CALL TO ORDER

ROLL CALL
Chair David Caudle, Vice Chair Elizabeth Porter, Jennifer Gilbert-Smith, Joe Culumber, Jonathan Ingram, Kathy Fosjord, and Murray Williams

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

APPROVAL OF CONSENT AGENDA
C1. Minutes from January 16, 2020

CITIZEN COMMENTS - Note: The Citizen Comment period is to provide the opportunity for members of the audience to address the Commission on items either not on the agenda or not listed as a Public Hearing. The Chair will open this portion of the meeting and ask for a show of hands of those persons wishing to address the Commission. When recognized, please approach the podium, give your name and city of residence, and state the matter of your interest. If your interest is an Agenda Item, the Chair may suggest that your comments wait until that time. Citizen comments will be limited to four minutes for Citizen Comments and four minutes for Unfinished Business. If you require more than the allotted time, your item will be placed on the next agenda. If you anticipate your comments taking longer than the allotted time, you are encouraged to contact the Planning Department ten days in advance of the meeting so your item may be placed on the next available agenda.

PUBLIC HEARING AND RECOMMENDATION – Agenda Item 1 – Amendments to Covington Municipal Code Chapter 18.45 Tree Preservation and Protection
Attachment 1 – CMC Chapter 18.45 Proposed Amendments
Attachment 1a – Tree Preservation and Protection Community Engagement Workshop Results.
Attachment 1b – PC Workshop Exercise Totals
Attachment 1c – Public Workshop Comments
Attachment 1d – How the amendments are consistent with the policy statements
Attachment 2 – Tree Code Penalties – Alternatives
Attachment 2a – Penalties in other cities

NEW BUSINESS – Agenda Item 2 – Annual Hearing Examiner Report

OLD BUSINESS - None

ATTENDANCE VOTE

PUBLIC COMMENT: (Same rules apply as stated in the 1st CITIZEN COMMENTS)

COMMENTS AND COMMUNICATIONS OF STAFF AND COMMISSIONERS

ADJOURN
Planning Commission Minutes

January 16, 2019 City Hall Council Chambers

CALL TO ORDER
The regular meeting of the Planning Commission was called to order at 6:32 p.m. by Chair Caudle.

MEMBERS PRESENT
David Caudle, Joe Culumber, Kathy Fosjord, Jennifer Gilbert-Smith, Jonathan Ingram, Elizabeth Porter and Murray Williams

MEMBERS ABSENT - None

STAFF PRESENT
Ryan Harriman, Planning Manager
Dafne Hernandez, Planning Technician
Kelly Thompson, Permit Center Manager

APPROVAL OF AGENDA
- Commissioner moved Ingram and Commissioner Williams seconded the motion to approve the agenda. The motion carried 7-0.

APPROVAL OF MINUTES
- C1. Commissioner Ingram moved and Commissioner Gilbert-Smith seconded to approve the January 2, 2020 minutes. The motion carried 7-0.

CITIZEN COMMENTS - None

PUBLIC HEARING - None

NEW BUSINESS
1. Community Engagement Workshop Exercise

Planning Manager, Ryan Harriman gave introductory remarks and provided background on the intent of and instructions on the exercise.

Following the exercise, Mr. Harriman gave a presentation on the proposed regulations.

OLD BUSINESS - None

ATTENDANCE VOTE - None
PUBLIC COMMENTS - None

COMMENTS AND COMMUNICATIONS FROM STAFF AND COMMISSIONERS

ADJOURN

The January 16, 2020 Planning Commission Meeting adjourned at 8:06 p.m.

These minutes are intended to reflect the action taken during the Planning Commission meeting. The audio recording is available upon request.

Respectfully submitted,

_____________________________________________

Kelly Thompson, Permit Center Manager
A. **GENERAL INFORMATION:**
Planning Commission and City staff have examined Covington Municipal Code (CMC) Chapter 18.45 Tree Preservation and Protection. Planning Commission expressed concern regarding the current code, detailing the lack of regulation towards tree preservation and retention. The Planning Commission has reviewed the codes effectiveness, ensuring the codes remain relevant, ensuring the code is consistent with best available science, and that the code is aligning with the community’s vision, however, balancing growth and development while maintaining a livable community is the primary reason for developing the proposed amendments.

Trees provide a variety of different benefits including environmental and economical and are an integral part of the City of Covington’s character. These benefits come from significant contributions to stormwater management, public health improvements, energy use reduction, air pollution abatement and overall quality of life. The proposed Code amendment would provide better tree preservation regulations and tree retention, as well as tie to Policies listed in our Comprehensive Plan. See Attachment 1 for the proposed Code amendment.

B. **COMMUNITY WORKSHOP:**
On January 16, 2020, the Planning Commission held a Community Engagement Workshop, to gather input from citizens regarding what is important to them from a policy standpoint in relation to tree preservation and protection. The workshop was well attended, and the Planning Commission was able to capture a sense of what the most important policies citizens wanted to be addressed as part of the amendment process. Participants ranked a set of seven policy statements in order of preference from most important to least important. The participants were not informed that four of the seven policy statements are directly from the Comprehensive Plan. Remarkably, the top four policy statements selected were all policy statements from the Comprehensive Plan, and are ranked in the order of importance as follows:
1. Policy NE-6 - Protect significant trees and limit unnecessary disturbance of vegetation, when possible, during all phases of development, and require mitigation as needed, including the appropriate ratio of replacement for trees removed during development.
2. Policy LU-12 - Promote the use of landscaping that can thrive in urban settings, conserve water, retain desirable trees, and is comprised of native plant materials.
3. Policy NE-5 - Maximize retention of a healthy tree cover and native vegetation and encourage restoration, replacement, and enhancement of unhealthy or disturbed trees and vegetation.
4. Policy NE-1 - Protect the ecological integrity of the natural environment while allowing for compatible growth and development.

In conjunction with the policy statement activity, the participants were able to provide written feedback regarding tree retention and preservation. See Attachment 1a, 1b, and 1c for the results and for the compile answers by citizens. City staff conducted an analysis of both the policy statement activity and written comments in comparison to the proposed amendments. Once examined the proposed amendments were directly tied to an existing policy. See Attachment 1d for a breakdown of how the proposed amendments are consistent with the policy statements ranked in the public workshop. The proposed modifications were initiated by existing policy imbedded in the long-term vision of the City.

C. PENALTIES
City staff has recommended to the Planning Commission penalties regarding the code amendments to Chapter 18.45 CMC. City staff has also provided upon request of the Planning Commission other proposed penalties of other jurisdictions. See Attachment 2 for two alternative penalties sections for Chapter 18.45 CMC and Attachment 2a for examples from other jurisdictions.

D. REGULATORY REQUIREMENTS:
1) SEPA Compliance (SEPA19-07): A SEPA Determination of Nonsignificance (DNS) was issued on January 17, 2020, with a 14-day comment period that ended on January 31, 2020. Legal notice was published in the Covington Reporter on January 17, 2020, as well as posted on the city website and at City Hall on January 15, 2020.
2) Public Notice, Public Comment & Planning Commission Review: Per CMC 14.27.050 and CMC 14.27.060 Planning Commission Review, legal notice on these proposed amendments was published January 17, 2020, in the Covington Reporter as well as posted on the city’s website and at City Hall on January 15, 2020. The Planning Commission is required to hold a noticed public hearing and make a recommendation to the City Council as to whether each proposed amendment meets the criteria in CMC 14.27.040. As of January 30, 2020, no public comments were received. Any comments provided prior to the end of the comment period will be forwarded to the Planning Commission.
3) Department of Commerce: Pursuant to CMC 14.27.050(4) and RCW 36.70A.106. The proposed amendments were transmitted to Washington State Department of Commerce on January 15, 2020.
D. **PROPOSED MUNICIPAL CODE AMENDMENT:** See Attachment 1.

E. **CMC 14.27.040 DECISION CRITERIA:**
   The Planning Commission recommendation and City Council’s approval, modification, deferral, or denial of an amendment proposal shall be based on the following criteria:

   1. The proposed amendment is consistent with the goals, objectives, and policies of the comprehensive plan;
      
      **Staff Findings:** Yes, the proposed code amendment is expected to comply with the Growth Management Act of Washington State and goals, objectives and policies of the City’s Comprehensive Plan and other applicable laws.

   2. The proposed amendment is consistent with the scope and purpose of the City’s zoning ordinances and the description and purpose of the zone classification applied for;
      
      **Staff Findings:** Not Applicable – this is not a zoning map amendment.

   3. Circumstances have changed substantially since the establishment of the current zoning map or district to warrant the proposed amendment;
      
      **Staff Findings:** Not Applicable – this is not a zoning map amendment.

   4. The proposed zoning is consistent and compatible with the uses and zoning of surrounding property;
      
      **Staff Findings:** Not Applicable – this is not a zoning map amendment.

   5. The property that is the subject of the amendment is suited for the uses allowed in the proposed zoning classification;
      
      **Staff Findings:** Not Applicable – this is not a zoning map amendment.

   6. The amendment is in compliance with the three-year limitation rule as specified in CMC 14.27.030(3); and
      
      **Staff Findings:** Yes, the proposed amendment complies with the three-year limitation rule specified in CMC 14.27.030(3).

   7. Adequate public services could be made available to serve the full range of proposed uses in that zone.
      
      **Staff Findings:** Not Applicable – this is not a zoning map amendment.

F. **STAFF RECOMMENDATION:**
   Staff recommends approval of the proposed Municipal Code amendment as shown in Attachment 1 of this staff report.

G. **MOTION/PLANNING COMMISSION RECOMMENDATION:**
   Planning Commission recommends approval of the proposed Municipal Code Amendment as shown in Attachment 1 of this staff report.
Chapter 18.45
TREE PRESERVATION AND PROTECTION

Sections:
18.45.010  Short title.
18.45.020  Purpose and intent.
18.45.030  Definitions.
18.45.040  Applicability of regulations.
18.45.050  Exemptions from tree permits.
18.45.060  Permits and permit requirements.
18.45.070  Permit standards and conditions for all minor tree removal and major tree clearing.
18.45.080  Tree preservation retention, tree tracts and tree replacement requirements.
18.45.090  Tree protection standards
18.45.090  Heritage tree(s).
18.45.100  Tree maintenance standards and best pruning practices.
18.45.110  Tree preservation modification and departure options.
18.45.120  Performance guarantees, liability, insurance and licensing.
18.45.130  Enforcement, violations and penalties.
18.45.140  Appeals.
18.45.150  Severability.

18.45.010 Short title.
This chapter shall be known and may be cited as the tree preservation and protection regulations ordinance of the City of Covington.

18.45.020 Purpose and intent.
The intent of this chapter is to establish regulations and procedures for preservation of trees, to preserve the character of the community, to successfully retain desirable trees on developing and redeveloping sites, and to maintain a viable tree canopy for the City of Covington.

Specifically, the regulations contained in this chapter are intended to accomplish the following goals and objectives:

(1) Promote the public health, safety and general welfare of the citizens of Covington;

(2) Implement the purposes of the State Growth Management Act relating to conservation of natural resources;
(3) Support and implement the City of Covington Comprehensive Plan, specifically the Land Use Element and Natural Environmental Element;

(4) Implement the goals of the State Environmental Policy Act (SEPA);

(5) Improve the aesthetic quality of the built environment by reducing impacts on wetlands, streams, critical areas and the natural environment;

(6) Minimize erosion, siltation, water pollution, and surface and ground water runoff;

(7) Preserve significant trees for the reduction of noise and air pollution, wind protection, animal habitat, slope stabilization and retention of ground water;

(8) Assist with removing hazardous-at risk trees;

(9) Provide for delivery of reliable utility services, for reasonable development of property, for reasonable preservation or enhancement of property values, and for increases in privacy for residential sites;

(10) Promote building and site planning practices that are consistent with the City’s natural topography, soils, and vegetation features;

(11) Provide an appropriate amount and quality of tree retention related to future land uses;

(12) Provide for increased areas of permeable surfaces that allow for infiltration of surface water into ground water resources, reduction in the quantity of storm water discharge, and improvement in the quality of storm water discharge; and

(13) Provide for regulations that are clear, understandable, user friendly, easy to administer, and cost effective to enforce.

18.45.030 Definitions.

For the purposes of this Chapter 18.45 CMC, the words and phrases below shall be defined as set forth herein. If not defined in this Chapter 18.45 CMC, Unless otherwise clearly indicated by the context, certain words and phrases used in this chapter shall have the following meanings the definitions provided in Chapter 18.20 CMC shall be applicable. In the event of a conflict between the definitions set forth in this Chapter 18.45 CMC and the definitions set forth in Chapter 18.20, the definitions in Chapter 18.45 CMC shall govern. Words used in the singular include the plural, and words used in the plural, include the singular. Words used in the masculine gender include the feminine gender.

“Arborist” means an individual trained in the art and science of planting, caring for, and maintaining individual trees, and is currently certified by the International Society of Arboriculture.
“At risk tree,” means any significant tree determined by a qualified arborist through a tree risk assessment as a likely source of imminent danger life or property, or determined to have a structural defect, combination of defects, or disease, resulting in the loss of a major structural component of that tree in a manner that is likely to:

(1) Damage a residential or accessory structure, place of employment or public assembly, or approved parking for a residential structure or accessory structure or place of employment or public assembly;

(2) Damage an approved road or utility facility; or

(3) Prevent emergency access by first responders.


“Brushing” means an allowed practice of removing ground cover, shrubs and vegetation not defined as a tree to create better visibility on a site for purposes of public safety, surveying or marketing.

“Caliper” means the diameter of a tree trunk, applied only to new or replacement nursery-grown trees, which shall be measured six inches above the ground for trees with a caliper/diameter up to and including four-inches, measured six inches above the ground. For trees with a diameter greater than four inches, measured six inches above the ground, the caliper size trees and shall be measured at 12 inches above the ground for larger sizes.

“Canopy,” means the part of the tree crown composed of leaves and small twigs or the collective branches and foliage of a group of trees’ crowns.

“City” means the City of Covington, King County, Washington.

“Clearing” or “land clearing,” for purposes of this chapter, means the direct and indirect removal of trees, including topping and limbing, from any public or private undeveloped, partially developed, or developed lot, public lands, public right-of-way, or utility easement. This shall also include any destructive or inappropriate activity applied to a tree that will result in its death or effectively destroy the functionality. “Clearing” shall not include landscape maintenance, brushing, or pruning consistent with accepted horticultural practices which does not impair the health, survival or function of trees.

“Critical root zone” is the area where the tree’s roots are located and is the area surrounding a tree measured at a radial distance from the trunk equal to one foot for every one inch diameter of tree.
“Critical root zone (CRZ)” means the International Society of Arboriculture (ISA) definition of CRZ, which is an area equal to a one-foot radius from the base of the tree’s trunk for each one inch of the tree’s diameter at 4.5 feet above grade (referred to as diameter at breast height). Example: A 24-inch diameter tree at 4.5 feet above grade would have a critical root zone radius (CRZ) of 24 feet. In this example, the total protection zone, including trunk, would be 50 feet in diameter.

“Crown” means that portion of the tree’s stem that is occupied by branches with live foliage.

“DBH” means diameter at breast height. DBH is a tree’s diameter in inches at four and one-half feet above the ground at the lowest point surrounding the trunk, and is used to measure existing trees on a site. On multi-stemmed or multi-trunked trees, the diameter shall be the diameter equivalent to the sum of trunk areas measured at DBH. Where a tree splits into several trunks below DBH, the DBH for the tree is the square root of the sum of the DBH for each individual trunk squared (example with three trunks: DBH = square root of \( ([stem\ 1]^2 + [stem\ 2]^2 + [stem\ 3]^2) \)).

“Department” means the City of Covington Department of Community Development or its successor agency.

“Development,” is the division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargements of any structure; any mining, excavation, landfill, stockpiling, clearing or land disturbance; and any use or extension of use of the land.

“Director” means the Community Development Director of the City of Covington or his or her duly authorized designee.

“Drip line” of a tree means an imaginary line on the ground created by the vertical projection of the foliage at its greatest circumference. Of a tree is the outermost circumference of the tree’s canopy, from which water drips onto the ground. The “dripline area” is taken to include the soil and roots that lie within that circumference.

“Excessive canopy raising,” means the excessive removal of lower canopy limbs (especially on conifers), by reducing the live crown ratio (the ratio of live crown to total tree height) lower than 60% of the original crown. Excessive canopy raising can pose a high risk. A tree’s hinge point changes under wind load forces, articulation occurs significantly higher on the upper stem not accustomed to these load forces which significantly increases chances of upper stem failure.

“Ground cover” means any living plant material that is normally terrestrial, growing and grows low to the ground, or as well as other small trees less than four inches in DBH and not defined as a tree. “Ground covers” all of which are intended to stabilize soils and protect erosion.
“Hazard tree,” for purposes of this chapter, means any tree determined by an arborist to have a structural defect, combination of defects, or disease, resulting in the loss of a major structural component of that tree in a manner that will:

1. Damage a residential structure or accessory structure, place of employment or public assembly, or approved parking for a residential structure or accessory structure or place of employment or public assembly;

2. Damage an approved road or utility facility; or

3. Prevent emergency access in the case of medical hardship.

“Heritage tree(s)” means any tree, or grove of trees, that has historical significance to a person, place or event, has attained significant size in height, caliper or canopy spread for its age and species to be a specimen tree, has special aesthetic qualities for its species to be unique or rare, is visible to the public and has exceptional value to the residents of the community; and is not a hazard as defined herein. A significant tree that is equal to or greater than thirty-two (32) DBH.

“Imminent danger” means a condition which could cause serious or life-threatening injury or death at any time.

“Invasive tree,” is a species that was introduced by humans to locations outside of the trees native range that spread and persist over large areas. Invasive species negatively impact natural ecosystems by displacing native species, reducing biological diversity, and interfering with natural succession. Tree species known to be invasive in the Pacific Northwest are listed below. The City may determine that additional tree species should be classified as invasive if the species clearly exhibits the detrimental characteristics of invasive species.

