CALL CITY COUNCIL REGULAR MEETING TO ORDER

ROLL CALL/PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

PUBLIC COMMENT

PUBLIC COMMENT Speakers will state their name, address, and organization. Comments are directed to the City Council, not the audience or staff. Comments are not intended for conversation or debate and are limited to no more than four minutes per speaker. Speakers may request additional time on a future agenda as time allows.

NOTICE to all participants: Pursuant to state law, RCW 42.17A.555, campaigning for any ballot measure or candidate in City Hall and/or during any portion of the council meeting, including the audience comment portion of the meeting, is PROHIBITED.

APPROVE CONSENT AGENDA

C-1. Minutes: February 25, 2020 Joint Study Session with Planning Commission and February 25, 2020 Special & Regular Meetings (Scott)

C-2. Vouchers (Parker)

C-3. Authorize City Manager to Execute Lease Agreement with Kent School District for Land to Develop a Future Maintenance Facility (Vondran)

C-4. Authorize City Manager to Execute Declaration of Restrictive Covenants for SoCo Park Parcel No. 362205-9098 (Newton)

C-5. Resolution Authorizing City Manager to Execute Agreement with Kim Hunter Law for Prosecution Services (Bolli)

C-6. Confirm and Adopt City of Covington Emergency Proclamation in Response to COVID-19 (Bolli)

REPORTS OF COMMISSIONS

- Economic Development Council
- Parks & Recreation Commission
- Youth Council
- Arts Commission
- Human Services Commission
- Planning Commission
NEW BUSINESS
1. Consider Appointments to Human Services Commission (Council)
2. Consider Ordinance Amending Chapter 18.45 CMC Tree Preservation and Protection (Estep)

FUTURE AGENDA ITEMS

COUNCIL/STAFF COMMENTS

PUBLIC COMMENT See guidelines above in first public comment section

EXECUTIVE SESSION – if needed

ADJOURN

Americans with Disabilities Act – reasonable accommodations provided upon request a minimum of 24 hours in advance (253-480-2400).

RECOMMENDED BY: Sharon G. Scott, City Clerk

ATTACHMENT(S): Proposed Minutes

PREPARED BY: Joan Michaud, Senior Deputy City Clerk

CITY COUNCIL ACTION: _____ Ordinance _____ Resolution  X  Motion ______ Other

Councilmember ______ moves, Councilmember _______ seconds, to approve the February 25, 2020 City Council Special Meeting – Joint Study Session with Planning Commission and February 25, 2020 Special (Interview) & Regular Meeting Minutes.
The Special Meeting - Joint Study Session with the Planning Commission was called to order in the City Council Chambers, 16720 SE 271st Street, Suite 100, Covington, Washington, Tuesday, February 25, 2020, at 6:00 p.m., with Mayor Wagner presiding.

COUNCILMEMBERS PRESENT:
Jeff Wagner, Joe Cimaomo, Jennifer Harjehausen, Fran Hollums, Jared Koukal, Kristina Soltys, and Sean Smith.

PLANNING COMMISSIONERS PRESENT:
Elizabeth Porter, Joe Culumber, Kathy Fosjord, Jennifer Gilbert-Smith, Jonathan Ingram, and Murray Williams.

PLANNING COMMISSIONERS ABSENT:
David Caudle.

STAFF PRESENT:
Regan Bolli, City Manager; Gina Estep, Community Development Director; and Sharon Scott, City Clerk/Executive Assistant.

Mayor Wagner called the joint study session to order.

ITEMS FOR DISCUSSION:

Community Development Director Gina Estep gave the presentation on this item.

Councilmembers and commissioners discussed the Work Plan.

ADJOURNMENT:
There being no further business, the meeting was adjourned at 6:48 p.m.

