing and reconciling proposed versions of revised Forestation Ordinances and intends to meet soon to finalize language in consultation with the city attorney.

Council Member Gibson updated the council on the topics discussed at the most recent meetings of the Jefferson County League of Cities.

Council Member Gibson updated the council on the progress of planning for the Putney Pond Boardwalk and potential grants available for funding the project.

Police Report:

Police Chief Sherrard reported:

- The details of the written report on arrests and call responses were presented.
- The number of requested Housewatches continues to be higher than last year.

New Business

- Council Member Fulcher moved for the first reading of **Ordinance 633, Series 2024**, AN ORDINANCE RELATING TO THE AMENDMENT AND MODIFICATION OF CHAPTER 37, TAXATION OF THE CODE OF ORDINANCES OF THE CITY OF PROSPECT, seconded by Council Member Clark. This ordinance changes the date by which the clerk is to mail real estate tax bills from August 20th to August 30th. A roll call vote was held: **Yea:** Clark, Evans, Fulcher, Gibson & Holmes. **Nay:** None. The motion passed 5 -0
- Council Member Fulcher moved for the first reading of **Ordinance 634, Series 2024**, AN ORDINANCE RELATING TO THE AMENDMENT AND MODIFICATION OF CHAPTER 32, CITY COUNCIL: RULES OF PROCEDURE OF THE CODE OF ORDINANCES OF THE CITY OF PROSPECT, seconded by Council Member Clark. This ordinance changes the dates of regularly scheduled council meetings that fall on Federal Holidays. A roll call vote was held: **Yea:** Clark, Evans, Fulcher, Gibson & Holmes. **Nay:** None. The motion passed 5 -0

- Council Member Holmes moved for the first reading of **Ordinance 635, Series 2024**, AN ORDINANCE RELATING TO THE AMENDMENT AND MODIFICATION OF CHAPTER 150, BUILDING REGULATIONS CODE OF ORDINANCES OF THE CITY OF PROSPECT, seconded by Council Member Gibson. This ordinance requires builders to consult with the Forestation Board regarding the removal and replacement of live trees before the issuance of a building permit. A roll call vote was held: **Yea:** Clark, Evans, Gibson & Holmes. **Nay:** Fulcher. The motion passed 4 -1

Adjournment: Council Member Clark moved to adjourn, seconded by Council Member Fulcher, and the motion passed unanimously. Mayor Farnsley declared the council meeting adjourned at 7:59 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

March 18, 2024

- Harrods Creek Stream Crossing Bridge Project—The final engineer stamped plans have been received and approved. The exact location and elevation of the bridge has been determined and marked. Work to prepare the foundations will be started later this spring after the risk of flooding decreases. It is anticipated that the bridge fabrication will be complete in June and the installation completed after.
- Putney Pond Boardwalk Project—A meeting on March 12 with representatives from KIPDA, the KY Transportation Cabinet, and OHM Advisors was very helpful in identifying the most appropriate sources of funding. We will continue to work with these organizations to prepare grant applications.
- Parks & Recreation Programs and Events
 - The second event in our lecture series focused on Kentucky amphibians. It was well received by the attendees.
 - On Saturday, 3/16 at 1 pm, Jacob Crider will lead a bird walk in Putney Pond & Woodlands. Participants will meet at City Hall and walk to Putney Pond to observe migrating waterfowl.
 - The first Prospect Adopt-a-Highway clean up will take place on the morning of Saturday, April 6. 8-10 adult volunteers are needed for this event. Details will be communicated when they are finalized.
 - Two wildflower walks will be held this spring on Sunday, April 7 and Sunday, April 21. Both events will take place in Harrods Creek Park and will begin at 1 pm. The walks will be led by Jacquelyn McGrail and Carolyn Embry. Two to four volunteers are needed to assist.
 - Acts for the John Evans Pavilion Sumer Program and Concert series have been selected. Once all dates and times are final, a list of all events will be sent to Prospect residents.
 - On June 22, from 10am until noon, Little Hunting Creek Park will host “Kid’s Fest”. The event will feature a performance by the Louisville Leopard Percussionists, a magician, a balloon twister, face painting, games, and crafts.
- We continue with ongoing park maintenance and invasive plant removal efforts.