<table>
<thead>
<tr>
<th>Common Name</th>
<th>Species Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Norway maple</td>
<td>Acer platanoides</td>
</tr>
<tr>
<td>Sycamore maple</td>
<td>Acer pseudoplatanus</td>
</tr>
<tr>
<td>Horse chestnut</td>
<td>Aesculus hippocastanum</td>
</tr>
<tr>
<td>Tree-of-heaven</td>
<td>Ailanthus altissima</td>
</tr>
<tr>
<td>European white birch</td>
<td>Betula pendula</td>
</tr>
<tr>
<td>English/European hawthorn</td>
<td>Crataegus monogynia</td>
</tr>
<tr>
<td>English holly</td>
<td>Ilex aquifolium</td>
</tr>
<tr>
<td>Princess tree</td>
<td>Paulownia tomentosa</td>
</tr>
<tr>
<td>White poplar</td>
<td>Populus alba</td>
</tr>
<tr>
<td>Sweet cherry</td>
<td>Prunus avium</td>
</tr>
<tr>
<td>Cherry laurel</td>
<td>Prunus laurocerasus</td>
</tr>
<tr>
<td>Common Name</td>
<td>Species Name</td>
</tr>
<tr>
<td>----------------------</td>
<td>-------------------</td>
</tr>
<tr>
<td>Portugal laurel</td>
<td>Prunus lusitanica</td>
</tr>
<tr>
<td>Black locust</td>
<td>Robinia pseudoacacia</td>
</tr>
<tr>
<td>European mountain ash</td>
<td>Sorbus aucuparia</td>
</tr>
<tr>
<td>Siberian elm</td>
<td>Ulmus pumila</td>
</tr>
</tbody>
</table>

“ISA” means International Society of Arboriculture.

“ISA TRAQ,” Tree Risk Assessment Qualified, a designation administered by the International Society of Arboriculture.

“Landmark Tree” means a significant tree that is equal to or greater than twenty-two (22) inches DBH.

“Landscape architect” means an individual currently licensed by the State of Washington as a landscape architect.

“Land use application” means an application, supplied by the Department, which must be completed and accompany any submittal packet for the desired development permit.

“Limits of disturbance” means the boundary between the area of minimum protection around a tree and the allowable site disturbance as determined by a qualified arborist.

“Multi-stemmed tree” means a tree that has one trunk at ground level but that splits into two or more trunks above ground level. Trees whose trunks diverge below ground level are considered separate trees.

“Normal and routine maintenance” means the standard practice and care of trees and vegetation normally required to maintain life, including watering, feeding or fertilizing, spraying, pruning and trimming according to best management practices, and removing of dead or unhealthy branches.

“Nuisance tree” is a species that is known to be weak-wooded and unstable, or one that exhibits other traits that render it prone to creating nuisance conditions for persons and property located in close proximity to such trees. Tree species categorized as nuisance trees in the City of Covington are listed below. The City may determine that additional tree species should be classified as nuisance trees if the species clearly exhibits the detrimental characteristics of nuisance species.

<table>
<thead>
<tr>
<th>Common Name</th>
<th>Species Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Red alder</td>
<td>Alnus rubra</td>
</tr>
<tr>
<td>Common Name</td>
<td>Species Name</td>
</tr>
<tr>
<td>---------------------</td>
<td>------------------</td>
</tr>
<tr>
<td>Black cottonwood</td>
<td>Populus trichocarpa</td>
</tr>
</tbody>
</table>

“Parks and Recreation Commission” means the named advisory commission that oversees the community parks, recreation, and forestry programs, and reports to the City Council.

“Person” means any individual, organization, society, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, governmental agency, public or private utility, cooperative, interstate body or other legal entity.

“Protected tree” means a tree and associated understory vegetation that is identified for retention and protection on an approved tree protection and replacement plan and/or permanently protected by easement, tract, or covenant restriction. Property owners are responsible for the viability of protected trees, including normal care, maintenance, and pruning, so that such trees can achieve their 30-year maturity goals. Should a protected tree become diseased to the point that it must be removed or die, the property owner is also responsible for replacing the protected tree with a tree or trees that will achieve the original canopy coverage for which the protected tree was planted to achieve.

“Pruning” means cutting back of limbs larger than one and one-half inches in diameter.

“Qualified arborist” is an individual who is a certified professional with academic and field experience that makes them a recognized expert in urban forestry and tree protection during development. A qualified arborist shall be a member of the International Society of Arboriculture (ISA) and/or the Association of Consulting Arborists and shall have specific experience with urban tree management in the state of Washington. Additionally the qualified arborist shall be a certified arborist or board certified master arborist, as certified by the International Society of Arboriculture, and be ISA Tree Risk Assessment Qualified and have the necessary training and experience to use and apply the appraisal methodology prescribed in the current edition of the ISA Plant Appraisal Guide.

“Remove” or “removal” is the act of removing a tree by digging up, cutting down, or any act which causes the tree to die within a period of three years, including, but not limited to: damage inflicted on the root system by machinery, storage of materials, or soil compacting, or changing the ground level in the area of the tree’s root system; damage inflicted on the tree permitting infections or infestation; excessive pruning; topping; paving with concrete, asphalt, or other impervious material within the drip line; or any other action which is deemed harmful to the tree.

“Risk” in the context of trees is the likelihood of a tree failure occurring combined with the severity of the associated consequences of such failure to a target.
“Significant tree,” for purposes of this chapter, means any healthy tree of six inches DBH or larger, a tree that is in a healthy condition and is a noninvasive species, which is:

1. Any deciduous tree that is twelve inches or more in diameter at DBH;
2. Any coniferous tree that is six inches or more in diameter at DBH;
3. A required replacement tree of any size; or
4. Any tree that is six inches or more at DBH that is located within critical areas and the shoreline jurisdiction.

“Target” or “risk target” means people, property, or activities that could be injured, damaged, or disrupted by a tree.

“Tree” means any woody plant characterized by one main stem or trunk and many branches, or multi-stemmed trunks which have a diameter individually or cumulatively of four inches DBH or larger.

“Tree appraisal” is a method of calculating the value of a tree, which shall be based on the “trunk formula method” as set forth in “The Guide for Plant Appraisal” authored by the Council of Tree and Landscape Appraisers.

“Tree enhancement plan” means a plan prepared by a certified, qualified arborist, licensed landscape architect, or certified forester and required of all commercial or industrial properties greater than two acres in size when any tree removal or tree clearing takes place. The tree enhancement plan shall combine tree retention and preservation of existing trees pursuant to CMC 18.45.080(1) to the extent feasible along with the tree replacement and replanting requirements of CMC 18.45.080(2) equal to at least 15 percent of the number of significant trees existing on the site prior to any tree removal. The tree enhancement plan shall incorporate trees in as many areas as feasible such as tree tracts, boundary trees, perimeter landscaping, parking lot landscaping, street and driveway trees, facade landscaping, or other viable stands of trees, considering the type of commercial or industrial development.

“Tree harvesting” means tree logging, felling, cutting, or taking of trees, standing or down, on privately or publicly owned land for sale or for commercial, industrial, or other use, governed under RCW 76.09.470.

“Tree inventory” means a detailed list of all trees of four inches DBH or larger, located on a site for which a tree permit is required, and which is prepared by a certified arborist, licensed landscape architect, certified forester, or other qualified tree professional. A tree inventory shall be included on a site plan drawn to scale, and provide the number, size, approximate height, specific location, and tree species of all trees of four inches DBH or larger, with a summary of all significant trees in sufficient detail for the City to review.
“Tree owner” means the owner of the real property where 51 percent or more of the diameter of the trunk of the tree at ground level is located.

“Tree risk assessment” means the systematic process conducted by a qualified arborist or tree risk assessor to identify, analyze, and evaluate tree risk. Tree risk assessment shall be conducted in accordance with the American National Standards Institute (ANSI) A300 and the current edition of the International Society of Arboriculture (ISA) BMPs: Tree Assessment.

“Tree Risk Management,” means the application of policies, procedures and practices used to identify, evaluate, mitigate, monitor and communicate tree risk.

“Tree 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. is an extreme form of crown reduction that removes whole tops of trees or large branches and/or trunks from the tops of trees, leaving stubs or lateral branches that are too small to assume the role of a terminal leader, which is the vertical stem at the top of the trunk. Tree topping severely cuts back large trees to a predetermined size in a manner that:

1. Leaves large exposed wounds that can become infested;
2. Ruins tree structure;
3. Removes too much foliage, disrupting the tree’s energy storage;
4. Stimulates vigorous new growth, which is prone to breakage;
5. Increases tree maintenance costs; or
6. Destroys a tree’s appearance and value.

“Tree tract” is a separate portion of land, specifically set aside for the preservation, retention or protection of existing trees or the planting of new trees to maintain a beneficial tree canopy in a subdivision or on a development site and that meets minimum tree preservation requirements of this code. The tree tract shall be a separate designated lot(s) or tract(s) shown on the subdivision plat map, site development plan, or binding site plan and shall be recorded on the property title with the King County Recorder’s Office with appropriate description of purposes and restrictions. Restrictions applied to the tree tract will reserve the tract for the protection and preservation of trees in perpetuity. Tree tracts can be used for other open space uses when such use is compatible with trees and will not impact tree health. The tract shall be dedicated to, and owned and maintained by, the home owner(s), property owners association, or comparable entity.

“Understory vegetation” means small trees, shrubs, and groundcover plants, growing within the dripline or critical root zone (CRZ) of a significant tree.

“Vegetation” means any and all organic plant life growing at, below or above the soil surface.
“Viable (tree)” means a significant tree that a qualified arborist has determined to be in good health with a low risk of failure, is relatively windfirm if isolated or exposed, is a species that is suitable for its location, and is therefore worthy of long-term retention.

18.45.040 Applicability of regulations.

(1) These regulations shall not be applicable to:

(a) Any single-family or multifamily lot one acre or less in size;

(b) Any commercial or industrial lot two acres or less in size; or

(c) Any lot or tract with less than 20 “significant trees” as defined.

(1) The provisions of this chapter shall be applicable to all residential, commercial, and industrial lots, and property located outside the public right-of-way, including but not limited to parcels, tracts, and easements owned by public agencies such as parks, stormwater ponds.

(2) When any other Chapter of the Covington Municipal Code conflicts with this chapter or when the provisions of this chapter are in conflict, the provision that provides more protection to the environment, critical area or shoreline jurisdiction shall apply, unless the provision conflicts with Federal or State laws or regulations. Provided, in the event of a conflict between the definitions set forth in this Chapter and the definitions set forth in Chapter 18.20 CMC, the definitions in this Chapter 18.45 CMC shall prevail.

(3) If there is any conflict between the Chapter 18.65 CMC or Chapter 16.05 CMC requirements the most restrictive applies. Should a conflict occur between the provisions of this chapter or between this chapter and the laws, regulations, codes, or rules promulgated by any other authority having jurisdiction within the City, the requirement which most supports the provisions of Chapter 18.65 CMC or Chapter 16.05 CMC shall be applied, except when constrained by Federal or State law, or where specifically provided otherwise.

18.45.050 Exemptions from tree permits.

The following activities below are exempt from both the minor tree removal permit and major tree clearing permit requirements of CMC 18.45.060, 18.45.070, and 18.45.080. Provided, replanting pursuant to CMC 18.45.080(3) is still required. Exempt tree removal, without a permit, and as allowed herein, shall be reported to the City on a form provided by the City within 21 days of removal. The use of the exemptions listed below for the removal of replanted trees and landscaping as required pursuant to Chapter 18.40 CMC is prohibited, unless they such trees disturb any critical area or critical area buffer, or identified shoreline jurisdiction, or unless they such trees cause a major adverse impact to runoff and diversion of storm water or streams, erosion, risk of landslide, infiltration of pollution into ground water, or other major adverse impacts to safety and security of adjacent properties, as determined by the Director:
(1) Sites with 20 Significant Trees or Less. Any site, proposed for subdivision, development, redevelopment or building construction, regardless of size, which does not contain at least 20 significant trees as defined herein. Emergency Removal. Removal of trees necessary to protect public safety or public or private property from imminent danger in response to emergencies declared by the City, County, State or Federal governments. In the case of a declared emergency, the written approval requirement herein shall be waived.

(2) Emergency Removal of a Hazard Tree or Trees. Emergency removal of hazard tree(s) as defined in order to prevent imminent danger to persons or structures. Such removal shall be reported to the City within 10 days of removal on a form provided by the City. This exemption shall not apply to existing trees located within designated tree tracts. Emergency Removal of an At Risk Tree or Trees. Removal of an at risk tree following a tree risk assessment and recommendation by a qualified arborist that the tree is a safety risk and should be removed. For a tree to be considered an at risk tree it must be defective either in some part or as a whole, with risk for failure and a target that is threatened. Trees are declared at risk if a tree risk assessment has been completed and mitigation is required to prevent a failure from causing damage affecting the target. The City may, at its sole discretion and in consideration of ISA tree risk assessment guidance, waive the qualified arborist requirement if City staff conducts an on-site inspection and determines that a tree clearly and obviously constitutes a risk. City staff should consider the following conditions when conducting a tree risk assessment:

(a) Whether the tree dead, diseased, decayed, dying, burned or otherwise damaged;

(b) Whether the tree has multiple weak branch attachments, broken and/or hanging limbs;

(c) Whether the foliage sparse, and/or discolored;

(d) Whether there is evidence of root rot/exposed, undermined or pruned roots or a restricted root area;

(e) If leaning, what the degree of such lean is and whether roots are broken or the soil heaving or cracking;

(f) Whether the top is broken on conifers; and

(g) Whether there are targets such as buildings, parking, or traffic or pedestrian facilities below the tree and whether those target(s) can be moved?

Upon such inspection, staff may determine that further review by a qualified arborist is required before making a determination as to whether a tree constitutes a risk.

(3) Normal and Routine Maintenance of Existing Trees. Any normal and routine maintenance of existing trees, but not to include utility easements; provided, that said maintenance does not involve removal of healthy trees and is not detrimental to the health of any trees. Trenching or
digging to a depth of greater than one foot within the critical root zone and tree topping is not allowed.

(4) Commercial and Wholesale Nurseries and Tree Farms. Removal of trees which are being grown within commercial and wholesale nurseries or tree farms to be sold as landscape or Christmas trees.

(5) Tree Harvesting with a Forest Practices Permit. Any harvesting with a forest practices permit issued by the Washington State Department of Natural Resources under RCW 76.09.470.

(6) Residential Sites One Acre or Less and Commercial or Industrial Sites Two Acres or Less. Removal of trees, brushing and ground cover from single-family or multifamily residential lots of one acre or less, and commercial or industrial lots of two acres or less, as long as no critical area or its buffer is disturbed, and no land clearing, grading or filling is involved.

(6)(7) Any Site in the Commercial or Industrial Zones, Provided a Tree Enhancement Plan is Submitted and Approved. Any site, tract, lot or subdivision located in the DN, CC, CN, or I zones, provided such sites, as part of their subdivision, development or redevelopment permit, submit a tree enhancement plan to replant trees as outlined in CMC 18.45.080(7). **Removal of an invasive tree if located outside of a designated critical area and associated buffer, or within shoreline jurisdiction.**

(7) Removal of a nuisance tree if located outside of a designated critical area or it’s associated buffer, or within shoreline jurisdiction.

(8) Removal of Trees on City-Owned Property for Installation of Utilities and Public Facilities and/or Maintenance of Property. Removal of trees on any city-owned right-of-way or tract for installation of any public infrastructure, including streets, utilities or public facilities, or for maintenance and operation of any existing facilities. **This exemption includes the removal of trees on all publicly owned land, parks, storm ponds, critical area tracts dedicated to the City.**

(9) Removal of trees where the trunks are located within 10 feet of an existing building that will remain on a site.

(9) Partial Exemption for Developed Single-Family and Multifamily Lots. On existing developed single-family and multifamily lots greater than one acre in size, removal of trees without a permit is allowed within an existing or proposed building footprint and within 30 feet of such building footprint. In addition, no permit is required for tree removal within 15 feet from all accessory structures, roads, driveways or utility easements associated with such building footprints. Exempted areas for tree removal are measured from the edge of a building wall, road, drive, or easement out to the critical root zones of any tree. **(That portion of the lot or tract outside of the aforementioned area, which is exempted from tree removal permits, shall be treated as undeveloped and unplatted property for the purposes of this chapter and shall be governed by requirements for a major tree clearing permit, and preservation of trees in a tree planting.)**
tract, tree conservation easement or tree enhancement plan and tree replanting as outlined in CMC 18.45.060, 18.45.070, and 18.45.080)

(10) Partial Exemption for Developed Commercial and Industrial Lots. On developed commercial or industrial lots greater than two acres in size, removal of trees without a permit is allowed within an existing or proposed building footprint and within 30 feet of such building footprint. In addition no permit is required for tree removal within 15 feet from all accessory structures, roads, driveways or utility easements associated with any primary building footprints. Exempted areas for tree removal are measured from the edge of a building wall, road, drive, or easement out to the critical root zones of any tree. (That portion of the lot or tract greater than the aforementioned area exempted from tree removal permits shall be treated as undeveloped and unplatted property for the purposes of this chapter and shall be governed by requirements for a major tree clearing permit and preservation of trees in a tree tract, tree conservation easement or tree enhancement plan and tree replanting as outlined in CMC 18.45.060, 18.45.070, and 18.45.080.)

(11) Limited Exemption for Firewood Removal. Removal of up to four trees annually for personal use as firewood, not resale, from any residentially zoned parcel of land between one and 10 acres, provided the property owner does not remove trees below the minimum 20-tree threshold for tree preservation as required in CMC 18.45.080.

(10) The removal of three (3) trees on lots less than or equal to 7,200 square feet and 1 additional tree for every 7,200 square feet of lot area up to a maximum of six significant trees per lot within a 36-month period.