Prepared by:      Submitted by:
__________________________________      ____________________________
Joan Michaud      Sharon Scott
Senior Deputy City Clerk    City Clerk
City of Covington
Special & Regular City Council Meeting Minutes
Tuesday, February 25, 2020

INTERVIEW: The Council conducted an interview for the Parks & Recreation Commission from 5:40 to 6:00 p.m. Applicant interviewed: George Pearson.

The Regular Meeting of the City Council of the City of Covington was called to order in the City Council Chambers, 16720 SE 271st Street, Suite 100, Covington, Washington, Tuesday, February 25, 2020, at 7:01 p.m., with Mayor Wagner presiding.

COUNCILMEMBERS PRESENT:
Jeff Wagner, Joe Cimaomo, Jennifer Harjehausen, Fran Hollums, Jared Koukal, Kristina Soltys, and Sean Smith.

STAFF PRESENT:
Regan Bolli, City Manager; Andrew McCurdy, Covington Police Chief; Bob Lindskov, City Engineer; Gina Estep, Community Development Director; Casey Parker, Finance Director; Mark Orthmann, City Attorney; and Sharon Scott, Executive Assistant/City Clerk.

Mayor Wagner opened the meeting with the Pledge of Allegiance.

APPROVAL OF AGENDA:
The agenda was approved as presented.

PUBLIC COMMUNICATION:
• Alayna Galfo was awarded 2019 Youth Volunteer of the Year.
• Justin Metcalf was awarded 2019 Volunteer of the Year.
• Elizabeth Porter was awarded 2019 Commissioner of the Year.
• Several President’s Awards for Volunteerism were presented as follows:
  ➢ Police Volunteers: Stephanie Thomas and Terry Thomas receiving the Bronze award;
  ➢ Aquatics Volunteers: Dexter Marshall, Mahleen Dillon, and Rebecca Morrissey receiving the Silver award in the Teens category; and
  ➢ Parks and Recreation Volunteer: George Pearson receiving the Silver award.

Council recessed for a short reception for the award recipients from 7:15 p.m. to 7:32 p.m.

PUBLIC COMMUNICATION CONTINUED:
• Oakpointe Director of Development Colin Lund introduced Senior Project Manager Robert Schwindt who gave the Lakepointe 2019 Annual Report.

PUBLIC COMMENT:
Mayor Wagner called for public comments.

The following people gave public comment: Leroy Stevenson.
There being no further comments, Mayor Wagner closed the public comment period.

**APPROVE CONSENT AGENDA:**

C-1. Minutes: January 27, 2020 City Council Special Meeting Minutes.

C-2. Vouchers: ACH payments in the amount of $195.81, dated January 31, 2020; Vouchers #40350 - #40430, including ACH payments in the amount of $542,380.81, dated February 14, 2020; and Paylocity Payroll Vouchers #1011791810 - #1011791826 and #1011791830 inclusive, plus employee direct deposits and wire transfers, in the amount of $241,711.96, dated February 7, 2020.

C-3. Authorize City Manager to Approve Relocation Assistance Associated with Acquisition of Parcel 362205-9098 and 362205-9035 for Future Use as a Public Park (CIP 1019).

The consent agenda was approved as presented.

**REPORTS OF COMMISSIONS:**

- Economic Development Council – No report.
- Parks & Recreation Commission – Chair Laura Morrisey gave the report.
- Planning Commission – Vice Chair Elizabeth Porter gave the report.
- Youth Council – No report.
- Human Services Commission – Chair Leslie Hamada gave the report.
- Arts Commission – Member Patti Melton gave the report.

**NEW BUSINESS:**

1. Consider Appointment to Parks & Recreation Commission.

   Council Action: Councilmember Harjehausen moved and Councilmember Soltys seconded to appoint George Pearson to fill Position No. 6 on the Parks & Recreation Commission with a term expiring January 31, 2021. Vote: 7-0. Motion carried.

2. Authorize City Manager to Execute an Agreement with Atwork! Commercial Enterprise LLC for Landscape Installation in the 192nd Avenue SE Median.