Prospect Police Department

Report Summary for FEBRUARY 2024

❖ *Arrests*

- ◆ Feb 20: (220) DUI
- ◆ Feb 15: (235) DUI

❖ *Call Response Reports*

- ◆ 0

❖ *Code Enforcement Reports*

Twenty-Seven (27) permits were issued in February. Other February issues included:

- ◆ Unpermitted signs removed
- ◆ Dirt on roadway

❖ *Felony Reports*

- ◆ Feb 09: (023) Burglary
- ◆ Feb 09: (022) Burglary

❖ *JC3 Reports*

- ◆ 0

❖ *KYIBRS Non-Criminal Reports*

- ◆ Feb 25: (029) Non-criminal death

❖ *Misdemeanor Reports*

- ◆ 0

❖ *Total Assists Outside of Prospect – 2*

❖ *Total Citations / Warnings other than Arrests – 8*

❖ *Total Collisions – 10 with 3 injuries*

❖ *Total People Fingerprinted – 0*



Prospect Police Department

Monthly Report of Police Activities FEBRUARY 2024

ACTIVITY	2024	2023
House Checks:	3776	3027
Traffic Activity		
Citations/ Warnings Issued	8	10
Non- Injury Accidents	7	10
Injury Accidents	3	1
Citizen Assists	2	3
Reports		
Misdemeanor Reports	0	2
Felony Reports	2	1
Call Responses	0	2
Miscellaneous Reports	1	0
Arrests	2	1
Calls For Service		
Dispatched Runs	91	120
Officer Initiated Runs	60	130
Burglary/ Robbery, Fire Alarms Included False Alarms	13	19
Code Enforcement Citations	0	0

**CITY OF PROSPECT
ORDINANCE NO. 633, SERIES 2024**

**AN ORDINANCE RELATING TO THE AMENDMENT AND MODIFICATION OF
CHAPTER 37: TAXATION OF THE CODE OF ORDINANCES OF THE CITY OF PROSPECT**

WHEREAS, Chapter 37 establishes a code of taxation for 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 37 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 37.02 Due Date; Payment

(A) No later than August ~~20~~ 31 of each year, the City Clerk shall prepare and mail, or arrange for the preparation and mailing at the expense of the city, tax bills on all real estate situated within the city. Each bill shall show each lot, the assessment due the city, and the total amount of the bill.

(B) All taxes, except ad valorem taxes on motor vehicles, shall become due on September 30

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

First Reading on the 20th day of February 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. 634, SERIES 2024**

AN ORDINANCE RELATING TO THE AMENDMENT AND MODIFICATION OF CHAPTER 32: CITY COUNCIL: RULES OF PROCEDURE OF THE CODE OF ORDINANCES OF THE CITY OF PROSPECT

WHEREAS, Chapter 32 establishes the rules of procedure for the operation of city council meetings for 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 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 32 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 32.21 MEETINGS.

(A) The City Council shall hold its regular meetings once a month on the third Monday of each month at 7:00 p.m. based on the official time in Prospect, Kentucky, except in December and January of each year. In December, the regular meeting shall be the Monday of the full week preceding December 25 at 7:00 p.m. ~~The January meeting will be on the second Monday of the month in honor of Dr. Martin Luther King, Jr.~~ Whenever the third Monday falls on a federal legal holiday, that regular meeting shall be held at 7:00 p.m. on the next succeeding Tuesday which is not a federal legal holiday. ~~These meeting dates may be adjusted by adoption of an annual calendar.~~

(1) The regular meeting place where City Council shall hold its meetings shall be the city hall. The City Council may, for good cause or upon determining that the city hall is not available at the time and on the date herein established for regular meetings, may change the location of the meeting place to any building within the city limits which the City Council shall then determine to be suitable and available; however, the meeting shall be open to the public; and the written notice of the unavailability of the regular meeting site and of the alternate meeting site selected by the City Council shall be published at the city hall at least one hour in advance of the meeting time established herein.

(2) All regular meetings of the City Council shall be open to the public.

(B) Special meetings of the City Council may be called by the Mayor or upon written request of a majority of the Council. In the call, the Mayor or Council shall designate the

purpose, time, and place of the special meeting with sufficient notice for the attendance of Council Members and for compliance with KRS Chapter 61.

(C) At a special meeting no business may be considered other than that set forth in the designation of purpose.

(D) The minutes of every meeting shall be signed by the City Clerk as provided under § 31.36 and by the officer presiding at the meeting.

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

First Reading on the 20th day of February 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. 635, SERIES 2024**

**AN ORDINANCE RELATING TO THE AMENDMENT AND MODIFICATION OF CHAPTER 150:
BUILDING REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF PROSPECT**

WHEREAS, Chapter 150 establishes a code of building regulations for the City of Prospect; and

WHEREAS, the City of Prospect has been designated as a “Tree City”, and,

WHEREAS, the City of Prospect recognizes the importance of protecting its tree canopy for aesthetics and environmental reasons.