(11) Removal of significant trees in emergency situations involving immediate danger to life or property or substantial fire hazards as determined by the City in its sole discretion.

18.45.060 Permits and permit requirements.

Unless exempted under CMC 18.45.050, any person engaged in removal of trees or tree clearing in the City shall first obtain either a minor tree removal permit or major tree clearing permit as outlined below and shall meet the prescribed tree preservation or tree enhancement requirements in this Chapter 18.45 CMC. If any future development or construction is anticipated, such permits shall be reviewed and issued in conjunction with any required land use permit, engineering design permit, site development permit, binding site plan, subdivision, or building permit. A separate permit shall be required for each individual site on which the tree removal or land clearing is proposed. If no development or construction activity is currently anticipated, individual tree removal or tree clearing permits may be applied for, reviewed, and issued according to this section as separate, freestanding permits. All critical area regulations set forth in Chapter 18.65 CMC and all shoreline regulations set forth in Chapter 16.05 CMC are applicable. Additionally, within the shoreline jurisdiction, a shoreline exemption permit may be required in conjunction with the tree removal permit in some cases.
(1) Minor Tree Removal Permits.

(a) Minor tree removal permits are those permits involving removal of trees or understory vegetation on any lots greater less than one acre and less than two acres in size, or on property or easements granted to public utilities, unless the activity falls within an exemption listed in CMC 18.45.050, in which case no permit is required;

(b) The minor tree removal permit required by this subsection shall be in addition to any other permit(s) which will or have been issued by the City or any other governmental agency with jurisdiction over all or part of the proposed activity or land which is part of the activity;

(c) A minor tree removal permit, with prescribed fee, shall require an application and site plan with two copies on a form to be provided by the Director, in accordance with permit submission requirements outlined in subsection (3) of this section;

(d) The Director shall review the minor tree removal permit application and accompanying site plan and take action to approve, approve with conditions, or deny the permit. The City may ask for more detailed submittal information to meet the requirements of this code;

(e) A minor tree removal permit shall be a Type I permit governed by Chapter 14.30 CMC;

(f) A minor tree removal permit may be applied for as a freestanding permit by itself or in conjunction with any other associated land use application, engineering design permit, site development permit, binding site plan, subdivision, or building permit application.

(2) Major Tree Clearing Permits.

(a) Major tree clearing permits are those permits involving any removal of trees, clearing and grading of land with trees, shrubs, or understory vegetation other ground cover on sites one two acres in size or greater, unless the activity falls within an exemption listed in CMC 18.45.050, in which no permit is required;

(b) The major tree clearing permit required by this subsection shall be in addition to any other permit(s) which will or have been issued by the City or any other governmental agency with jurisdiction over all or part of the proposed activity or land which is part of the activity;

(c) A major tree clearing permit, with prescribed fee, shall require an application and site plan with two copies on a form provided by the Director, in accordance with permit submission requirements outlined in subsection (3) of this section;

(d) The Director shall review the major tree clearing permit application and accompanying site plans and take action to approve, approve with conditions, or deny the permit. The
City may ask for more detailed submittal information to meet the requirements of this code;

(e) A major tree clearing permit shall be a Type II permit governed by Chapter 14.30 CMC;

(f) A major tree clearing permit may be applied for as a freestanding permit by itself or in conjunction with any other associated land use application, engineering design permit, site development permit, binding site plan, subdivision, or building permit application.

(3) Permit and Application Submission Requirements.

(a) Minor Tree Removal Permit Submission Requirements. Minor tree removal permits shall be submitted on application forms provided by the Administrator Director and shall contain the following information outlined below:

(i) Completed application form, with one copy and appropriate fee;

(ii) The legal description or tax parcel number, and street address for the site;

(iii) If critical areas and their buffers, as defined in Chapter 18.65 CMC, or shorelines, as defined in Chapter 16.05 CMC, exist on the property, then their exact location shall be identified on a topography map showing contours at not greater than five-foot intervals, as determined by a land surveyor. Any proposed tree cutting, land clearing, landscaping, and replanting activity, within or near such critical areas or shoreline shall be included on such map;

(iiii) A scaled site plan that clearly depicts the limits of disturbance, existing trees and their critical root zones, the location of any critical area or shoreline with in 200 of the property and the applicable buffers and setbacks, with property lines, structures, north arrow and date;

(iv) A tree inventory completed by a qualified arborist, identifying the species type, size, approximate height, location, and number of both existing trees and those specific trees to be removed;

(vi) A statement explaining the scope of work and time schedule for tree removal;

(vii) Information showing the location of existing and proposed improvements, if any, including but not limited to structures, roads, utilities, driveways and trails;

(viii) The approximate location of all critical areas and critical area buffers, and shoreline jurisdiction areas; and

(iviii) Any other information, such as erosion and sediment control plans, if applicable, which the Director deems necessary and reasonable for an effective evaluation of the application for a minor tree removal permit.
(b) Major Tree Clearing Permit Submission Requirements. Major tree clearing permits shall be submitted on application forms provided by the Director, with any land use application, engineering design permit, site development permit, binding site plan, subdivision, or building permit on the same site; or by itself as a freestanding permit for any major tree clearing, land clearing or grading permit when no land use or building permit is anticipated. Permit submissions shall contain the following information:

(i) Three copies of the completed application form with three copies and appropriate fee;

(ii) The legal description or tax parcel number, and street address for the site;

(iii) If critical areas and their buffers, as defined in Chapter 18.65 CMC, or shorelines and their buffers and setbacks, as defined in Chapter 16.05 CMC, exist on the property, then their exact location shall be identified on a topography map showing contours at not greater than five-foot intervals, as determined by a land surveyor. Included shall be any proposed tree cutting, land clearing, landscaping, and replanting activity, within or near such critical areas or shoreline;

(iv) A scaled site plan that clearly depicts the limits of disturbance, existing trees and their critical root zones, the location of any critical area or shoreline within 200 feet of the property and the applicable buffers and setbacks, with property lines, north arrow and date, showing the location of existing and proposed improvements;

(v) A tree inventory completed by a qualified arborist with the date of inventory, north arrow and scale, showing the location, number, size, height, species, and condition of existing trees, and a designation of any trees to be removed, and proposed scope of work a north arrow, and scale;

(vi) The location, number, height, caliper, and species of any replanted trees on site that were planted pursuant to any tree replanting or tree enhancement plan requirements;

(vii) Erosion and sediment control plans and mitigation;

(viii) A tree protection plan with fencing details during construction;

(ix) A proposed time schedule for tree clearing, replanting, land restoration, and implementation of erosion control measures;

(x) A discussion and calculations demonstrating that the conditions and standards set forth in CMC 18.45.070 and 18.45.080 are satisfied;

(xi) A performance guarantee quantity worksheet consistent with CMC 18.45.120; and
(xii) Any other information which the Director deems necessary for an effective evaluation of the application for a major tree clearing permit.

(4) Permit Review – Administrative Provisions and Authority.

(a) Decision Types. Minor tree removal permits are a Type I decision, and major tree clearing permits are a Type II decision as defined in Chapter 14.30 CMC.

(b) Extent of Authority Within Permit Review Process. The Director shall have the authority to approve, modify, approve with conditions, or deny such permits in accordance with the intended purposes of this chapter as well as the standards and requirements set forth in CMC 18.45.060, 18.45.070, and 18.45.080. If the Director determines that the application complies with all criteria and standards set forth in this chapter, then a minor tree removal or major tree clearing permit shall be issued.

(c) Length of Permit Validity. Permits granted hereunder as a freestanding permit and not associated with another land use or building permit shall be valid for 180 days. One 180-day extension is allowed by the Director for reasonable, extenuating circumstances, and must be requested in writing prior to the expiration date. Otherwise a new permit shall be required. Permits granted hereunder which are associated with and accompany another land use, site development, or building permit shall be valid for the length of time associated with the accompanying land use permit, engineering design permit, site development permit, binding site plan, subdivision, or building permit.

(d) Suspension or Revocation Allowed. Approved permits may be suspended or revoked by the Director if granted on the basis of inaccurate or misleading information within the application therefor or upon the violation of any provision of this chapter.

(5) Tree Protection and Tree Fencing Standards. The following tree protection, fencing, and tree care standards shall be implemented and followed prior to, during, and subsequent to any subdivision, development, redevelopment, construction, tree clearing, or tree replacement as part of the conditions of any permit, unless exempt from the provisions of this chapter on land greater than one acre:

(a) No tree clearing shall be allowed on a site until all required permits have been obtained;

(b) An area of prohibited disturbance, a tree protection area, generally corresponding to the critical root zone of a significant tree, shall be identified by a qualified arborist during the construction stage, and temporary fencing in accordance with subsection (5)(d) of this section shall be installed around the tree protection area prior to any tree clearing and/or grading. Fencing shall remain throughout construction. No disturbance to the tree protection area is authorized and if any sign of disturbance is observed by the City within the tree protection area by the City, a stop work order may be issued until corrections are made and any damage is restored;
(c) No impervious surfaces, fill, excavation, or storage of construction materials shall be permitted within tree protection zones or within the surrounding construction fencing required herein, as defined by such fencing or stakes.

(d) Construction fencing shall be placed along at a minimum of five feet from the boundary of the significant tree’s critical root zone or tree tract. The location and material of the fence must be shown on the approved tree enhancement plan, tree clearing permit or clearing and grading plan. The fence material must be in place before any clearing, grading, tree cutting, or construction begins on the site and must remain in place until construction and final inspection are complete. The fence must meet one of the following standards:

(i) Five-foot high, orange, plastic, secured to the ground with seven-foot metal posts or T-posts; or

(ii) Five-foot high, steel or chain link, attached to concrete blocks.

The fence must be maintained in satisfactory condition throughout construction and repaired immediately if damaged, and failure to maintain said fence may result in a stop work order being issued until such time as the tree protection fence is repaired;

(e) A tree designated for preservation shall not have the soil grade altered within its critical root zone or within six feet of its trunk, whichever is greater. The grade may be lowered if a qualified certified arborist with the concurrence of the Director determines the impact of lowering the grade within the area described in this subsection will not adversely affect the health of the tree;

(f) Trees shall not be designated for preservation if they are dead, diseased, or an at risk hazard tree;

(g) Grade level changes described in subsection (5)(e) of this section shall be done according to a plan prepared by a qualified certified arborist that includes measures to reduce adverse impacts on trees;

(h) No work shall be allowed within the critical root zone unless approved by the Director with appropriate mitigation measures;

(i) Any trees which are staked at the time of planting shall have stakes removed when appropriate no longer needed for stability, but in no case longer than three years after planting, unless new staking measures are approved by the Director; and

(j) Alternative tree protection methods may be used if determined by the Director to provide equal or greater tree protection.

(6) Permit Fees. Fees for minor tree removal permits and major tree clearing permits shall be as specified in a fee resolution or by another method approved by the Covington City Council.
(7) Tree Removal Surrounding Existing or Proposed Building Footprints. Any existing residential lot or site greater than one acre in size or any existing commercial, or industrial lot or site greater than two acres in size, either of which is not subdivided, shall be allowed to remove trees without a tree permit, within a proposed building footprint, within 20 feet of the existing or proposed building footprint, and within 10 feet of any roadway, driveway, or utility easement, as described in CMC 18.45.050. Exemptions from tree permits, when such removal is undertaken with a valid building permit. Removal of any trees outside of these exempt areas, measured from the existing or proposed building footprint, and without a valid building permit, shall be required to obtain a minor tree removal permit or major tree clearing permit in accordance with this section.

(7)(8) Additional Permit Restrictions or Requirements.

(a) Bald Eagle and Other Federal and State Requirements. All entities permittees and their agents must comply with all applicable Federal and State laws, rules and regulations, including, without limitation, the Endangered Species Act, the Bald Eagle Protection Act, and the Migratory Bird Treaty Act, as now existing or hereinafter adopted or amended.

(b) Reporting Requirements for Removal of Hazard Tree At Risk Tree(s). Emergency removal of at risk tree At Risk Tree(s), as defined, without a permit, and as allowed in this title herein, shall be reported to the City on a form provided by the Director within 10-21 days of the emergency removal on a form provided by the Director.

(c) Permits and Written Reports for Public Utilities Pruning or Removal of Trees. Pruning for above ground utility facilities and lines are allowed, but such utilities and/or its contractors shall submit a written statement to the City, in lieu of a permit, prior to tree pruning, indicating that no trees will be removed during pruning, and that any tree pruning will not cause significant structural defect to the trees. If trees are to be removed, the minor tree removal permit procedures shall apply, but replanting with appropriate trees for ROW or utility easement locations shall be required of the public utility, unless the Director determines in writing such replanting is inappropriate.

(d) Critical Areas and Shoreline Jurisdiction Exceptions and Limitations. Provisions of this chapter shall not apply to any critical area or critical area buffers, or any shoreline jurisdiction. Any removal or clearing of trees, ground cover, or other vegetation from critical areas or from the shoreline jurisdiction for these areas shall be governed by Chapters 16.05 and 18.65 CMC, as now existing or hereinafter adopted or amended and must comply with all limitations and restrictions for alterations of critical areas and critical area buffers in Chapter 18.65 CMC and for alterations of shoreline jurisdiction areas in Chapter 16.05 CMC, as now existing or hereinafter adopted or amended.

(e) Permits Required for Removal of Trees in Tree Tracts, Tree Conservation Easements or as Part of Tree Enhancement Plans. Any trees required as part of any tree tract, tree conservation easement or tree enhancement plan under provisions of this chapter shall remain permanently unless a minor tree removal permit or major tree clearing permit
under this section is obtained and replacement trees are planted in accordance with standards of this chapter.

18.45.070 Permit standards and conditions for all minor tree removal and major tree clearing.

Unless otherwise approved by the Director pursuant to any applicable exemption(s), all minor tree removal and major tree clearing permits within the City shall conform to the following standards and conditions and shall be governed by such criteria for their issuance, or denial or revocation:

1. The tree clearing activity shall not significantly create or contribute to blowdowns, landslides, accelerated soil creep, settlement, subsidence or other hazards associated with strong ground motion and soil liquefaction;

2. No topping of trees as defined herein is allowed as part of any regulated activity;

3. The tree clearing activity shall not create or contribute to flooding, erosion or increased turbidity, siltation or other forms of pollution in any waters of the State;

4. Tree clearing activity shall be conducted so as to expose the smallest practical area of soil to erosion for the least possible time, consistent with the anticipated construction schedule;

5. Timber harvesting and conversion of forested lands to non-forestry use within the City of Covington shall not be permitted until such time as a valid forest practices application, permit and notification, under the State Forest Practices Act and Rules, has been submitted, evaluated and issued by the Washington State Department of Natural Resources. If, prior to tree harvesting or conversion of forested lands to non-forestry use, a lot owner has not received a permit for future conversion of the site to some non-forestry use or other permitted land use activity, the City shall prohibit application for any land use, development or engineering permit(s) for that site for a period of 10 years. This condition applies to the site, not site owner, and runs with the land. All landowners of timbered or forested lands falling within applicable regulations of RCW 76.09.470 shall notify the City of Covington and the State Department of Natural Resources (DNR) and show proof of full compliance with RCW 76.09.470. Upon being contacted by a landowner under RCW 76.09.470, the City of Covington shall notify the State DNR and ensure compliance with such regulations; and

6. To assure protection of the critical root zone, visual marking of the critical root zone with fencing shall be installed and remain in place throughout any construction. Those trees or ground cover designated for preservation shall not be damaged by scarring, grade changes, dumping or storage of materials, back filling or compaction of soil around trees, or by any other activity that can damage roots or trunks. Land clearing equipment and machinery shall at all times remain outside the critical root zone of any tree designated for retention, except where such area encompasses any road or constructed pathway, during which approved mitigation will be required for encroachment into such critical root zone.
18.45.080 Tree retention, preservation, tree tracts and tree replacement requirements.

(1) Tree Preservation Methods. Retention and Preservation for All Residential Zones. The following tree preservation methods, retention and preservation percentages apply to all residential zoned lands on sites greater than one acre in size, residential, commercial, or industrial zoned properties unless exempt pursuant to CMC 18.45.050, Exemptions:

(a) R-1 Zoned Lots. A minimum of 40 percent of the significant trees shall be retained within areas unconstrained by critical areas and outside shoreline jurisdiction.

(b) R-4 and R-6 Zoned Lots. A minimum of 35 percent of the significant trees shall be retained within areas unconstrained by critical areas and outside shoreline jurisdiction.

(c) R-8, R-18, and MHO Zoned Lots. A minimum of 25 percent of the significant trees shall be retained within areas unconstrained by critical areas and outside shoreline jurisdiction.

(d) CC, GC, MC, TC, and I Zoned Lots. A minimum of 25 percent of the significant trees shall be retained within areas unconstrained by critical areas and outside shoreline jurisdiction.

(2) Tree Replacement Required. Any significant tree lawfully removed pursuant to the provisions of CMC 18.45.050, Exemptions, or CMC 18.45.060, Permits and Permit Requirements, shall be subject to the following replacement requirements:

(a) Each significant tree shall be replaced by two replacement trees;

(b) Each landmark tree shall be replaced by three replacement trees;

(c) Each heritage tree shall be replaced by five replacement trees;

(d) Replacement coniferous trees shall be at least six feet in height;

(e) Replacement deciduous trees shall be at least two and one-half inches DBH;

(f) In order to restore and enhance a site as nearly as practicable to its pre-removal character and function, replacement trees shall be primarily conifer and native species to Washington;

(g) Nonnative replacement trees shall be recommended by a qualified arborist as having characteristics suitable to the proposed location of planting, or shall be otherwise approved by the City;

(h) The condition of replacement trees shall meet or exceed current American Nursery and Landscape Association or equivalent organization’s standards for nursery stock;
(i) Financial guarantees for replacement trees may be required consistent with the provisions of Chapter 14.105 CMC;

(j) Installation of required replacement trees shall be in accordance with the International Society of Arboriculture’s best management practices for arboriculture including, but not limited to, soil assessment, sampling, amendments and conservation, which ensure the tree’s long-term health and survival;

(k) The Director may consider smaller-sized replacement trees if the applicant can demonstrate that smaller trees are more suited to the species, the site conditions, and the purposes of this section, and that such trees will be planted in sufficient quantities to meet the intent of this section.