   City Engineer Bob Lindskov gave the staff report on this item.

   Council Action: Mayor Pro Tem Smith moved and Councilmember Cimaomo seconded to authorize the City Manager to execute a Public Works Agreement with Atwork! Commercial Enterprise LLC for landscape installation in the median on 192nd Avenue SE, in substantial form as that provided in the agenda packet, with the additional funding being allocated from the Parks Reserve Fund. Vote: 7-0. Motion carried.
FUTURE AGENDA ITEMS:
Councilmembers reviewed future agenda items.

COUNCIL/STAFF COMMENTS:
Councilmembers and staff made comments.

PUBLIC COMMENT:
Mayor Wagner called for public comments.

The following people gave public comment: Mary Pritchard.

There being no further comments, Mayor Wagner closed the public comment period.

EXECUTIVE SESSION:
To Review the Performance of a Public Employee (RCW 42.30.110(1)(g)) from 8:50 to 9:05 p.m.

ADJOURNMENT:
There being no further business, the meeting was adjourned at 9:05 p.m.

Prepared by:      Submitted by:
__________________________________  ______________________________________
Joan Michaud      Sharon Scott
Senior Deputy City Clerk    City Clerk
Consent Agenda Item C-2
Covington City Council Meeting
Date: March 24, 2020

SUBJECT: APPROVAL OF VOUCHERS

RECOMMENDED BY: Casey Parker, Finance Director

ATTACHMENT(S): (Provided under separate cover.) Vouchers: Vouchers #40536 - #40623, including ACH payments in the amount of $433,063.09, dated March 13, 2020; and Paylocity Payroll Vouchers #1011922039 - #1011922053 and #1011922059 inclusive, plus employee direct deposits and wire transfers, in the amount of $227,137.35, dated March 6, 2020.

PREPARED BY: Casey Parker, Finance Director

CITY COUNCIL ACTION: ______ Ordinance ______ Resolution ______ Motion ______ Other

Councilmember _________ moves, Councilmember __________ seconds, to approve for payment Vouchers: Vouchers #40536 - #40623, including ACH payments in the amount of $433,063.09, dated March 13, 2020; and Paylocity Payroll Vouchers #1011922039 - #1011922053 and #1011922059 inclusive, plus employee direct deposits and wire transfers, in the amount of $227,137.35, dated March 6, 2020.
SUBJECT: AUTHORIZE THE CITY MANAGER TO EXECUTE A LEASE AGREEMENT
WITH THE KENT SCHOOL DISTRICT FOR LAND TO DEVELOP A FUTURE
MAINTENANCE FACILITY

RECOMMENDED BY: Regan Bolli, City Manager

ATTACHMENT(S):
1. Lease Agreement

PREPARED BY: Don Vondran, Public Works Director

EXPLANATION:
The Public Works Department is in need of a larger maintenance facility in order to conduct
operations. The current maintenance facility is too small to properly handle the maintenance and
operations of the city. The current facility has been in operation for over nine years, when it was
planned to be a five-year, temporary facility.

During the 2019 budget process, council allocated $998,185 towards a new maintenance facility. Public Works Staff has been working on finding an appropriate location. The Kent School District (KSD) has a piece of property that it is willing to lease to the city for 25 years for $1,000 a year. The location of the property is next to the Gerry Crick Skate Park and has frontage on 164th Avenue SE and SE 251st Street. The parcel number is 242205-9090. The proposed lease would only be for a portion of the property, the western 2.45 acres. The proposed leased property would be used in conjunction with the adjacent city-owned property of 0.60 acres to build a future maintenance facility on the accumulated 3.05 acres.