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS:

Section 1. Chapter 150 is hereby amended and modified as hereinafter set forth with old language struck through, changes, and new language being underlined and reading as follows:

REPLACEMENT TREES

Chapter 150.68 Tree Preservation Plan.

All plans submitted for a building permit in the City of Prospect shall include a section detailing whether such plans require the removal of existing live trees.

Chapter 150.69 Forestation Board Review

Where removal of trees is a part of such plans the City of Prospect authorizes and requires that the owner who is removing trees, replace those trees under the direction of the Forestation Board and with the Board's assistance and guidance. The City of Prospect authorizes and requires the Forestation Board to review such plans to determine the type, size, location, and number of replacement trees required to be included in said building plans before a permit shall be issued. The location of replacement trees shall be within the City of Prospect.

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

First Reading on the 20th day of February 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

Proposed Amendment to Ordinance No. 635, Series 2024, Chapter 150.69

~~Chapter 150.69 Forestation Board Review~~

~~Where removal of trees is a part of such plans the City of Prospect authorizes and requires that the owner who is removing trees, replace those trees under the direction of the Forestation Board and with the Board's assistance and guidance. The City of Prospect authorizes and requires the Forestation Board to review such plans to determine the type, size, location, and number of replacement trees required to be included in said building plans before a permit shall be issued. The location of replacement trees shall be within the City of Prospect.~~

Chapter 150.69 Forestation Board Review

- a) Where removal of trees is a part of a building permit plan the City of Prospect empowers the Forestation Board to review the proposed tree replacement submission. As part of its review the Board, in consultation with the city, shall work with the permit applicant to arrive at an appropriate tree replacement plan which considers the type, location and number of replacement trees to be required for a permit to be issued. The location of replacement trees shall be within the City of Prospect.
- b) If the parties are unable to agree on a tree replacement plan the applicant may appeal to the Prospect City Council for a variance.

**CITY OF PROSPECT, KENTUCKY
MUNICIPAL ORDER NO. 1, SERIES 2024**

**AN ORDER CONSENTING TO THE NOMINATIONS BY THE MAYOR OF CITIZENS OF THE CITY TO SERVE
ON THE CITY OF PROSPECT FORESTATION BOARD AND AFFIXING TERM OF OFFICE THERETO**

WHEREAS, the City Council of the City of Prospect has established a Forestation Board to oversee the selection, planning, protection, care, maintenance, removal, and management of trees and forestation within the City of Prospect; and

WHEREAS, Chapter §97.02 and §97.03 of the City of Prospect Code of Ordinances establish the procedure for appointing citizens and residents of the city to the Forestation Board; and

WHEREAS, the terms of Forestation Board members have expired creating vacancies;

WHEREAS, Mayor Farnsley nominates the following to serve terms as set forth herein, beginning March 18, 2024:

- Herb Shulhafer is to serve a term of 3 years, ending on March 18, 2027, and
- Lee Tucci is to serve a term of 3 years, ending on March 18, 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 Forestation Board for the term as stated.

PASSED AND APPROVED THIS 18th day of March 2024.

Attest:

Douglass Farnsley
Mayor, City of Prospect, Kentucky

John S. Carter
City Clerk

**CITY OF PROSPECT, KENTUCKY
ORDINANCE NO. 636, SERIES 2023**

**AN ORDINANCE AMENDING THE BUDGET FOR THE GENERAL FUND OF THE CITY OF PROSPECT
FOR THE FISCAL YEAR BEGINNING JULY 1, 2023 AND ENDING JUNE 30, 2024**

BE IT ORDAINED BY THE CITY OF PROSPECT, KENTUCKY:

SECTION 1: The Budget for the General Fund of the City of Prospect for the Fiscal Year beginning July 1, 2023 and ending June 30, 2024 shall be amended as follows:

REVENUE

INCOME SOURCE	ORIGINAL BUDGET Ord. No. 630, Series 2023	AMENDED BUDGET	CHANGE
Ad Valorem Property Tax	\$1,830,000	\$1,830,000	\$0
Insurance Premium Tax	\$1,435,000	\$1,435,000	\$0
Other revenues	390,350	\$390,350	\$0
Rollover of municipal road aid	\$175,000	\$175,000	\$0
Transfer from existing reserves	\$0	\$0	\$0
TOTAL REVENUES	\$3,830,350	\$3,830,350	\$0

EXPENDITURES

	ORIGINAL BUDGET Ord. No. 630, Series 2023	AMENDED BUDGET	CHANGE
City Administration	[\$904,747]	<u>\$872,648</u>	-\$32,099
Capital Outlay	[\$9,250]	<u>\$44,050</u>	+\$34,800
Community Development	[\$49,650]	<u>\$49,205</u>	-445
Total Administration	[\$963,647]	<u>\$965,903</u>	+\$2,256