(l) Replacement trees that are less susceptible to laminated root rot shall be considered for tree replacement. Douglas Fir trees shall not be allowed as a replacement species. The following less susceptible trees may be used as replacement trees:

   (i) Coast redwood,
   (ii) Incense cedar,
   (iii) Ponderosa pine,
   (iv) Jeffrey pine,
   (v) Lodgepole pine,
   (vi) Knobcone pine,
   (vii) Sugar pine,
   (viii) Western white pine,
   (ix) White bark pine, limber pine,
   (x) Sitka spruce,
   (xi) Western red cedar,
   (xii) Alaskan-cedar, and
   (xiii) All hard woods,

(m) All replacement trees shall, upon planting, be designated as significant trees regardless of their size. Replacement trees shall not be removed after planting. Exemptions to allow for tree removal, as provided in CMC 18.45.050, do not apply to replacement trees.
(n) Tree replacement in conjunction with tree removal within critical areas shall be consistent with the replacement ratios required in this section.

(o) Tree replacement within the shoreline jurisdiction, as regulated by Chapter 16.05 CMC, has the potential for different replacement ratios. Additionally, a shoreline letter of exemption is likely to be required for tree removal and planting within the shoreline jurisdiction.

(3) Incentives. The following incentives are available for higher levels of landmark or heritage tree preservation:

(a) Landmark Trees or Heritage Trees. The permanent preservation of a healthy landmark or heritage tree pursuant to CMC 18.45.080 shall receive a tree retention credit as follows:

(i) One hundred fifty percent tree credit for a landmark tree or two hundred percent credit for a heritage tree pursuant to the following provisions:

1. Preservation of a landmark or heritage tree as part of a continuous canopy adjacent to an environmentally critical area and associated buffer;
2. Preservation of a landmark or heritage tree as part of a continuous canopy adjacent to a public park and/or other protected open space; or
3. Preservation of a landmark or heritage tree as part of any other on-site and/or off-site continuous canopy.

(ii) One hundred twenty five percent credit for a landmark tree or one hundred fifty percent credit for a heritage tree pursuant to the following provisions.

1. Preservation of a landmark or heritage tree that provides relief from identified environmental impacts;
2. Preservation of a landmark or heritage tree that provides perimeter connectivity and/or off-site screening;
3. Preservation of a landmark or heritage tree able to be incorporated into required landscaping; or
4. An isolated cluster of landmark or heritage trees.

To qualify for this incentive, all landmark or heritage trees proposed for permanent preservation shall be outside of any environmentally critical area and associated buffer.

(4) Location for Tree Replacement – On Site. The location of replacement trees shall be consistent with a report produced by a qualified arborist and peer reviewed by a qualified
professional to ensure land capability. Unless approved for one or more of the alternatives set forth in subsection (5) of this section, replacement trees shall be planted on the site from which significant trees are removed and may be approved for the following areas on site:

(a) On-site replacement trees approved to be located within environmentally critical areas and associated buffers shall receive a 125 percent credit toward the tree replacement requirement.

(b) On-site replacement trees approved to be located within the perimeter of a stormwater facility shall receive a 100 percent credit toward the tree replacement requirement.

(c) On-site replacement trees approved to be located in places other than subsections (a) and (b) of this section shall receive a 100 percent credit toward the tree replacement requirement.

(5) Location for Tree Replacement – Alternatives Sites Subject to City Approval. The location of replacement trees shall be consistent with a report produced by a qualified arborist. Replacement costs, including materials plus labor, shall be at the applicant’s expense. When on-site replacement cannot be completely achieved, the following alternatives may be considered, subject to City approval:

(a) Off-Site Tree Replacement.

(i) The number of replacement trees shall be the same as described in subsection (3) of this section. Replacement costs (material plus labor) shall be at the applicant’s expense.

(ii) Allowable sites for receiving off-site replacement plantings may include public lands, open space areas, open space tracts, delineated environmentally critical areas and associated buffers. A receiving site shall be within the Covington city limits or upon land owned by the City, if the City determines off-site planting is appropriate and warranted.

(iii) Allowable sites for receiving off-site replacement plantings may include private properties and other properties owned by a homeowner’s association, including but not limited to open space areas, open space tracts, recreational tracts, delineated environmentally critical areas and associated buffers. An agreement between the receiving site and the sending site shall be executed and recorded against the title of both properties, and an easement shall be granted to the City allowing entry to the property to ensure compliance with the provisions of this chapter and survivability. Trees to be replaced shall be contained within a tree protection easement and subject to the financial guarantee provisions of Chapter 14.105 CMC.
(b) Fee in lieu. It is the City’s intent to preserve and replace trees on site, and only in rare cases and as a last resort a fee in lieu of tree replacement may be allowed, subject to approval by the Director. The Director may allow up to 25 percent of the required replacement trees be converted to a tree unit credit basis through the fee in lieu of tree replacement. The amount of the fee shall cover the cost of a tree, installation (labor and equipment including staking, mulching), maintenance (including watering, warranty, and monitoring) for five years, and fund administration. Such costs shall be determined by the city. All fees shall be paid to the City prior to final site plan or final plat approval, or the issuance of a tree removal permit, or any permit authorizing removal of trees to be replanted pursuant to this chapter, whichever applies. In no case shall a tree credit in lieu replacement be less than $2,000 per tree. Funds generated by fee in lieu of tree replacement shall be used to plant replacement trees on public property.

(c) Landscape Restoration. Where appropriate, other measures designed to mitigate the loss of trees by restoring all or parts of the forest landscape and its associated benefits may be considered. Measures, as determined by the director, may include, but are not limited to:

(i) Creation of wildlife snags from trees which would otherwise be removed;

(ii) Replacement of certain ornamental trees with native shrubs and groundcover;

(iii) Replacement of at risk or short-lived trees with healthy new trees that have a greater chance of long-term survival;

(iv) Daylighting and restoration of stream corridors with native vegetation consistent with Chapter 18.65 CMC; and

(v) Protection of nonsignificant trees to provide for the successional stages of forest development.

(6) Tree Replacement Guidelines and Requirements. The following order of preference shall be considered for tree replacement:

(a) Replacement trees should be planted to reestablish or enhance tree clusters where they previously existed;

(b) Where possible, replacement trees should be planted adjacent to environmentally critical areas and the shoreline jurisdiction. Replacement trees may be planted within a designated open space tract, environmentally critical area tract, or shoreline buffer where it is determined by a qualified arborist in conjunction with a qualified biologist that such planting enhances and complements existing vegetation and environmental functions;

(c) Replacement trees shall be planted in locations appropriate to the species’ growth habit and horticultural requirements;
(d) Replacement trees shall be located away from areas where damage is likely;

(e) Replacement trees shall be located to provide screening of the development from adjacent properties, where appropriate;

(f) Replacement trees shall be planted in areas that connect or are adjacent to a designated open space tract or environmentally critical area tract or other open space, where appropriate;

(g) Replacement trees shall be integrated into the required landscape plans, if any, for a development; and

(h) Replacement trees to be planted next to or under power lines shall be selected with consideration of the trees’ maturation and maintenance requirements.

7) Tree Maintenance. All required retention trees, replacement trees, and relocated trees shown on an approved permit, whether located on site or off site, shall be maintained in healthy condition by the applicant throughout the life of the project, unless otherwise approved by the Director in a subsequent permit or approval. Healthy condition can be achieved by employing, as appropriate, the following preventative measures, consistent with best management practices for maintaining the health of the tree:

(a) Trees shall not be topped;

(b) Excessive canopy raising shall not be allowed unless necessary to protect life and property;

(c) Visible deadwood on trees to be protected or relocated shall be pruned;

(d) Fertilizer shall be applied to enhance the vigor of stressed trees;

(e) Use of soil amendments and soil aeration in tree protection and planting areas;

(f) Application of mulch over tree drip line areas; and

(g) Proper water availability during and immediately after construction.

(a) When land greater than one acre in size is subdivided, regardless of the number of lots created, if at least 20 significant trees exist on the site prior to subdivision, trees shall be preserved in one or more tree tracts and subject to a tree preservation plan, prepared by a certified arborist, landscape architect, or forester, and submitted and approved as part of either a minor tree removal permit or a major tree clearing permit. Any site with at least 20 significant trees, but which cannot meet the tree preservation requirements with existing trees, shall be required to supplement any required tree tract with tree plantings at least two inches in caliper from the published City list of Pacific Northwest native trees as outlined in subsection (9) of this section. Cutting of significant trees on a site and
proposing replanting of trees when the tracts do not contain the required minimum 20 significant trees is not allowed without specific review and approval of the Director after the tree tracts are proposed. As many significant trees as practical shall be preserved and identified in the required tree preservation plan.

(b) When land is proposed for development, redevelopment, construction or demolition, on sites greater than one acre in size, without a subdivision of land, involving removal of trees, if at least 20 significant trees exist on the site prior to development, trees outside of any proposed building footprint or partially exempted tree removal area outlined in CMC 18.45.060(7) shall be preserved and protected with a tree conservation easement filed with the County. Future subdivision of such land may modify any required conservation easement as long as applicable tree preservation requirements are met. Any site with at least 20 significant trees but which cannot meet the tree preservation requirements with existing trees shall be required to supplement any required tree conservation easement with tree plantings at least two inches in caliper from the published City list of Pacific Northwest native trees as outlined in subsection (9) of this section. Cutting of significant trees on a site and proposing replanting of trees when the tracts do not contain the required minimum 20 significant trees is not allowed without specific review and approval of the Director after the tree tracts are proposed. As many significant trees as practical shall be preserved and identified in the required tree preservation plan.

(2) Tree Preservation Methods for Commercial and Industrial Zones. The following standards apply to commercial and industrial sites greater than two acres in size, whether part of a formal subdivision or part of any development, redevelopment, construction or building permit:

(a) Trees shall be preserved through a tree enhancement plan, submitted and approved with the engineering design permit and approved by the Director. There is no minimum size or percentage of land required to be devoted to tree preservation or tree enhancement. Instead, all commercial and industrial development must prepare and submit a tree enhancement plan which combines preservation of existing trees and tree replanting that will best provide tree enhancement within and/or surrounding any proposed commercial and industrial development. Up to 15 percent of the existing significant trees on site prior to development should be retained within the tree enhancement plan, or they shall be replanted at a two-to-one ratio. Such tree enhancement plan shall be prepared by a certified arborist, licensed landscape architect or qualified forester. Replanting shall be from the published City list of Pacific Northwest native trees as outlined in subsection (9) of this section.

(b) The Director shall have the authority to reduce the required tree replacement ratio where such requirement would conflict with the urban design intent of Chapter 18.31 CMC. In such cases the Director shall ensure that representative native vegetation is retained or replanted totaling at least five percent of the site area and that
enhanced landscaping is provided in excess of the requirements contained in CMC 18.31.130.

(3) **18.45.090** Tree Protection Standards. Preservation Standards for Residentially Zoned Properties Greater Than One Acre in Size. The following standards apply to sites greater than one acre in size for

(1) Trees retained, preserved, or replaced within all applicable residentially, commercial, or industrial zoned properties, whether part of a formal subdivision or any development or redevelopment permit, where trees shall be preserved in tree tracts or a tree conservation easement, regardless of the size or number of lots.

(2) There shall be no minimum tree tract size or percentage of land required to be devoted to tree preservation or tree enhancement. The tree tract shall be designed and sized appropriately to protect the critical root zone associated with all trees designated for retention, preservation, and replacement, at full mature age, pursuant to the provisions of CMC 18.45.080. However, the following measures are required:

(a) For sites between one acre and five acres, the total area devoted to tree tracts or tree conservation easements shall be five percent of the total land within the subdivision or on the site of any development, less any critical areas. The minimum size of a tree tract shall be 2,178 square feet.

(b) For sites five acres or greater, up to 30 acres, the total area devoted to tree tracts or tree conservation easements shall be seven percent of the total land within the subdivision or on the site of any development, less any critical areas. The minimum size of a tree tract shall be 7,000 square feet.

(c) For sites 30 acres or greater, the total area devoted to tree tracts or tree conservation easements shall be nine percent of the total land within the subdivision or on the site of any development, less any critical areas. The minimum size of a tree tract shall be 15,000 square feet.

(d) Tree Tract or Tree Conservation Easement Boundary. The tree tract or easement boundary shall be at least five feet from the critical root zone of any trees to be protected and preserved within the tract or easement.

(e) Location of Tree Tract or Tree Conservation Easement. Tree tracts or easements shall be located according to the priority location list in subsection (5) of this section.

(f) Alternative Tree Canopy Plan. As an alternative to the above prescriptive standards for minimum size and number of tree tracts or easements, and minimum percentage of
significant trees to be saved, an applicant may accomplish required tree preservation within any proposed subdivision by preserving 20 percent of the total existing tree canopy in tree tracts on the site. The exact amount of existing tree canopy on the site prior to subdivision shall be satisfactorily demonstrated on ortho-photo maps, flown and verified within the last three years, and supplied by the applicant as part of a major tree clearing permit and required “tree preservation plan.” No portion of a tree tract shall be less than 20-feet in width.

(3) Designation. Any application and/or plan required for new development shall show all significant trees designated for protection. These areas may be shown by labeling them as “Protected Significant Trees” or such other designation as approved by the director. Protected vegetation, including protected trees, shall not be modified, harmed, or removed except as provided in this section.

(4) Preservation. An approval for new development shall require the significant trees to be retained are permanently preserved within a tract, easement or other permanent protective mechanism. The location, purpose, and restrictions of these protected areas shall be shown on the face of the deed, plat, binding site plan, covenant or similar document, and shall be recorded with the King County Recorder’s Office or its successor. The recorded document shall include the requirement that the protected areas shall not be removed, amended, or modified without the written approval of the City of Covington.

(4) Tree Preservation Percent Requirements for Significant Trees in Residential Zones. In accordance with subsection (3) of this section, a minimum number of significant trees shall be preserved within all tree tracts or tree conservation easements in residential zones. The total land area devoted to tree tracts or easements as required under this chapter shall contain significant trees equal to at least 15 percent of the number of identified significant trees on the site prior to subdivision or development, but in no case less than 20 significant trees.

(5) Priority Location of Tree Tracts and Concurrent Reduction in Percent Requirements for Land Devoted to Tree Tracts in Residential Zones. Placement of tree tracts is encouraged in certain areas to enhance their viability and to complement natural and environmental features of the property. The following priority locations below are encouraged for placement of all trees in designated tree tracts. When such tree tracts are located according to the following priority, a subdivision or development is eligible for up to a one percent reduction in the tree retention percentage requirements outlined in CMC 18.45.080, for land devoted to tree tracts. For example, if a 10-acre site is required to set aside seven percent of the total site area for tree preservation in tree tracts according to subsection (3)(b) of this section, and those tracts are located adjacent to an identified critical area, then a reduction to six percent of the total site area for tree tracts may be allowed by the Director.

(a) Priority Locations for Tree Tracts.

(i) Adjacent to identified critical areas and critical area buffers.
(ii) Adjacent to existing public or private parks.

(iii) Adjacent to existing trails or trail systems.

(iv) Adjacent to existing stands of significant trees on adjacent property boundaries.

(v) Adjacent to existing storm water retention systems.

(vi) Adjacent to significant wildlife habitat areas.

(vii) Adjacent to contrasting land uses where establishing a tree buffer will enhance both properties and reduce potential impacts of dissimilar land uses.

(6) Reduction of Size of Tree Tracts for Preserving Multiple Significant Trees. A one percent reduction in the percent requirements for land devoted to tree tracts may be granted if the required tree tract contains at least 10 native coniferous trees greater than 12 inches DBH. Such trees must be documented as healthy and likely to resist “blowdowns” in a wind storm by a certified arborist as part of the tree plans submitted with any subdivision or development application. This one percent reduction in area devoted to tree tracts shall not be combined with other percent reductions allowed in subsection (5) of this section. Total required land amounts devoted to tree tracts may only be reduced up to a maximum of one percent either by priority location incentives in subsection (5) of this section or by multiple significant tree preservation incentives in this subsection (6).

(7) Replanting Standards for Sites Deficient in Trees and Not Able to Meet Tree Tract Requirements For Sites Proposed For Subdivision, Development, or Redevelopment. Any residential site greater than one acre in size, or commercial/industrial site greater than two acres in size, which contains a minimum of 20 significant trees, but still lacks significant trees sufficient to meet required standards after proposed development, as determined by the Director and as outlined in this section, shall be required to supplement any existing significant trees with new plantings of trees up to the required significant tree minimum. Tree species for new tree plantings shall be selected from a list of Pacific Northwest native trees published by the City. At least 60 percent must be coniferous. All trees shall be at least two inches in caliper. Replanting of trees to bring a tree tract up to the 20 tree minimum shall be at a ratio of two to one for the deficient number of significant trees less than the required 20 tree minimum.

(6)(8) Maintenance of Tree Tracts. All tree tracts required under this code shall require a permanent maintenance agreement to be approved by the City on forms provided by the Director, which designates the private home owner association, property owner association, or other private entity responsible for said maintenance of trees. All tree tracts shall provide a guarantee for reasonable accessibility for future tree maintenance.

(7)(9) Pacific Northwest Native Trees Required. Any tree(s) to be planted as part of the requirements of this chapter to fulfill tree tract, tree conservation easement, tree preservation or tree enhancement plan standards for residential, commercial or industrial property, when
sufficient trees do not exist on site, shall be Pacific Northwest native trees included on the City-published list. However, the Director may approve climate appropriate, drought tolerant alternatives if they demonstrate there is a reason to not use native trees. In addition, they shall be at least two-inch caliper and shall contain a mix of at least 60 percent coniferous trees.