Finding a site large enough, at least three acres, that meets all the needs/requirements (zoning, access, affordability) has proven to be difficult. Staff would prefer that the city purchased property but feels that leasing is the best option currently available. The maximum lease period KSD would agree to was 25 years, in case the property is needed for a future KSD use. The lease agreement does have a tenant option for an additional 25 years but KSD and the city must agree to a new lease price. As growth occurs over the next 25 years, the Urban Growth Boundary will likely change and the KSD may be interested in other properties that better meet their needs at that time and allow the extension of the lease or allow the city to purchase this property.

Per RCW 28A.335.040(1), there is a recapture clause that schools are required to have in their lease agreements in case they need the property for school purposes. Staff was able to negotiate an eighteen-month recapture period to allow any structures/facilities to be moved in case the recapture clause is initiated.
FISCAL IMPACT:
The annual lease amount for the property is $1,000 per year. The lease payment will be split between the Street Fund, Surface Water Management Fund, and the Parks Maintenance Fund as the future maintenance facility will be serving all three divisions.

CITY COUNCIL ACTION:    ____ Ordinance    ____ Resolution    X Motion    ____ Other

Councilmember __________ moves, Councilmember ____________ seconds, to authorize the city manager to execute a lease agreement with the Kent School District for land to develop a future maintenance facility.

REVIEWED BY:  Finance Director, City Attorney, City Manager
CITY OF COVINGTON
GROUND LEASE

THIS GROUND LEASE, made on this _________ day of __________, 20__, between KENT SCHOOL DISTRICT, a Washington Municipal corporation, Landlord, and the CITY OF COVINGTON, a Washington Municipal corporation, Tenant.

The parties agree as follows:

1. PREMISES. For and in consideration of the mutual covenants and agreements hereinafter set forth, the sufficiency of which are hereby acknowledged, and the rental hereinafter provided for, the Landlord does hereby lease to Tenant, and Tenant does hereby lease from Landlord, those certain premises situated in the City of Covington, King County, Washington, described on Exhibit A attached hereto, hereinafter called the "premises." A map of the premises is attached hereto as Exhibit B and incorporated herein by reference. The premises consist of vacant land, which Tenant intends to develop as a maintenance facility (identified on Exhibit A as Land for Future Maintenance Facility) and the continued use of a portion of land for use as a skate park (identified on Exhibit A as Existing Skate Park) and related uses. This lease is subject to the conditions, restrictions and limitations, if any, now appearing of record; zoning ordinances of any appropriate governmental body; and the proper performance of the Tenant of all of the terms and conditions of this lease. Tenant shall have until June 1, 2020 to determine whether its proposed public works maintenance facility is an allowed use in the zone and provide notice of same to Landlord. If Tenant does not provide such notice by June 1, 2020, then the portions of this lease pertaining to same shall terminate and be of no effect.

2. TERM. The term of this lease shall be twenty-five (25) years commencing on ______, 20__, which date shall be referred to as the "Commencement Date" of this lease, and shall terminate on ______________. Tenant shall be deemed to have accepted possession of the premises on the Commencement Date.

3. OPTION TO EXTEND. The Tenant shall have the option to extend the lease one (1) time for a period of twenty-five (25) years under all of the terms and conditions of this lease provided that the Tenant gives written notice to the Landlord of its intention to exercise the option not less than one (1) year prior to the expiration of the initial twenty-five (25) year term, and further provided that the rent increase applicable during the extension term is agreed to by both parties prior to expiration of the initial term. Any further extensions of this lease are to be mutually agreed upon between the parties.

4. RENT. Tenant shall pay to Landlord as rental for said premises an annual rent of One Thousand Dollars ($1,000.00) payable upon execution of this lease and annually thereafter.