	ORIGINAL BUDGET Ord. No. 630, Series 2023	AMENDED BUDGET	CHANGE
Police Department	[\$1,055,044]	<u>\$1,025,318</u>	-\$29,726
Capital Outlay	[\$28,500]	<u>\$94,154</u>	+\$65,654
Total Police	[\$1,083,544]	<u>\$1,119,472</u>	+\$35,928

	ORIGINAL BUDGET Ord. No. 630, Series 2023	AMENDED BUDGET	CHANGE
Public Works	[\$574,404]	<u>\$564,460</u>	-\$9,944
Solid Waste	[\$788,700]	<u>\$788,775</u>	+\$75
Landscape Maintenance	[\$275,500]	<u>\$289,794</u>	+\$14,294
Parks & Tree Management	[\$71,915]	<u>\$71,132</u>	-\$783
Total Public Works	[\$1,710,519]	<u>\$1,714,161</u>	+\$3,642

	ORIGINAL BUDGET Ord. No. 630, Series 2023	AMENDED BUDGET	CHANGE
TOTAL EXPENDITURES	[\$3,757,710]	\$3,799,536	+\$41,826
UNAPPROPRIATED SURPLUS	[\$72,640]	\$30,814	-\$41,826
<u>PROJECTED ENDING BALANCE - JUNE 30, 2024</u>		[\$72,640]	\$41,826

SECTION 2: This Ordinance shall be effective from and after its passage, approval and publication as required by law.

First Reading this _____ day of March 2024

Second Reading this _____ day of April 2024

Passed by a vote of ___ aye and ___ nays of the City Council

APPROVED/VETOED:

ATTEST:

Douglass Farnsley
Mayor

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
- 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

§ 97.01 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, 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.~~

§ 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~~ Purposes
- 97.02 ~~Creation of Forestation Board~~ Definitions
- 97.03 ~~Term of office of Forestation Board~~ Forestation Board Members, Terms of Office and Compensation
- 97.04 ~~Compensation~~ Duties and Responsibilities of the Board
- 97.05 ~~Duties and responsibilities of the Forestation Board/City Tree Plan~~ Operation of the Board
- 97.06 ~~Operation of Forestation Board~~ Street Trees and Shrubs in Public Street Rights-of-way
- 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~~ Owner's Responsibilities for Pruning, Corner Clearance Streetlamp 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 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.~~

The Forestation Board purposes are to encourage the enhancement of Prospect’s tree canopy, educate property owners and City staff in effective forestation management, and monitor the City’s public trees.

§ 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 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 in a residential front yard.

§ 97.03 ~~TERM OF OFFICE OF FORESTATION BOARD~~ FORESTATION BOARD MEMBERS, TERMS OF OFFICE, AND COMPENSATION.

~~—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 shall consist of seven members who are residents of the City and shall be appointed by the Mayor, subject to the approval of the City Council.

The term of office for each member shall be three years. If a vacancy occurs during the term of any member, a successor shall be appointed by the Mayor, subject to City Council approval, for the unexpired portion of the term. Prior to the expiration of a member’s term, the Board shall inform the City Clerk of that member’s willingness to serve another term.

If a Board member misses more than three meetings in a fiscal year without permission from the Board chairperson, the Board may initiate the replacement of that member by the Mayor and the City Council.

Members shall serve without compensation.

§ 97.04 COMPENSATION DUTIES AND RESPONSIBILITIES OF THE BOARD.

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

(A) Tree Canopy. The Forestation Board is responsible for supervising the planting and maintenance of the City's public trees. The Board may 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) 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.

The Board may prepare and implement a process for providing requested educational and advisory technical services to property owners.

(C) 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.

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

~~—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 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.

~~§ 97.06 OPERATION OF THE FORESTATION BOARD~~ STREET TREES AND SHRUBS IN PUBLIC STREET RIGHT OF WAY.

~~—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.~~

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 on 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 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. OWNER'S 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 may constitute a 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 a public safety hazard.

The Board shall notify the owners of such trees in writing. Removal shall be at the owner's expense within sixty (60) days of the date of service of the notice. If the owners fail to comply with the notice, the City shall have the authority to perform the necessary remediation and charge the cost to the owner on the owner's property tax notice.

The owners 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 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.

~~§ 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.~~

§ 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, based on the severity of the violation, 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 causes an~~ 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~~ may be the responsibility of the party in violation, as determined by the Forestation Board.

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.

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