(8)(10) Three-Year Survivability. Any original or replanted trees required under a tree tract requirement, tree conservation easement or tree enhancement plan as part of the provisions of this chapter shall survive at a rate of 90 percent of the required trees for at least three years from either the date of issuance of the freestanding tree removal permit or tree clearing permit, the date of acceptance of final construction in a subdivision plat, the date of final occupancy for any development or redevelopment permit, or the date of final occupancy for any building permit, whichever is applicable. Required trees that do not meet the 90 percent survival rate for three years shall be replanted at the property owner’s expense. Such replanted trees shall then be required to again survive for three years or be replanted at the owner’s expense. A financial guarantee for all planting or replanting of required trees under this chapter shall be required on forms acceptable to the City as prescribed in CMC 18.45.120(1). Tree planting or replanting shall occur between October 1st and May 1st of each year, unless written approval is granted by the Director and reasonable provisions are made for irrigation and survivability of replanted trees. Tree planting may be deferred to the next appropriate planting season upon written request and approval by the Director.

18.45.090 Heritage tree(s).

A heritage tree(s) may be voluntarily designated within the City as outlined in this section following specific criteria herein. In addition, if designated, specific requirements will apply for cutting or removal of such designated heritage tree(s). Removal or cutting of designated heritage tree(s) may also require mitigation as prescribed herein.

(1) Designation of Heritage Tree(s).

(a) The City may inventory and maintain a register of heritage tree(s). The inventory shall be the responsibility of the Parks and Recreation Commission.

(b) A property owner may propose to the City that a heritage tree(s) located on such property be designated as a heritage tree(s). Any city resident may propose that a heritage tree(s) located on public property be designated as such. No tree(s) may be designated without the approval of the property owner(s) on which the tree(s) or any portion of the tree’s branches or canopy, is located. Once approval is given, however, it may not subsequently be withdrawn by the property owner or by a subsequent property owner without a subsequent permit action by the City to remove and mitigate said removal.

(c) If the Director determines the tree(s) satisfies the definition of heritage tree and approves the proposed heritage tree(s) designation, it shall be memorialized in a covenant signed by the City and the property owner(s) and in a form acceptable to the
City. The covenant shall require that the heritage tree(s) be maintained in a manner that is consistent with the provisions of this section. The covenant shall be recorded by the County. The City shall pay recording fees. The covenant and designation shall be effective from the date of recording until such time as a tree permit has been issued for the removal or cutting of the heritage tree(s).

(d) Upon request of a property owner, the City shall provide reasonable advice and consultation on maintenance of any heritage tree(s) without charge to the property owner.

(2) Heritage Tree(s) Permit Removal Requirements.

(a) A tree permit to remove a heritage tree(s) as a result of construction work will be granted only if the applicant has used reasonable best efforts to design and locate the project so as to avoid having to remove the heritage tree(s).

(b) A tree permit to remove a heritage tree(s) other than as a result of construction work will be granted only if the applicant demonstrates that the tree removal is necessary for safety, removal of hazardous trees, removal of diseased or dead branches or trees, or if retention of the tree(s) will have a material, adverse and unavoidable detrimental impact on the use of the property.

(3) Heritage Tree(s) Selection Criteria. For any individual tree(s) to be listed as a heritage tree(s), such tree(s) must be in a healthy growing condition, and one or more of the following shall exist:

(a) The tree has a DBH of 18 inches or greater;

(b) The tree has a distinctive size, shape, or location, or is of a distinctive species or age which warrants heritage tree status;

(c) The tree is distinctive due to a functional or aesthetic relationship to a natural resource, such as trees located along stream banks or trees located along ridge lines;

(d) The tree has a documented association with a historical figure, property, or significant historical event; or

(e) The tree serves significant benefit for wildlife habitat such as nesting or feeding.

(4) Mitigation Required for Removal of Heritage Tree(s).

(a) Heritage Tree(s) Development Review. When development is proposed for property which contains a heritage tree(s), and the Director determines that the proposed development may affect a heritage tree(s), the property owner must have a heritage tree preservation plan prepared by an ISA certified arborist demonstrating how the heritage tree(s) will be protected and preserved. A heritage tree(s) shall be preserved unless the
Parks and Recreation Commission determines that the tree may be removed based on the criteria for heritage tree removal found in subsections (2) and (4) of this section.

(b) A tree preservation plan shall be composed of the following:

(i) A site plan indicating the location of proposed heritage tree(s).

(ii) The methods to be used to preserve the heritage tree(s).

(iii) If a heritage tree(s) is proposed for removal, a narrative statement outlining the reasons why the heritage tree(s) should be removed.

(iv) A mitigation plan indicating the replacement trees or additional new trees to be placed on the site. The mitigation plan should demonstrate, to the extent possible, that the character of the site will not substantially change as a result of the development.

(c) Site design adjustments may be allowed in some cases, as follows:

(i) The Director may grant a variance to front, side, and/or rear yard setback standards by up to 20 percent to retain a heritage tree(s). The adjustment shall be the minimum necessary to accomplish preservation of heritage tree(s) on-site and shall not conflict with the International Building Code or any other permit conditions placed on the property.

(ii) The Director may grant a 10 percent variance to the lot size and/or a 10 percent variance to the lot width and/or lot depth standards in approving a short plat or other land division if necessary to retain heritage tree(s). The Director may accept a preliminary plat application and recommend approval to the hearing body of a plat which provides for similar variance to lot size, width and depth standards if necessary to retain heritage tree(s).

18.45.100 Tree maintenance standards and best pruning practices.

The Director shall prepare and distribute educational materials describing any required, recommended, or accepted tree maintenance and tree care standards for any tree tracts, preservation or enhancement trees, or replacement trees required under this chapter and any best pruning practices, policies, techniques, and procedures for any trees required under this chapter.

18.45.110 Tree preservation modification and departure options.

(1) The purpose of this section is to provide an opportunity for departure from or modification of the prescribed tree tract standards or tree enhancement plans under a major tree clearing permit when the specific prescriptive standards of the code are difficult to meet, while yet still encouraging creative or unique design of viable tree stands in the preservation of
trees and tree tracts on all regulated sites greater than two acres in size. The Director shall have authority, consistent with the special conditions stated herein, to modify specific requirements and/or impose alternative standards and requirements in unique or special circumstances to assure the fulfillment of the stated purpose of this chapter and to allow for flexibility and creative design of viable tree stands in preservation of significant trees. Any modification or departure cannot reduce the requirements of Chapters 18.65 or 16.05 CMC.

(2) In order to grant a specific modification or departure from prescribed requirements for tree preservation or tree tracts, an applicant, through an alternative tree preservation and mitigation plan, must: (a) demonstrate reasonable efforts to save as many trees as possible, (b) submit a tree preservation and mitigation plan, prepared by a certified-qualified arborist, that adequately mitigates for the loss of trees from proposed development, and (c) indicate how the alternative tree preservation and mitigation plan equally or better meets the intent and purpose of this chapter and its tree preservation goals. Alternative options for preservation and mitigation of trees shall include a combination of new tree planting and preservation of a reasonable number of existing significant trees on site, when feasible.

(3) A departure or modification of the prescriptive standards for tree preservation or tree tracts shall be allowed when existing regulations seriously restrict development of the site, in the opinion of the Director, and only if tree tracts detract from the site’s ability to accomplish at least two of the following special site conditions:

(a) The ability to preserve natural or native plant areas;
(b) The ability to preserve unique wildlife habitat;
(c) The ability to preserve large numbers of significant, landmark, or heritage trees;
(d) Opportunities to support the value and functions of critical areas or critical area buffers;
(e) Instances where insufficient significant trees exist on a site that has a unique size, shape or topography;
(f) Instances where the only significant trees are isolated, scattered throughout a site, and/or not able to be concentrated in viable tree tracts;
(g) A site must comply with special vegetation or view easements or corridors; or
(h) Instances where provision of required infrastructure and public safety access requires removal of significant trees.

18.45.120 Performance guarantees, liability, insurance and licensing.

(1) Performance Guarantees.
(a) Prior to the issuance of a major tree clearing permit pursuant to CMC 18.45.060, the applicant shall post with the City a form of performance guarantee/financial security, in the amount of 150 percent of the estimated cost of replacing and planting trees consistent with the tree preservation requirements, but in any event not less than $3,000. Said financial security shall be executed by the owner and/or applicant and a corporate surety authorized to do business in the State of Washington as a surety. All guarantees shall be in a form approved by the City Attorney and shall include penalty provisions consistent with this chapter for failure to comply with the conditions of the permit.

(b) The City shall withhold issuance of a major tree clearing permit until the required performance guarantee/financial security is approved by the City Attorney and filed with the City. The City may enforce said guarantees according to their terms and pursuant to any and all legal and equitable remedies.

(c) The performance guarantee shall be released pursuant to a prescribed timeline in the agreement to assure survival of any trees preserved or replanted.

(2) Liability. The owner of private property for which a major tree clearing permit application is submitted may be required to provide enter into a hold harmless/indemnification agreement and covenant not to sue approved by the City and recorded with King County prior to the issuance of the permit. Said agreements shall be negotiated and in a form approved by the City Attorney, and shall run with the land and be binding on the applicant and his/her successors, heirs and assigns for such period of time as shall be determined appropriate by the City. Nothing in this chapter shall be deemed to impose any liability upon the City or upon any of its officers or employees, or to relieve the owner or occupant of any private property from the duty to keep in safe and healthy condition the trees upon their property.

(3) Insurance. Prior to issuing a permit or approving an application, the City may require the applicant to provide a certificate of general liability insurance, with limits of liability in an amount acceptable to the City Attorney, from an insurance company authorized to do business in Washington State, insuring against injury to persons and damage to property, and may require that the City be named as an additional insured.

(4) Licensing. Any person, individual, or corporation, unless an employee or direct agent operating under authority of the City, involved in any tree removal, tree clearing, or tree replanting as part of tree preservation or enhancement related to this chapter, shall first have obtained a valid and current business license from the City of Covington.

18.45.130 Enforcement, violations and penalties.

(1) Enforcement, Interpretation and Administration. It shall be the duty of the Director to enforce and interpret the provisions of this chapter. The Director shall have authority to interpret the intent, purpose, provisions, conditions, and standards contained herein; to issue permits and impose conditions on such permits; to enforce the provisions and requirements of this chapter; to establish administrative procedures and guidelines necessary to administer the
provisions of this chapter; to conduct inspections; and to prepare the forms necessary to carry out the purposes of this chapter.

(2) Authorized Actions. In addition to other remedies, the City may bring injunctive, declaratory or other actions to enforce this chapter.

(3) Stop Work Orders/Permit Revocation. The Director may suspend work or revoke a permit, as appropriate, if it is found that:

(a) Land clearing or tree removal is not authorized by a valid permit;

(b) Inaccurate information was used to obtain a permit;

(c) The permittee is not complying with any terms of the permit or approved plans;

(d) Work, in the Director’s judgment, that is an imminent danger hazard to property or public safety, is adversely affecting or about to adversely affect adjacent property or rights-of-way, a drainage way, watercourse, environmentally critical area, or storm water facility, or is otherwise adversely affecting the public health, safety, or welfare;

(e) Adverse weather is causing significant problems on- or off-site;

(f) Any land clearing or tree removal is being done prior to or outside of other required land use, engineering, building, or site development permits; or

(g) The required project surety has been expended to the point that it no longer provides assurance of the completion of the project in compliance with the terms of the permit.

The Director may issue the permittee/violator a written stop work order specifying the nature of the violation which must be remedied prior to resuming any work on the project. If the permittee does not comply with the order within the time specified, the Director may enter the project site and perform the required work. All costs incurred by the City in performing such work shall be drawn against any financial guarantee posted by the permittee to ensure the enforcement of the provisions of this chapter. In the absence of sufficient financial guarantee or surety, the City may place a lien against the property in the amount of funds expended to perform the required work and any corrective action.

(4) Mitigation and Restoration Plan. Violators of this chapter or a permit issued hereunder shall be responsible for restoring unlawfully damaged areas in conformance with a plan, approved by the Director, which provides for mitigation, repair of any tree damage, and restoration of the site, and which results in a site condition that, to the greatest extent practical, equals the site condition that would have existed in the absence of the violation(s). Violators shall be liable for environmental damage caused thereby and shall be required to mitigate such damage as follows:

(a) Mitigation and Assessment of Tree Value.
(i) In assessing the environmental damage resulting from a violation of this chapter, the Director shall determine the amount and value of the trees and/or ground cover improperly removed or damaged, the cost of replacing said trees and vegetation, and the extent and value of any other environmental damage occasioned by any violation. To determine those values, the Director shall utilize the recommendations of the International Society of Arboriculture.

(ii) In assessing the environmental damage resulting from a violation of this chapter, a certified qualified arborist shall prepare and submit to the Director a report describing the likely condition of the site had the land clearing activities been conducted in compliance with the requirements of this chapter.

(iii) The Director may also estimate the probable worth of trees and/or ground cover removed by analyzing the best case growing capability of the site, taking into consideration the soil conditions, the health of surrounding tree stands and the type of species believed to have been removed, or whatever resources are available to determine environmental damage.

(iv) Under no circumstances shall environmental damage be less than cost of planting and maintenance to comply with the minimum tree preservation or replanting requirements.

(b) Restoration and Timely Compliance.

(i) When the Director has determined the value of the environmental damage by a violation of this chapter, the Director shall have a comprehensive plan prepared for the restoration of the site which shall include a time schedule for compliance. The cost of preparing such plan shall be assessed against the violator. Said plan shall provide for the rehabilitation of the site and for the installation of new trees and/or ground cover whose value is commensurate to the value of the environmental damage.

(ii) If the Director determines that the cost of restoring the site is less than the value of environmental damage occasioned to the site, then the City may utilize said funds for planting trees, shrubs or other native vegetation in other areas of the City.

(iii) Within the time established in the plan for completion of the mitigation, the applicant and/or property owner shall complete all restoration required therein, including maintenance of trees for three years.

(iv) In the event the violator does not timely implement the restoration plan, the City shall implement the plan by utilizing City employees or by employing a private contractor. Upon completion of said work, the costs thereof shall be due and owing to the City from the violator and the surety, if any, as a joint and separate liability. In addition, the City may seek restitution from the violator through liens or any other
available legal means. The violator and the surety shall be jointly and severally responsible for any restoration costs and attorneys’ fees incurred by the City.

(5) Prohibition of Further Approvals. The City shall not accept, process, or approve any application for a subdivision or any other land use, building or development permit, or issue a certificate of occupancy for property on which a violation of this chapter has occurred until the violation is cured by restoration or other means accepted by the Director and by payment of any penalty imposed for the violation.

(6) Penalties.

(a) Criminal. Any person, firm, or corporation who knowingly violates or fails to comply with any term or provision of a tree removal or major tree clearing permit in this chapter shall be deemed to have committed a misdemeanor, and if found guilty, shall be subject to a fine not to exceed $1,000, or imprisonment not to exceed 90 days or both such fine and imprisonment. Each day shall be a separate offense. In the event of a repeated and/or continuing violations or failure to comply, subsequent violations shall constitute a gross misdemeanor punishable by a fine not to exceed $5,000 or imprisonment not to exceed 365 days or both such fine and imprisonment. Continuing violation shall mean the same type of violation which is committed within a year of the initial violation.

(b) Civil. Any person, firm, or corporation who violates or fails to comply with any term or provision of this chapter or of a tree removal or major tree clearing permit issued under this chapter shall be deemed to have committed a civil infraction violation. For a person, firm, or corporation to violate or fail to comply with any term or provision of this chapter. Each day the violation is ongoing without remedy shall be a separate infraction. A person, firm, or corporation found to have committed a civil infraction shall be assessed a monetary penalty in accordance Chapter 1.30 CMC.

(c) Criminal. Any person who engages and/or causes another to engage in a subsequent violating of this Chapter shall be deemed to have committed a misdemeanor, and if found guilty, shall be subject to a fine not to exceed $1,000, imprisonment not to exceed 90 days, or both such fine and imprisonment. Each separate violation and each day that passes before such violation is resolved shall be considered a separate criminal misdemeanor offense. In the event of any subsequent violation within five years of the first criminal violation, such violation shall constitute a gross misdemeanor, punishable by a fine not to exceed $5,000 or imprisonment not to exceed 365 days or both such fine and imprisonment.

(c) Revocation of Business License and Prohibition of Future Tree Removal or Tree Clearing Activity. Any person who commits, participates in, assists or maintains such violation of this chapter shall also be guilty of a misdemeanor and may have their
Covington business license revoked for one year and may be prohibited from conducting any tree removal, land clearing or grading activities for a period of one year.

(7) Public Nuisance. Any violation of the provisions of this chapter or a violation of a permit issued hereunder is declared to be a public nuisance and may be abated through proceeding for injunctive or similar relief in superior court or other court of competent jurisdiction.

18.45.140 Appeals.

(1) Minor Tree Removal Permits (Type I Decision). Minor tree removal permits are Type I decisions with no administrative appeal as specified in Chapter 14.30 CMC.

(2) Major Tree Clearing Permits (Type II Decision). Major tree clearing permits are Type II decisions and may be appealed to the Hearing Examiner as specified in Chapters 2.25 and 14.45 CMC.

(3) Appeal of Director’s Interpretation and Determination of This Chapter. The Director’s determination or interpretation while administering or enforcing any and all provisions of this chapter, including issuance, conditioning or denial of any permit, or tree preservation plan, or tree enhancement plan, may be appealed to the City’s Hearing Examiner in accordance with Chapters 2.25 and 14.45 CMC.

(4) Hearing Examiner Modification of Director’s Decision. The City’s Hearing Examiner may modify or amend the Director’s determination or interpretation based on the following criteria:

   (a) Whether the violation involved tree removal for monetary gain;

   (b) Whether the appellant has previously violated or intentionally violated provisions of this chapter;

   (c) Whether the Director’s determination or interpretation substantially exceeds or understates the actual intent and purpose of this chapter; or

   (d) Whether the violation was intended or was in reckless disregard of provisions of this chapter.