5. USE OF PREMISES. Tenant shall use the premises only for the following purposes:
   a. providing for a park and other recreational services to the public,
   b. a public works maintenance facility.
Tenant shall not use the premises for commercial activity or for any other purpose in addition to a. and b. without written consent of the Landlord. No act shall be done on the premises that is unlawful or that will increase the then existing rate of insurance on the premises or any improvements thereon. Landlord acknowledges that the uses in a. and b. above do not violate the preceding sentence. Tenant shall not commit or allow to be committed any waste upon the premises, or any public or private nuisance. Tenant shall comply with all laws relating to its use or occupancy of the premises.
6. **CONSTRUCTION OF IMPROVEMENTS.** In addition to the existing skate park, Tenant shall, at its own cost and expense, design and construct improvements and buildings on the premises, including, but not limited to a public works maintenance facility and skate park amenities (the "improvements"). Said improvements shall be in compliance with the regulations and requirements of and be approved by any other applicable federal, state, or local agencies and Tenant shall obtain all required permits and other governmental approvals necessary for construction of the improvements. Prior to construction, the plans and specifications for such improvements shall be approved by the Landlord. Such approval shall not be unreasonably withheld. Landlord shall provide a written response stating approval or disapproval within thirty calendar days of receipt of the plans and specifications. Plans and specifications shall be deemed approved by Landlord if no written response is provided to Tenant within the thirty-day review. Any approval by Landlord shall not under any circumstances be construed as a waiver by Landlord of any other rights under this agreement or as otherwise provided by law.

7. **"AS-IS" CONDITION.** Landlord has made no representation whatsoever with respect to the premises and said premises are hereby leased to Tenant in an "as is" condition as of the time of the Commencement Date of this lease. Tenant represents that prior to the Commencement Date, it has performed, at its costs, a Phase II environmental analysis and determined that the premises are suitable for the improvements and Tenant is relying solely upon its judgment in connection making this determination. Not later than thirty days after Commencement Date, Tenant shall provide a complete copy of its Phase II analysis to Landlord.

8. **CONSTRUCTION BOND.** Prior to commencing construction of any improvements, Tenant shall procure from its contractor, for delivery to the Landlord, a good and sufficient payment and performance bond for construction of the improvements. Said bond shall be in the amount of the contract price for the complete construction of the improvements and shall name the Landlord and Tenant as the co-obligee(s).

9. **OWNERSHIP OF IMPROVEMENTS.** Subject to the related provisions of this lease, during the lease term the improvements constructed by Tenant shall not become part of the premises and shall remain with Tenant during the term of the lease.

10. **UTILITIES.** Tenant, at its own expense, shall construct any sewer lines and storm drainage facilities required for any improvements placed upon the premises. Tenant shall also install separate meters for electricity, water and other utilities serving the premises and Tenant hereby covenants and agrees to pay all charges for heat, light, water, sewer, and for all other public utilities which shall be used in or charged against the leased premises during the full term of this lease.

11. **ASSESSMENTS.** All current or future real estate assessments, whether special or general, including, but not limited to, local improvement districts for sewer, storm water, roads or any other public improvements with respect to the real property owned by Landlord, of which a portion is leased by the Tenant hereunder, shall be paid by Tenant on a pro-rated basis based upon the square footage of the premises in relation to the tax parcel owned by Landlord of which the premises is a part.

12. **LIABILITY INSURANCE.** Tenant shall procure and maintain or cause to be procured and maintained public liability insurance, insuring Tenant and Landlord against all claims or actions arising from or incident to the business or activities conducted by Tenant, its subtenants, licensees or concessionaires, in or about the premises or improvements thereon, or from any act or negligence of Tenant, its agents, employees, invitees, licensees, or other persons entering upon or performing any act relating to the premises. Such insurance shall be a combined single interest policy in an amount not less than Five Million Dollars (5,000,000.00) per occurrence. In lieu of the
insurance requirements as stated in Section 13, Tenant represents and warrants to Landlord that (a) Tenant is a member of the Washington Cities Insurance Authority (WCIA), which is a self-insured pool of 106 municipal corporations in the State of Washington, and (b) WCIA has at least $5,000,000 per occurrence of liability coverage that is applicable in the event an incident occurs that is deemed attributed to the negligence of a member.

13. PROPERTY INSURANCE. Tenant shall obtain and keep in force a policy or policies of insurance covering loss or damage to the improvements on the premises in an amount of the full replacement value thereof. Tenant’s membership in WCIA is acknowledged by Landlord to satisfy this requirement.

14. INDEMNITY. Tenant shall indemnify and save Landlord harmless against any and all claims of third parties, damage and expenses, including attorney’s fees and costs, arising from or incident to the use of the premises by Tenant, its subtenants, licensees or concessionaires in or about the premises, or from any act or negligence of Tenant, said parties, its agents, employees, invitees, licensees or other persons, with or without authority of Tenant, in entering upon or performing any act relating to the leased premises. If any such claim or action is brought against Landlord, Tenant shall assume all responsibility for the defense thereof with counsel designated by Tenant and approved by Landlord.

15. MAINTENANCE. At the sole cost and expense of Tenant, Tenant shall at all times keep the premises and improvements in good and clean order and condition and in accordance with the laws of the State of Washington and all directions, rules, and regulations of the health officer, fire marshal, building inspector, or other proper officer of any pertinent and authorized public authority. Tenant shall arrange for garbage pickup and disposal and custodial service such that the premises are in good and clean order and condition. Tenant will be responsible to keep trash free, the grounds within ten (10) feet of any fence lines/play structures and other park facilities as well as the parking area serving the Tenant's use, and Tenant will permit no waste, damage, or injury to the premises. Landlord shall not be required to maintain, alter or repair any part of the premises or the improvements.

16. RIGHT OF INSPECTION. Landlord shall have the right to inspect the premises and improvements during reasonable hours at any time during the term of this lease to insure compliance with the provisions of this lease.

17. LIENS AND INSOLVENCY. Tenant shall keep the leased premises and the property in which the leased premises are situated, free from any liens arising out of any work performed, materials furnished, or obligations incurred by Tenant. In the event Tenant becomes insolvent, voluntarily or involuntarily bankrupt, or if a receiver, assignee, or other liquidating officer is appointed for the business of the Tenant, then the Landlord may cancel this lease at Landlord's option.

18. ASSIGNMENT. Tenant shall not, without the written consent of the Landlord, let or sublet the whole or any part thereof, nor assign this lease or any part thereof without the written consent of the Landlord. This lease shall not be assignable by operation of law. If consent is once given by the Landlord to the assignment of this lease, or any interest therein, Landlord shall not be barred from afterwards refusing to consent to any further assignment.

19. GOVERNMENT FEES. All fees due the city, county, or state on account of any inspection made on said leased premises by any officer thereof, shall be paid by Tenant.
20. SIGNS. All signs or symbols placed anywhere on the leased premises shall be removed by Tenant at the termination of the tenancy. All signs shall meet applicable zoning ordinances of the City of Covington.

21. DEFAULT AND REENTRY. If any rents above reserved, or any part thereof, shall be and remain unpaid when the same shall become due, or if Tenant shall violate or default in any of the covenants and agreements herein contained, then the Landlord may cancel this lease upon giving the notice required by law, and thirty days' advance written notice of the breach. If the breach is not cured within thirty days of the advance written notice, Landlord may re-enter said premises and this lease shall terminate.

22. CONDEMNATION.
   a. **Complete Condemnation.** It is understood that, if at any time during the term of this lease, the leased real estate or a substantial portion thereof shall be taken, appropriated or condemned by reason of eminent domain or threat of eminent domain, then, and in such event, said Lease shall terminate and the rental shall be prorated and adjusted as of the date of such taking. The entire award with reference to the value of land condemned shall belong to Landlord; provided, however, there shall be such division of proceeds and awards in such condemnation proceedings and such abatement of the rent and other adjustments made as shall be just and equitable under the circumstances. The value of the buildings condemned shall be allocated between Landlord and Tenant as is equitable according to their interests. If the Landlord and the Tenant are unable to agree upon what division, annual abatement of rent or other adjustments as are just and equitable within thirty (30) days after such award has been made, then the matters in dispute shall be submitted to arbitration according to applicable American Arbitration Rules, each party to bear one half cost of Arbitrator and all of their own costs for determination of the matters in dispute.
   