(5) Appeals Involving Determination of Environmental Damages. For any appeals involving determination of environmental damage as outlined in CMC 18.45.130(4)(a), the Hearing Examiner shall not reduce the Director’s valuation of any environmental damage if said amount does not exceed the actual cost of restoring the site pursuant to said restoration plan. If an appeal involves determination of environmental damages as outlined in CMC 18.45.130(4)(a), and if the Hearing Examiner determines that the Director’s valuation of environmental damage should be reduced, then the Examiner shall compute the amount of said reduction based upon the following factors:
(a) Whether the appellant voluntarily cooperated with the City’s efforts to view and restore the site;

(b) Whether the appellant demonstrated due diligence and/or substantial progress in implementing the site restoration plan; and

(c) Whether the appellant has presented a genuine issue pertaining to the interpretation of any provision of this chapter.

18.45.150 Severability.

If any section, paragraph, subsection, clause or phrase of this chapter is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this chapter.
Tree Preservation and Protection Community Engagement Workshop Results

The City of Covington Planning Commission is working on potential amendments to Chapter 18.45 CMC Tree Preservation and Protection. The Planning Commission is reviewing code effectiveness, ensuring the codes remain relevant, ensuring the code is consistent with best available science, and that the code is aligning with the community’s vision, however, balancing growth and development while maintaining a livable community is the primary reason for developing the proposed amendments.

The City of Covington Planning Commission held a community engagement workshop on January 16, 2020, to gather input from citizens regarding what is important to them from a policy standpoint in relation to tree preservation and protection. The workshop was well attended, and the Planning Commission was able to capture a sense of what the most important policies citizens wanted to be addressed as part of the amendment process.

Participants ranked a set of seven policy statements in order of preference from most important to least important. Some of the policy statements were generated by staff, while others were taken directly out of the Comprehensive Plan. Remarkably, the top four policy statements selected were all policy statements from the Comprehensive Plan, and are ranked in the order of importance as follows:

1. Policy NE-6 - Protect significant trees and limit unnecessary disturbance of vegetation, when possible, during all phases of development, and require mitigation as needed, including the appropriate ratio of replacement for trees removed during development.

2. Policy LU-12 - Promote the use of landscaping that can thrive in urban settings, conserve water, retain desirable trees, and is comprised of native plant materials.

3. Policy NE-5 - Maximize retention of a healthy tree cover and native vegetation and encourage restoration, replacement, and enhancement of unhealthy or disturbed trees and vegetation.

4. Policy NE-1 - Protect the ecological integrity of the natural environment while allowing for compatible growth and development.

So, what does this mean? The Planning Commission worked on the proposed amendments by focusing on modifications that are directly tied to existing policy. The proposed modifications were initiated by existing policy imbedded in the long-term vision of the City.

The City of Covington created an informational webpage to provide citizens with instant access to the project details, ISA educational materials, and other important documents and resources. Here is the link to the webpage:

Planning Commission Workshop Exercise Totals

Number 1: Commissioner Porter (3)

Policy NE-5 - Maximize retention of a healthy tree cover and native vegetation and encourage restoration, replacement, and enhancement of unhealthy or disturbed trees and vegetation.

- 4 pink = 8
- 3 green = 42
- 2 red = 20
- 2 blue = 24
- Total = 94

Number 2: Commissioner Fosjord (5)

A healthy urban forest contributes to the economic vitality of the community, provides environmental stability and resiliency, and ensures a better quality of life.

- 3 yellow = 24
- 3 cherry = 12
- 3 green = 42
- 1 pink = 2
- 1 red = 10
- Total = 90

Number 3: Commissioner Caudle (1)

Policy NE-6 - Protect significant trees and limit unnecessary disturbance of vegetation, when possible, during all phases of development, and require mitigation as needed, including the appropriate ratio of replacement for trees removed during development.

- 6 green = 84
- 5 blue = 60
- 1 red = 10
- Total = 154

Number 4: Commissioner Ingram (2)

Trees provide important ecological, economic and social functions and benefits in urban landscapes that should be recognized, protected, and enhanced where possible.

- 3 red = 30
- 2 blue = 24
- 2 green = 28
- 1 yellow = 8
• 1 orange = 6  
• Total = 96

**Number 5: Commissioner Culumber (6)**

Urban natural resources and urban natural systems, including trees and forests, are important for public health, economic development, education and community values.

• 4 orange = 24  
• 4 cherry = 16  
• 1 yellow = 8  
• Total = 48

**Number 6: Commissioner Gilbert-Smith (4)**

Policy NE-1 - Protect the ecological integrity of the natural environment while allowing for compatible growth and development.

• 5 red = 50  
• 2 yellow = 16  
• 2 cherry = 8  
• 1 blue = 12  
• 1 orange = 6  
• Total = 92

**Number 7: Commissioner Williams (2)**

Policy LU-12 - Promote the use of landscaping that can thrive in urban settings, conserve water, retain desirable trees, and is comprised of native plant materials.

• 3 blue = 36  
• 2 yellow = 16  
• 2 pink = 4  
• 2 green = 28  
• 2 orange = 12  
• Total = 96
Tree Retention/Preservation Discussion

Name: anonymous
Address:
Phone Number: Email Address:

What do you want your community to look like in the future?
I want to see more big trees preserved in Covington. If the trees are destroyed we will look like Kent. Covington is special. Let's keep it that way.

Are you satisfied with the way the tree code works today or do you think it needs to be altered to preserve more trees?
Alter to preserve more trees, wild life, natural areas

Is the City doing enough to preserve the character of the City of Covington? Yes or no, and why do you think this? What else should the City do to preserve character?
Now – no. All new development is clear cut and no existing trees are left.

Is the code to intrusive and impactful to private property? If so, why?
Tree Retention/Preservation Discussion

Name: Billie McKibben
Address: 20306 SE 268th St
Phone Number: 206-335-3124  Email Address:

What do you want your community to look like in the future?
Developers have to maintain all of their plantings, including trees for five years – code enforcement

Are you satisfied with the way the tree code works today or do you think it needs to be altered to preserve more trees?
Needs improvement
More trees
More native plants
More habitat

Is the City doing enough to preserve the character of the City of Covington? Yes or no, and why do you think this? What else should the City do to preserve character?
No
Too many boring national chain stores
Kickout Walmart – impossible but a great idea

Is the code to intrusive and impactful to private property? If so, why?
Code enforcement
Pesticide elimination

Who, how, budget
Tree Retention/Preservation Discussion

Name: Chele Dimmett
Address: 26626 190th Ave SE
Phone Number: 206-229-6420 Email Address: chele.dimmett@gmail.com

What do you want your community to look like in the future?
Small town feel with big town resources. Reduced development moving forward. The city is big enough and is now attracting increased crime.

Are you satisfied with the way the tree code works today or do you think it needs to be altered to preserve more trees?
I would like to see increased tree retention on private and public lots. Trees grow, roots can cause damage. But the trees were here first and should be respected. Also, tree removal can cause problems with neighboring trees that are not to come down. In other words, if my neighbor takes down trees my trees lose wind canopy and can become dangerous and I have no say.

Is the City doing enough to preserve the character of the City of Covington? Yes or no, and why do you think this? What else should the City do to preserve character?
Yes, there is good “beautification” focus but not enough criminal/code enforcement resources to balance bad actors.

Is the code to intrusive and impactful to private property? If so, why?
No, but I think it will be very hard to enforce. When a tree is down it can’t be put back up. Rules must have enforcement resources. Is the city prepared for that? How will you address the real and somewhat ridiculous fear of trees and damage risk where a person will take down the tree and suffer the consequences. I do have concerns about administrative burden/cost to HOA’s managing a forest. THOA took down 70 trees last year and has no money and all volunteer resources.
Tree Retention/Preservation Discussion

Name: Dorian Cook
Address: 26131 195th Place SE
Phone Number: 206-356-5038 Email Address: dorian_@timberlanehoa.org

What do you want your community to look like in the future?
I want to keep a suburban, family oriented, community. I don’t want massive commercial growth.

Are you satisfied with the way the tree code works today or do you think it needs to be altered to preserve more trees?
Fairly new to Covington. I hope we stress to peruse trees.

Is the City doing enough to preserve the character of the City of Covington? Yes or no, and why do you think this? What else should the City do to preserve character?
No! Timberlane has 916 homes that is a substantial part of Covington! I would like the City to reach out and do more for Timberlane!

Is the code to intrusive and impactful to private property? If so, why?
No. I feel larger properties have more responsibility towards preservation.
Tree Retention/Preservation Discussion

Name: J. Kyl Rainier
Address: 20622 SE 269th St.
Phone Number: 425-413-8180    Email Address:

What do you want your community to look like in the future?

I would like to have preserved it as it was prior to the developments off of 204th. Forests were clean cut and high density housing replaced the wetlands. I would like it to remain but 204th is now slated to become an arteriole for traffic. From every community to go to the new shopping center and highway 18. There needs to be a way to reduce.

Are you satisfied with the way the tree code works today or do you think it needs to be altered to preserve more trees?

I think the current code is irresponsible and destructive to the city. I think clear cutting needs to stop. That contractors need to maintain trees, sensitive areas and add green technology to the homes to reduce the pollution and climate changes that their building has created.

Is the City doing enough to preserve the character of the City of Covington? Yes or no, and why do you think this? What else should the City do to preserve character?

Yes if they want to create So. California. When I purchased my home here it was rural. It was relaxing driving home with the beautiful trees. Now it is a stressful drive with traffic on kk and all the buildings. I did not sign up to live in a city. Trees need to be preserved and replanted if they are removed.

Is the code to intrusive and impactful to private property? If so, why?

To some extent but the question I would ask is why would you purchase a home with trees if you are just going to cut them down? The pollution and stress that will be created with the constant traffic noise emergency vehicles, 18 wheelers and trucks that will pass through this residential neighborhood the need to be quiet until all of this construction started. How are you going to do this?
Tree Retention/Preservation Discussion

Name: Jennifer Harper
Address: 25710 207th Pl SE
Phone Number: ________________ Email Address: ________________________________

What do you want your community to look like in the future?
I would like to see a community with sidewalks/pathways separated by landscaping and trees. With properties and businesses with tree and landscaping cover, it should feel like a city in the woods.

Are you satisfied with the way the tree code works today or do you think it needs to be altered to preserve more trees?
No, I think it needs to be modified to retain tree cover on residential and commercial properties. It is important to ensure adequate warranty period for new trees.

Is the City doing enough to preserve the character of the City of Covington? Yes or no, and why do you think this? What else should the City do to preserve character?

Is the code to intrusive and impactful to private property? If so, why?
Tree Retention/Preservation Discussion

Name: Lanny S.
Address: 20306 SE 268th St
Phone Number: 253-631-3019 Email Address:

What do you want your community to look like in the future?

How about actual nature trails instead of sidewalks, who needs more concrete? Can you imagine a tree lined path that (rest of sentence was not legible)

How about developmental designated areas with tiny house plots and high density native trees, plants and shrubs (rest of sentence was not legible)

Are you satisfied with the way the tree code works today or do you think it needs to be altered to preserve more trees?

No.

Is the City doing enough to preserve the character of the City of Covington? Yes or no, and why do you think this? What else should the City do to preserve character?

Not be sarcastic but what exactly is the character of Covington? What should be your starting point

Is the code to intrusive and impactful to private property? If so, why?

Yes, but a necessary beginning
Tree Retention/Preservation Discussion

Name: Linda Caudle
Address: 27010 206th Ave SE
Phone Number: 206-295-4182  Email Address: linda_caudle@timberlanehoa.org

What do you want your community to look like in the future?
Clean and full throughout. Not just main streets.

Are you satisfied with the way the tree code works today or do you think it needs to be altered to preserve more trees?
Too many new developments are coming in and clean cutting.

Is the City doing enough to preserve the character of the City of Covington? Yes or no, and why do you think this? What else should the City do to preserve character?
I see they maintain the main streets, trees and shrubs but they do not maintain when it comes off a main street.

Is the code to intrusive and impactful to private property? If so, why?
No in most aspects. Not understanding the planting of trees in parks if you can’t fit in your yard. Seems like this and new permit process is to provide money or trees to the city.
Tree Retention/Preservation Discussion

Name: Philip Jones
Address: 26827 166th Pl SE
Phone Number: 253-332-5385   Email Address: pmjones4080@hotmail.com

What do you want your community to look like in the future?
I would like this community to reflect the choices of each individual resident as to what trees they want.

Are you satisfied with the way the tree code works today or do you think it needs to be altered to preserve more trees?
I think that CMC 18.45 040 1.a should be retained.

Is the City doing enough to preserve the character of the City of Covington? Yes or no, and why do you think this? What else should the City do to preserve character?
Yes and no. Developers should be controlled but the restrictions on the single-family homes should not be more burdensome.

Is the code to intrusive and impactful to private property? If so, why?
Yes. Property owners under one acre should be exempt. Developers should be restricted substantially.
How the amendments are consistent with the policy statements

1. Policy NE-6 - Protect significant trees and limit unnecessary disturbance of vegetation, when possible, during all phases of development, and require mitigation as needed, including the appropriate ratio of replacement for trees removed during development.

   - **Increasing tree retention by requiring a sliding scale based on zoning classification.**

   - **CMC 18.45.080(1) Tree Retention and Preservation for All Zones.** The following tree retention and preservation percentages apply to all residential, commercial, or industrial zoned properties unless exempt pursuant to CMC 18.45.050, Exemptions:
     - (a) **R-1 Zoned Lots.** A minimum of 40 percent of the significant trees shall be retained within areas unconstrained by critical areas and outside shoreline jurisdiction.
     - (b) **R-4 and R-6 Zoned Lots.** A minimum of 35 percent of the significant trees shall be retained within areas unconstrained by critical areas and outside shoreline jurisdiction.
     - (c) **R-8, R-18, and MHO Zoned Lots.** A minimum of 25 percent of the significant trees shall be retained within areas unconstrained by critical areas and outside shoreline jurisdiction.
     - (d) **CC, GC, MC, TC, and I Zoned Lots.** A minimum of 25 percent of the significant trees shall be retained within areas unconstrained by critical areas and outside shoreline jurisdiction.

   - **Requiring tree replacement of removed significant trees.**

   - **CMC 18.45.080(2) Tree Replacement Required.** Any significant tree lawfully removed pursuant to the provisions of CMC 18.45.050, Exemptions, or CMC 18.45.060, Permits and Permit Requirements, shall be subject to the following replacement requirements:
     - (a) Each significant tree shall be replaced by two replacement trees;
     - (b) Each landmark tree shall be replaced by three replacement trees;
     - (c) Each heritage tree shall be replaced by five replacement trees;
     - (d) Replacement coniferous trees shall be at least six feet in height;
     - (e) Replacement deciduous trees shall be at least two and one-half inches DBH;
(f) In order to restore and enhance a site as nearly as practicable to its pre-removal character and function, replacement trees shall be primarily conifer and native species to Washington;

(g) Nonnative replacement trees shall be recommended by a qualified arborist as having characteristics suitable to the proposed location of planting, or shall be otherwise approved by the City;

(h) The condition of replacement trees shall meet or exceed current American Nursery and Landscape Association or equivalent organization’s standards for nursery stock;

(i) Financial guarantees for replacement trees may be required consistent with the provisions of Chapter 14.105 CMC;

(j) Installation of required replacement trees shall be in accordance with the International Society of Arboriculture’s best management practices for arboriculture including, but not limited to, soil assessment, sampling, amendments and conservation, which ensure the tree’s long-term health and survival;

(k) The Director may consider smaller-sized replacement trees if the applicant can demonstrate that smaller trees are more suited to the species, the site conditions, and the purposes of this section, and that such trees will be planted in sufficient quantities to meet the intent of this section.

(l) Replacement trees that are less susceptible to laminated root rot shall be considered for tree replacement. Douglas Fir trees shall not be allowed as a replacement species. The following less susceptible trees may be used as replacement trees:

- (i) Coast redwood,
- (ii) Incense cedar,
- (iii) Ponderosa pine,
- (iv) Jeffrey pine,
- (v) Lodgepole pine,
- (vi) Knobcone pine,
- (vii) Sugar pine,
• (viii) Western white pine,
• (ix) White bark pine, limber pine,
• (x) Sitka spruce,
• (xi) Western red cedar,
• (xii) Alaskan-cedar, and
• (xiii) All hard woods,

○ (m) All replacement trees shall, upon planting, be designated as significant trees regardless of their size. Replacement trees shall not be removed after planting. Exemptions to allow for tree removal, as provided in CMC 18.45.050, do not apply to replacement trees.

○ (n) Tree replacement in conjunction with tree removal within critical areas shall be consistent with the replacement ratios required in this section.

○ (o) Tree replacement within the shoreline jurisdiction, as regulated by Chapter 16.05 CMC, has the potential for different replacement ratios. Additionally, a shoreline letter of exemption is likely to be required for tree removal and planting within the shoreline jurisdiction.

• **Requiring a minor tree removal permit for property one acre or less.**

• **CMC 18.45.060(1) Minor Tree Removal Permits.**

  ○ (a) Minor tree removal permits are those permits involving removal of trees or understory vegetation on any lots less than one acre in size, or on property or easements granted to public utilities, unless the activity falls within an exemption listed in CMC 18.45.050, in which case no permit is required;

• **Requiring a major tree removal permit for property one acre or greater.**

• **CMC 18.45.060(2) Major Tree Clearing Permits**

  ○ (a) Major tree clearing permits are those permits involving any removal of trees, clearing and grading of land with trees, shrubs, or understory vegetation on sites one acre in size or greater, unless the activity falls within an exemption listed in CMC 18.45.050, in which no permit is required;
2. **Policy LU-12** - Promote the use of landscaping that can thrive in urban settings, conserve water, retain desirable trees, and is comprised of native plant materials.

- Providing exemptions to remove a variety or trees that are considered nuisance species.

- “Nuisance tree” is a species that is known to be weak-wooded and unstable, or one that exhibits other traits that render it prone to creating nuisance conditions for persons and property located in close proximity to such trees. Tree species categorized as nuisance trees in the City of Covington are listed below. The City may determine that additional tree species should be classified as nuisance trees if the species clearly exhibits the detrimental characteristics of nuisance species.

<table>
<thead>
<tr>
<th>Common Name</th>
<th>Species Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Red alder</td>
<td>Alnus rubra</td>
</tr>
<tr>
<td>Black cottonwood</td>
<td>Populus trichocarpa</td>
</tr>
</tbody>
</table>

- Providing exemptions to remove a variety of trees that are considered invasive species.

- “Invasive tree,” is a species that was introduced by humans to locations outside of the trees native range that spread and persist over large areas. Invasive species negatively impact natural ecosystems by displacing native species, reducing biological diversity, and interfering with natural succession. Tree species known to be invasive in the Pacific Northwest are listed below. The City may determine that additional tree species should be classified as invasive if the species clearly exhibits the detrimental characteristics of invasive species.

<table>
<thead>
<tr>
<th>Common Name</th>
<th>Species Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Norway maple</td>
<td>Acer platanoides</td>
</tr>
<tr>
<td>Sycamore maple</td>
<td>Acer pseudoplatanus</td>
</tr>
<tr>
<td>Horse chestnut</td>
<td>Aesculus hippocastanum</td>
</tr>
<tr>
<td>Tree-of-heaven</td>
<td>Ailanthus altissima</td>
</tr>
<tr>
<td>European white birch</td>
<td>Betula pendula</td>
</tr>
<tr>
<td>English/European hawthorn</td>
<td>Crataegus monogyna</td>
</tr>
<tr>
<td>English holly</td>
<td>Ilex aquifolium</td>
</tr>
<tr>
<td>Princess tree</td>
<td>Paulownia tomentosa</td>
</tr>
<tr>
<td>White poplar</td>
<td>Populus alba</td>
</tr>
<tr>
<td>Common Name</td>
<td>Species Name</td>
</tr>
<tr>
<td>----------------------</td>
<td>----------------------</td>
</tr>
<tr>
<td>Sweet cherry</td>
<td>Prunus avium</td>
</tr>
<tr>
<td>Cherry laurel</td>
<td>Prunus laurocerasus</td>
</tr>
<tr>
<td>Portugal laurel</td>
<td>Prunus lusitanica</td>
</tr>
<tr>
<td>Black locust</td>
<td>Robinia pseudoacacia</td>
</tr>
<tr>
<td>European mountain ash</td>
<td>Sorbus aucuparia</td>
</tr>
<tr>
<td>Siberian elm</td>
<td>Ulmus pumila</td>
</tr>
</tbody>
</table>

- **Requiring tree replacement of removed significant trees.**

- **CMC 18.45.080(2) Tree Replacement Required.** Any significant tree lawfully removed pursuant to the provisions of CMC 18.45.050, Exemptions, or CMC 18.45.060, Permits and Permit Requirements, shall be subject to the following replacement requirements:
  
  o (a) Each significant tree shall be replaced by two replacement trees;
  
  o (b) Each landmark tree shall be replaced by three replacement trees;
  
  o (c) Each heritage tree shall be replaced by five replacement trees;
  
  o (d) Replacement coniferous trees shall be at least six feet in height;
  
  o (e) Replacement deciduous trees shall be at least two and one-half inches DBH;
  
  o (f) In order to restore and enhance a site as nearly as practicable to its pre-removal character and function, replacement trees shall be primarily conifer and native species to Washington;
  
  o (g) Nonnative replacement trees shall be recommended by a qualified arborist as having characteristics suitable to the proposed location of planting, or shall be otherwise approved by the City;
  
  o (h) The condition of replacement trees shall meet or exceed current American Nursery and Landscape Association or equivalent organization’s standards for nursery stock;
  
  o (i) Financial guarantees for replacement trees may be required consistent with the provisions of Chapter 14.105 CMC;
(j) Installation of required replacement trees shall be in accordance with the International Society of Arboriculture’s best management practices for arboriculture including, but not limited to, soil assessment, sampling, amendments and conservation, which ensure the tree’s long-term health and survival;

(k) The Director may consider smaller-sized replacement trees if the applicant can demonstrate that smaller trees are more suited to the species, the site conditions, and the purposes of this section, and that such trees will be planted in sufficient quantities to meet the intent of this section.

(l) Replacement trees that are less susceptible to laminated root rot shall be considered for tree replacement. Douglas Fir trees shall not be allowed as a replacement species. The following less susceptible trees may be used as replacement trees:

- (i) Coast redwood,
- (ii) Incense cedar,
- (iii) Ponderosa pine,
- (iv) Jeffrey pine,
- (v) Lodgepole pine,
- (vi) Knobcone pine,
- (vii) Sugar pine,
- (viii) Western white pine,
- (ix) White bark pine, limber pine,
- (x) Sitka spruce,
- (xi) Western red cedar,
- (xii) Alaskan-cedar, and
- (xiii) All hard woods,

(m) All replacement trees shall, upon planting, be designated as significant trees regardless of their size. Replacement trees shall not be removed after planting. Exemptions to allow for tree removal, as provided in CMC 18.45.050, do not apply to replacement trees.
o (n) Tree replacement in conjunction with tree removal within critical areas shall be consistent with the replacement ratios required in this section.

o (o) Tree replacement within the shoreline jurisdiction, as regulated by Chapter 16.05 CMC, has the potential for different replacement ratios. Additionally, a shoreline letter of exemption is likely to be required for tree removal and planting within the shoreline jurisdiction.

- **Providing incentives for tree retention and replacement.**

- **CMC 18.45.080(3) Incentives.** The following incentives are available for higher levels of landmark or heritage tree preservation:

  o (a) Landmark Trees or Heritage Trees. The permanent preservation of a healthy landmark or heritage tree pursuant to CMC 18.45.080 shall receive a tree retention credit as follows:
    - (i) One hundred fifty percent tree credit for a landmark tree or two hundred percent credit for a heritage tree pursuant to the following provisions:
      - (1) Preservation of a landmark or heritage tree as part of a continuous canopy adjacent to an environmentally critical area and associated buffer;
      - (2) Preservation of a landmark or heritage tree as part of a continuous canopy adjacent to a public park and/or other protected open space; or
      - (3) Preservation of a landmark or heritage tree as part of any other on-site and/or off-site continuous canopy.
    - (ii) One hundred twenty five percent credit for a landmark tree or one hundred fifty percent credit for a heritage tree pursuant to the following provisions.
      - (1) Preservation of a landmark or heritage tree that provides relief from identified environmental impacts;
      - (2) Preservation of a landmark or heritage tree that provides perimeter connectivity and/or off-site screening;
      - (3) Preservation of a landmark or heritage tree able to be incorporated into required landscaping; or
      - (4) An isolated cluster of landmark or heritage trees.

  o To qualify for this incentive, all landmark or heritage trees proposed for permanent preservation shall be outside of any environmentally critical area and associated buffer.
- **CMC 18.45.080(4) Location for Tree Replacement – On Site.** The location of replacement trees shall be consistent with a report produced by a qualified arborist and peer reviewed by a qualified professional to ensure land capability. Unless approved for one or more of the alternatives set forth in subsection (5) of this section, replacement trees shall be planted on the site from which significant trees are removed and may be approved for the following areas on site:
  
  - (a) On-site replacement trees approved to be located within environmentally critical areas and associated buffers shall receive a 125 percent credit toward the tree replacement requirement.
  
  - (b) On-site replacement trees approved to be located within the perimeter of a stormwater facility shall receive a 100 percent credit toward the tree replacement requirement.
  
  - (c) On-site replacement trees approved to be located in places other than subsections (a) and (b) of this section shall receive a 100 percent credit toward the tree replacement requirement.

- **(5) Location for Tree Replacement – Alternatives Sites Subject to City Approval.** The location of replacement trees shall be consistent with a report produced by a qualified arborist. Replacement costs, including materials plus labor, shall be at the applicant’s expense. When on-site replacement cannot be completely achieved, the following alternatives may be considered, subject to City approval:
  
  - (a) Off-Site Tree Replacement.
    
    - (i) The number of replacement trees shall be the same as described in subsection (3) of this section. Replacement costs (material plus labor) shall be at the applicant’s expense.
    
    - (ii) Allowable sites for receiving off-site replacement plantings may include public lands, open space areas, open space tracts, delineated environmentally critical areas and associated buffers. A receiving site shall be within the Covington city limits or upon land owned by the City, if the City determines off-site planting is appropriate and warranted.
    
    - (iii) Allowable sites for receiving off-site replacement plantings may include private properties and other properties owned by a homeowner’s association, including but not limited to open space areas, open space tracts, recreational tracts, delineated environmentally critical areas and associated buffers. An agreement between the receiving site and the sending site shall be executed and recorded against the title of both properties, and
an easement shall be granted to the City allowing entry to the property to ensure compliance with the provisions of this chapter and survivability. Trees to be replaced shall be contained within a tree protection easement and subject to the financial guarantee provisions of Chapter 14.105 CMC.

- (b) Fee in lieu. It is the City’s intent to preserve and replace trees on site, and only in rare cases and as a last resort a fee in lieu of tree replacement may be allowed, subject to approval by the Director. The Director may allow up to 25 percent of the required replacement trees be converted to a tree unit credit basis through the fee in lieu of tree replacement. The amount of the fee shall cover the cost of a tree, installation (labor and equipment including staking, mulching), maintenance (including watering, warranty, and monitoring) for five years, and fund administration. Such costs shall be determined by the city. All fees shall be paid to the City prior to final site plan or final plat approval, or the issuance of a tree removal permit, or any permit authorizing removal of trees to be replanted pursuant to this chapter, whichever applies. In no case shall a tree credit in lieu replacement be less than $2,000 per tree. Funds generated by fee in lieu of tree replacement shall be used to plant replacement trees on public property.

- (c) Landscape Restoration. Where appropriate, other measures designed to mitigate the loss of trees by restoring all or parts of the forest landscape and its associated benefits may be considered. Measures, as determined by the director, may include, but are not limited to:
  - (i) Creation of wildlife snags from trees which would otherwise be removed;
  - (ii) Replacement of certain ornamental trees with native shrubs and groundcover;
  - (iii) Replacement of at risk or short-lived trees with healthy new trees that have a greater chance of long-term survival;
  - (iv) Daylighting and restoration of stream corridors with native vegetation consistent with Chapter 18.65 CMC; and
  - (v) Protection of nonsignificant trees to provide for the successional stages of forest development.
3. Policy NE-5 - Maximize retention of a healthy tree cover and native vegetation and encourage restoration, replacement, and enhancement of unhealthy or disturbed trees and vegetation.

- **Providing incentives for tree retention and replacement.**

- **CMC 18.45.080(3) Incentives.** The following incentives are available for higher levels of landmark or heritage tree preservation:
  - (a) Landmark Trees or Heritage Trees. The permanent preservation of a healthy landmark or heritage tree pursuant to CMC 18.45.080 shall receive a tree retention credit as follows:
    - (i) One hundred fifty percent tree credit for a landmark tree or two hundred percent credit for a heritage tree pursuant to the following provisions:
      - (1) Preservation of a landmark or heritage tree as part of a continuous canopy adjacent to an environmentally critical area and associated buffer;
      - (2) Preservation of a landmark or heritage tree as part of a continuous canopy adjacent to a public park and/or other protected open space; or
      - (3) Preservation of a landmark or heritage tree as part of any other on-site and/or off-site continuous canopy.
    - (ii) One hundred twenty five percent credit for a landmark tree or one hundred fifty percent credit for a heritage tree pursuant to the following provisions.
      - (1) Preservation of a landmark or heritage tree that provides relief from identified environmental impacts;
      - (2) Preservation of a landmark or heritage tree that provides perimeter connectivity and/or off-site screening;
      - (3) Preservation of a landmark or heritage tree able to be incorporated into required landscaping; or
      - (4) An isolated cluster of landmark or heritage trees.
    - To qualify for this incentive, all landmark or heritage trees proposed for permanent preservation shall be outside of any environmentally critical area and associated buffer.

- **CMC 18.45.080(4) Location for Tree Replacement – On Site.** The location of replacement trees shall be consistent with a report produced by a qualified arborist and peer reviewed by a qualified professional to ensure land capability. Unless approved for one or more of the alternatives set forth in subsection (5) of this section, replacement trees shall be planted on the site from which significant trees are removed and may be approved for the following areas on site:
(a) On-site replacement trees approved to be located within environmentally critical areas and associated buffers shall receive a 125 percent credit toward the tree replacement requirement.

(b) On-site replacement trees approved to be located within the perimeter of a stormwater facility shall receive a 100 percent credit toward the tree replacement requirement.

(c) On-site replacement trees approved to be located in places other than subsections (a) and (b) of this section shall receive a 100 percent credit toward the tree replacement requirement.

(5) Location for Tree Replacement – Alternatives Sites Subject to City Approval.
The location of replacement trees shall be consistent with a report produced by a qualified arborist. Replacement costs, including materials plus labor, shall be at the applicant’s expense. When on-site replacement cannot be completely achieved, the following alternatives may be considered, subject to City approval:

(a) Off-Site Tree Replacement.

(i) The number of replacement trees shall be the same as described in subsection (3) of this section. Replacement costs (material plus labor) shall be at the applicant’s expense.

(ii) Allowable sites for receiving off-site replacement plantings may include public lands, open space areas, open space tracts, delineated environmentally critical areas and associated buffers. A receiving site shall be within the Covington city limits or upon land owned by the City, if the City determines off-site planting is appropriate and warranted.

(iii) Allowable sites for receiving off-site replacement plantings may include private properties and other properties owned by a homeowner’s association, including but not limited to open space areas, open space tracts, recreational tracts, delineated environmentally critical areas and associated buffers. An agreement between the receiving site and the sending site shall be executed and recorded against the title of both properties, and an easement shall be granted to the City allowing entry to the property to ensure compliance with the provisions of this chapter and survivability. Trees to be replaced shall be contained within a tree protection easement and subject to the financial guarantee provisions of Chapter 14.105 CMC.
(b) Fee in lieu. It is the City’s intent to preserve and replace trees on site, and only in rare cases and as a last resort a fee in lieu of tree replacement may be allowed, subject to approval by the Director. The Director may allow up to 25 percent of the required replacement trees be converted to a tree unit credit basis through the fee in lieu of tree replacement. The amount of the fee shall cover the cost of a tree, installation (labor and equipment including staking, mulching), maintenance (including watering, warranty, and monitoring) for five years, and fund administration. Such costs shall be determined by the city. All fees shall be paid to the City prior to final site plan or final plat approval, or the issuance of a tree removal permit, or any permit authorizing removal of trees to be replanted pursuant to this chapter, whichever applies. In no case shall a tree credit in lieu replacement be less than $2,000 per tree. Funds generated by fee in lieu of tree replacement shall be used to plant replacement trees on public property.

(c) Landscape Restoration. Where appropriate, other measures designed to mitigate the loss of trees by restoring all or parts of the forest landscape and its associated benefits may be considered. Measures, as determined by the director, may include, but are not limited to:

- (i) Creation of wildlife snags from trees which would otherwise be removed;
- (ii) Replacement of certain ornamental trees with native shrubs and groundcover;
- (iii) Replacement of at risk or short-lived trees with healthy new trees that have a greater chance of long-term survival;
- (iv) Daylighting and restoration of stream corridors with native vegetation consistent with Chapter 18.65 CMC; and
- (v) Protection of nonsignificant trees to provide for the successional stages of forest development.

- **Requiring tree replacement of removed significant trees.**

- **CMC 18.45.080(2) Tree Replacement Required.** Any significant tree lawfully removed pursuant to the provisions of CMC 18.45.050, Exemptions, or CMC 18.45.060, Permits and Permit Requirements, shall be subject to the following replacement requirements:

  - (a) Each significant tree shall be replaced by two replacement trees;
(b) Each landmark tree shall be replaced by three replacement trees;

(c) Each heritage tree shall be replaced by five replacement trees;

(d) Replacement coniferous trees shall be at least six feet in height;

(e) Replacement deciduous trees shall be at least two and one-half inches DBH;

(f) In order to restore and enhance a site as nearly as practicable to its pre-removal character and function, replacement trees shall be primarily conifer and native species to Washington;

(g) Nonnative replacement trees shall be recommended by a qualified arborist as having characteristics suitable to the proposed location of planting, or shall be otherwise approved by the City;

(h) The condition of replacement trees shall meet or exceed current American Nursery and Landscape Association or equivalent organization’s standards for nursery stock;

(i) Financial guarantees for replacement trees may be required consistent with the provisions of Chapter 14.105 CMC;

(j) Installation of required replacement trees shall be in accordance with the International Society of Arboriculture’s best management practices for arboriculture including, but not limited to, soil assessment, sampling, amendments and conservation, which ensure the tree’s long-term health and survival;

(k) The Director may consider smaller-sized replacement trees if the applicant can demonstrate that smaller trees are more suited to the species, the site conditions, and the purposes of this section, and that such trees will be planted in sufficient quantities to meet the intent of this section.

(l) Replacement trees that are less susceptible to laminated root rot shall be considered for tree replacement. Douglas Fir trees shall not be allowed as a replacement species. The following less susceptible trees may be used as replacement trees:

- (i) Coast redwood,
- (ii) Incense cedar,
- (iii) Ponderosa pine,
(iv) Jeffrey pine,
(v) Lodgepole pine,
(vi) Knobcone pine,
(vii) Sugar pine,
(viii) Western white pine,
(ix) White bark pine, limber pine,
(x) Sitka spruce,
(xi) Western red cedar,
(xii) Alaskan-cedar, and
(xiii) All hard woods,

- (m) All replacement trees shall, upon planting, be designated as significant trees regardless of their size. Replacement trees shall not be removed after planting. Exemptions to allow for tree removal, as provided in CMC 18.45.050, do not apply to replacement trees.
- (n) Tree replacement in conjunction with tree removal within critical areas shall be consistent with the replacement ratios required in this section.
- (o) Tree replacement within the shoreline jurisdiction, as regulated by Chapter 16.05 CMC, has the potential for different replacement ratios. Additionally, a shoreline letter of exemption is likely to be required for tree removal and planting within the shoreline jurisdiction.

4. Policy NE-1 - Protect the ecological integrity of the natural environment while allowing for compatible growth and development.

- **Allowing for a variety of exemptions for property owners to remove trees without a permit.**
  - **CMC 18.45.050 Exemptions from tree permits.**
  - The activities below are exempt from both the minor tree removal permit and major tree clearing permit requirements of CMC 18.45.060, 18.45.070, and 18.45.080. Provided, replanting pursuant to CMC 18.45.080(3) is still required. Exempt tree removal, without a permit, and as allowed herein, shall be reported to the City on a form provided by the City within 21 days of removal. The use of the exemptions listed below for the removal of replanted trees and
landscaping as required pursuant to Chapter 18.40 CMC is prohibited, unless such trees disturb any critical area or critical area buffer, or identified shoreline jurisdiction, or unless such trees cause a major adverse impact to runoff and diversion of storm water or streams, erosion, risk of landslide, infiltration of pollution into ground water, or other major adverse impacts to safety and security of adjacent properties, as determined by the Director:

- (1) Emergency Removal. Removal of trees necessary to protect public safety or public or private property from imminent danger in response to emergencies declared by the City, County, State or Federal governments. In the case of a declared emergency, the written approval requirement herein shall be waived.
- (2) Emergency Removal of an At Risk Tree or Trees. Removal of an at risk tree following a tree risk assessment and recommendation by a qualified arborist that the tree is a safety risk and should be removed. For a tree to be considered an at risk tree it must be defective either in some part or as a whole, with risk for failure and a target that is threatened. Trees are declared at risk if a tree risk assessment has been completed and mitigation is required to prevent a failure from causing damage affecting the target. The City may, at its sole discretion and in consideration of ISA tree risk assessment guidance, waive the qualified arborist requirement if City staff conducts an on-site inspection and determines that a tree clearly and obviously constitutes a risk. City staff should consider the following conditions when conducting a tree risk assessment:
  - (a) Whether the tree dead, diseased, decayed, dying, burned or otherwise damaged;
  - (b) Whether the tree has multiple weak branch attachments, broken and/or hanging limbs;
  - (c) Whether the foliage sparse, and/or discolored;
  - (d) Whether there is evidence of root rot/exposed, undermined or pruned roots or a restricted root area;
  - (e) If leaning, what the degree of such lean is and whether roots are broken or the soil heaving or cracking;
  - (f) Whether the top is broken on conifers; and
  - (g) Whether there are targets such as buildings, parking, or traffic or pedestrian facilities below the tree and whether those target(s) can be moved?
Upon such inspection, staff may determine that further review by
a qualified arborist is required before making a determination as
to whether a tree constitutes a risk.

- (3) Normal and Routine Maintenance of Existing Trees. Any normal and routine
  maintenance of existing trees, but not to include utility easements; provided,
  that said maintenance does not involve removal of healthy trees and is not
detrimental to the health of any trees. Trenching or digging to a depth of greater
than one foot within the critical root zone and tree topping is not allowed.

- (4) Commercial and Wholesale Nurseries and Tree Farms. Removal of trees
  which are being grown within commercial and wholesale nurseries or tree farms
to be sold as landscape or Christmas trees.

- (5) Tree Harvesting with a Forest Practices Permit. Any harvesting with a forest
  practices permit issued by the Washington State Department of Natural
Resources under RCW 76.09.470.

- (6) Removal of an invasive tree if located outside of a designated critical area and
  associated buffer, or within shoreline jurisdiction.

- (7) Removal of a nuisance tree if located outside of a designated critical area or
  its associated buffer, or within shoreline jurisdiction.

- (8) Removal of Trees on City-Owned Property for Installation of Utilities and
  Public Facilities and/or Maintenance of Property. Removal of trees on any city-
owned right-of-way or tract for installation of any public infrastructure, including
streets, utilities or public facilities, or for maintenance and operation of any
existing facilities This exemption includes the removal of trees on all publicly
owned land, parks, storm ponds, critical area tracts dedicated to the City.

- (9) Removal of trees where the trunks are located within 10 feet of an existing
  building that will remain on a site.

- (10) The removal of three (3) trees on lots less than or equal to 7,200 square feet
  and 1 additional tree for every 7,200 square feet of lot area up to a maximum of
six significant trees per lot within a 36-month period.(11) Removal of significant
trees in emergency situations involving immediate danger to life or property or
substantial fire hazards as determined by the City in its sole discretion.

- **Updating the definition section to be more user friendly. CMC 18.45.030**

- **Providing incentives for tree retention and replacement.**

- **CMC 18.45.080(3) Incentives.** The following incentives are available for higher
  levels of landmark or heritage tree preservation:
o (a) Landmark Trees or Heritage Trees. The permanent preservation of a healthy landmark or heritage tree pursuant to CMC 18.45.080 shall receive a tree retention credit as follows:
  ▪ (i) One hundred fifty percent tree credit for a landmark tree or two hundred percent credit for a heritage tree pursuant to the following provisions:
    ● (1) Preservation of a landmark or heritage tree as part of a continuous canopy adjacent to an environmentally critical area and associated buffer;
    ● (2) Preservation of a landmark or heritage tree as part of a continuous canopy adjacent to a public park and/or other protected open space; or
    ● (3) Preservation of a landmark or heritage tree as part of any other on-site and/or off-site continuous canopy.
  ▪ (ii) One hundred twenty five percent credit for a landmark tree or one hundred fifty percent credit for a heritage tree pursuant to the following provisions.
    ● (1) Preservation of a landmark or heritage tree that provides relief from identified environmental impacts;
    ● (2) Preservation of a landmark or heritage tree that provides perimeter connectivity and/or off-site screening;
    ● (3) Preservation of a landmark or heritage tree able to be incorporated into required landscaping; or
    ● (4) An isolated cluster of landmark or heritage trees.

To qualify for this incentive, all landmark or heritage trees proposed for permanent preservation shall be outside of any environmentally critical area and associated buffer.

- CMC 18.45.080(4) Location for Tree Replacement – On Site. The location of replacement trees shall be consistent with a report produced by a qualified arborist and peer reviewed by a qualified professional to ensure land capability. Unless approved for one or more of the alternatives set forth in subsection (5) of this section, replacement trees shall be planted on the site from which significant trees are removed and may be approved for the following areas on site:
  o (a) On-site replacement trees approved to be located within environmentally critical areas and associated buffers shall receive a 125 percent credit toward the tree replacement requirement.
(b) On-site replacement trees approved to be located within the perimeter of a stormwater facility shall receive a 100 percent credit toward the tree replacement requirement.

(c) On-site replacement trees approved to be located in places other than subsections (a) and (b) of this section shall receive a 100 percent credit toward the tree replacement requirement.

(5) Location for Tree Replacement – Alternatives Sites Subject to City Approval. The location of replacement trees shall be consistent with a report produced by a qualified arborist. Replacement costs, including materials plus labor, shall be at the applicant’s expense. When on-site replacement cannot be completely achieved, the following alternatives may be considered, subject to City approval:

(a) Off-Site Tree Replacement.

(i) The number of replacement trees shall be the same as described in subsection (3) of this section. Replacement costs (material plus labor) shall be at the applicant’s expense.

(ii) Allowable sites for receiving off-site replacement plantings may include public lands, open space areas, open space tracts, delineated environmentally critical areas and associated buffers. A receiving site shall be within the Covington city limits or upon land owned by the City, if the City determines off-site planting is appropriate and warranted.

(iii) Allowable sites for receiving off-site replacement plantings may include private properties and other properties owned by a homeowner’s association, including but not limited to open space areas, open space tracts, recreational tracts, delineated environmentally critical areas and associated buffers. An agreement between the receiving site and the sending site shall be executed and recorded against the title of both properties, and an easement shall be granted to the City allowing entry to the property to ensure compliance with the provisions of this chapter and survivability. Trees to be replaced shall be contained within a tree protection easement and subject to the financial guarantee provisions of Chapter 14.105 CMC.

(b) Fee in lieu. It is the City’s intent to preserve and replace trees on site, and only in rare cases and as a last resort a fee in lieu of tree replacement may be allowed, subject to approval by the Director. The Director may allow up to 25 percent of the required replacement trees
be converted to a tree unit credit basis through the fee in lieu of tree replacement. The amount of the fee shall cover the cost of a tree, installation (labor and equipment including staking, mulching), maintenance (including watering, warranty, and monitoring) for five years, and fund administration. Such costs shall be determined by the city. All fees shall be paid to the City prior to final site plan or final plat approval, or the issuance of a tree removal permit, or any permit authorizing removal of trees to be replanted pursuant to this chapter, whichever applies. In no case shall a tree credit in lieu replacement be less than $2,000 per tree. Funds generated by fee in lieu of tree replacement shall be used to plant replacement trees on public property.

- (c) Landscape Restoration. Where appropriate, other measures designed to mitigate the loss of trees by restoring all or parts of the forest landscape and its associated benefits may be considered. Measures, as determined by the director, may include, but are not limited to:
  - (i) Creation of wildlife snags from trees which would otherwise be removed;
  - (ii) Replacement of certain ornamental trees with native shrubs and groundcover;
  - (iii) Replacement of at risk or short-lived trees with healthy new trees that have a greater chance of long-term survival;
  - (iv) Daylighting and restoration of stream corridors with native vegetation consistent with Chapter 18.65 CMC; and
  - (v) Protection of nonsignificant trees to provide for the successional stages of forest development.
Option 2

(6) Penalties.

(a) Civil. Any person, firm, or corporation who violates or fails to comply with any term or provision of this chapter or of a tree removal or major tree clearing permit issued under this chapter shall be deemed to have committed a civil infraction violation. Each day the violation is ongoing without remedy shall be a separate infraction, punishable by a separate penalty. Civil infractions shall be issued as set forth in Chapter 1.30 CMC and penalties for civil infractions issued pursuant to this chapter shall be as follows:

1. Illegal removal of or damage to a significant tree shall result in a civil penalty of $1,000 per day the violation occurs without remedy.

2. Illegal removal of or damage to a landmark tree shall result in a civil penalty of $3,000 per day the violation occurs without remedy.

3. Illegal removal of or damage to a heritage tree shall result in a civil penalty of $5,000 per day the violation occurs without remedy.

4. All other civil infractions issued under this chapter shall be assessed civil monetary penalties in accordance Chapter 1.30 CMC.

(b) Criminal. Any person who engages and/or causes another to engage in a second violation of this chapter shall be deemed to have committed a misdemeanor, and if found guilty, shall be subject to a fine not to exceed $1,000, imprisonment not to exceed 90 days, or both such fine and imprisonment. Each separate violation and each day that passes before such violation is resolved shall be considered a separate criminal misdemeanor offense. In the event of any subsequent violation within five years of the first criminal violation, such violation shall constitute a gross misdemeanor, punishable by a fine not to exceed $5,000 or imprisonment not to exceed 365 days or both such fine and imprisonment.

(c) Revocation of Business License and Prohibition of Future Tree Removal or Tree Clearing Activity. Any person who commits, participates in, assists or maintains such violation of this chapter may have their Covington business license revoked for one year and may be prohibited from conducting business within the City.
Option 3

(6) Penalties.

(a) Criminal. Any person, firm, or corporation who knowingly violates or fails to comply with any term or provision of a tree removal or major tree clearing permit in this chapter shall be deemed to have committed a misdemeanor, and if found guilty, shall be subject to a fine not to exceed $1,000, or imprisonment not to exceed 90 days or both such fine and imprisonment. Each day shall be a separate offense. In the event of a repeated and/or continuing violations or failure to comply, subsequent violations shall constitute a gross misdemeanor punishable by a fine not to exceed $5,000 or imprisonment not to exceed 365 days or both such fine and imprisonment. Continuing violation shall mean the same type of violation which is committed within a year of the initial violation.

(ba) Civil. Any person, firm, or corporation who violates or fails to comply with any term or provision of this chapter or of a tree removal or major tree clearing permit issued under this chapter shall be deemed to have committed a civil infraction violation for a person, firm, or corporation to violate or fail to comply with any term or provision of this chapter. Each day the violations are ongoing without remedy shall be a separate infraction. Civil infraction violations shall be assessed a monetary penalty in the amount of $1,000 per inch of DBH of any significant tree removed or damaged. Other violations of this chapter shall be assessed penalties as set forth in Chapter 1.30 CMC. All civil infractions issued pursuant to this chapter shall be enforced in accordance with the procedures set forth in Chapter 1.30 CMC.

(ba) Criminal. Any person who engages and/or causes another to engage in a subsequent violating of this Chapter shall be deemed to have committed a misdemeanor, and if found guilty, shall be subject to a fine not to exceed $1,000, or imprisonment not to exceed 90 days, or both such fine and imprisonment. Each separate violation and each day that passes before the such violation is resolved shall be considered a separate criminal misdemeanor offense. In the event of a repeated and/or continuing violations or failure to comply of any, subsequent violation within five years of the first criminal violation, such violations shall constitute a gross misdemeanor, punishable by a fine not to exceed $5,000 or imprisonment not to exceed 365 days or both such fine and imprisonment. Continuing violation shall mean the same type of violation which is committed within a year of the initial violation.
(c) Revocation of Business License and Prohibition of Future Tree Removal or Tree Clearing Activity. Any person who commits, participates in, assists or maintains such violation of this chapter shall also be guilty of a misdemeanor and may have their Covington business license revoked for one year and may be prohibited from conducting any tree removal, land clearing or grading activities for a period of one year.
Penalties in other cities

Auburn: $250 each day.
Black Diamond: $500
Kent: $500 per day
Maple Valley: penalty set forth in KCC 23.32.010 and up to $1,000 per tree in addition to required mitigation.
Shoreline: $1,000 per tree.
Duvall: $1,000 per tree.
Mercer Island: three times the value of the tree plus the code of reasonable remediation.
Sammamish: $1,500 per inch DBH.
Lake Forest Park: Appraised value of the trees into a tree account.
University Place: $1,000 per tree.
MEMORANDUM

To: Covington City Council
   Covington Planning Commission

CC: Mayor Jeff Wagner
    Gina Estep, Community Development Director

From: John E. Galt, Hearing Examiner

Date: January 11, 2020

Subject: Annual Report for 2019

The Covington Municipal Code provides for an annual report from the Hearing Examiner to the City Planning Commission and Council listing “a summary of the examiner’s decision[s] since the last report.” The report is also to review “the administration of the land use policies and regulatory ordinances, and any amendments to city ordinances or other policies or procedures which would improve the performance of the examiner process.”[CMC 2.25.110]

This Report covers my activities during 2019. The report is divided into two parts: Hearing Activity and Discussion of Issues. I would be pleased to meet with you in person to discuss these or other related matters at a time of mutual convenience.

Hearing Activity
I heard and decided two preliminary subdivision applications (Cascara Creek and Raymond Valley Estates), each accompanied by an associated Major Tree Clearing Permit. (A Major Tree Clearing Permit is normally administrative in nature. In this case, the applicants elected to consolidate the tree permit and preliminary subdivision applications for processing which “bumped up” the tree permit to quasi-judicial status.) In addition, I heard two appeals from an administratively approved Commercial Site Development Permit, one by an opponent, one by the applicant. The opponent withdrew its appeal after the hearing concluded. I granted the other appeal in part.

Last year’s applications are listed on the accompanying table.

Discussion of Issues
None of the applications heard last year raised any significant ordinance or policy issues.
<table>
<thead>
<tr>
<th>File #</th>
<th>Applicant</th>
<th>Project Name</th>
<th>Type</th>
<th>Acres</th>
<th>Lots</th>
<th>Decision</th>
<th>Decision Date</th>
<th>Recon.</th>
<th>Recon. Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>LU18-0010/0037</td>
<td>Mainvue WA, LLC</td>
<td>Cascara Creek</td>
<td>Maj Tree</td>
<td>7.00</td>
<td></td>
<td>OKw/c</td>
<td>05/10/2019</td>
<td></td>
<td></td>
</tr>
<tr>
<td>LU18-0009/0037</td>
<td>Mainvue WA, LLC</td>
<td>Cascara Creek</td>
<td>Pre Plt</td>
<td>7.00</td>
<td>31</td>
<td>OKw/c</td>
<td>05/10/2019</td>
<td></td>
<td></td>
</tr>
<tr>
<td>LU18-0016/0039</td>
<td>PK Enterprizes</td>
<td>Raymond Valley Estates</td>
<td>Pre Plt</td>
<td>3.44</td>
<td>10</td>
<td>OKw/c</td>
<td>10/07/2019</td>
<td></td>
<td></td>
</tr>
<tr>
<td>LU18-0017/0039</td>
<td>PK Enterprizes</td>
<td></td>
<td>Maj Tree</td>
<td>3.44</td>
<td></td>
<td>OKw/c</td>
<td>10/07/2019</td>
<td></td>
<td></td>
</tr>
<tr>
<td>LU18-0007/0036</td>
<td>Attu, LLC</td>
<td>WDL Land - Covington Land</td>
<td>SEPA Ap</td>
<td>7.65</td>
<td></td>
<td>Withdrawn</td>
<td>11/18/2019</td>
<td></td>
<td></td>
</tr>
<tr>
<td>LU18-0007/0036</td>
<td>Covington Land, LLC</td>
<td>WDL Land - Covington Land</td>
<td>CSDP Ap</td>
<td>7.65</td>
<td></td>
<td>Grant in Part</td>
<td>11/18/2019</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>