   b. **Partial Condemnation.** In the event only a portion of the leased premises is taken which does not substantially affect Tenant's intended use of the property, then, and in such event, the ground lease rental for the remaining term of the Lease shall be adjusted proportionately to reflect the portion of the leased premises taken.

23. HAZARDOUS WASTE.
   a. The public works maintenance facility on the premises will use and store materials that meet the definition of hazardous materials. Tenant warrants and represents that it will store and use all such materials in accord with all applicable state, local and federal laws and regulations pertaining to hazardous waste. Tenant agrees to indemnify and hold harmless Landlord from any and all losses, claims, liabilities, fines, costs, and expenses, including attorneys' fees and costs, arising out of the Tenant's breach of this paragraph.

   b. Upon the expiration or earlier termination of this lease, Tenant shall perform, at its costs, a Phase II environmental analysis. If the results of this Phase II analysis exceed the hazardous waste contaminations levels shown in the Phase II results from section 7, Tenant shall cause the premises to be cleaned to the same or better levels shown in the section 7 Phase II analysis.

   c. This provision shall survive the expiration or earlier termination of this lease and the surrender of premises by Tenant. Hazardous waste is defined as any substance defined as hazardous waste under Chapter 70.105B of the laws of the State of Washington, or any other substance defined as hazardous waste under the Superfund Act, the Carpenter-Presley-Tanner Hazardous Substance Account Act, the Resource Conservation and Recovery Act of 1978 and the Toxic Substances Control Act, or any
other federal, state or local environmental statutes, regulations or ordinances regulating hazardous or toxic substances or wastes.

24. REMOVAL OF PROPERTY. During the term or at the expiration of this lease, or any renewal thereof, Tenant may, at its sole expense, remove its personal property and all structures and improvements to the leased premises, but upon the expiration or earlier termination of this lease, if said property has not been removed by Tenant within sixty (60) days, then all interest therein shall become the property of Landlord, at Landlord’s option. Landlord shall have the right, but not the obligation, to remove or require Tenant to remove from the leased premises all personal property located thereon, or some or all of the temporary structures located thereon, at the expiration or termination of this lease and if the character of the property is such as to permit storage, may store the same in any place selected by Landlord, at the expense or risk of the owner thereof, with the right to sell such stored property, without notice to Tenant, after is has been stored for a period of thirty (30) days or more. The proceeds of such sale shall be Landlord’s to use as Landlord sees fit. Costs of removal will be borne by Tenant.

25. PERSONAL PROPERTY TAXES. Tenant shall pay promptly when due all taxes assessed during the term of this lease upon Tenant’s fixtures, furnishings, equipment, and stock in trade, upon Tenant’s leasehold interest under this lease, or upon any other personal property situated in or upon the leased premises. In the event any governmental authority, during the term of this lease or any extension thereof, shall levy any tax upon rentals, this lease or any part thereof, then Tenant shall promptly pay such charge, even though such tax may be a liability of the Landlord, and any such payment made by Tenant hereunder shall be considered additional rent.

26. COSTS AND ATTORNEY FEES. In any action arising between the parties to this lease, the prevailing party shall be entitled to recover from the other a reasonable attorney’s fee and all costs and expenses incurred in such action.

27. NONWAIVER OF BREACH. The failure of Landlord to insist upon strict performance of any of the covenants and agreements of this lease, or to exercise any option herein conferred in any one or more instances, shall not be construed as a waiver or relinquishment of any such, or any other covenants or agreements, but the same shall be and remain in full force and effect.

28. NOTICES. Any notices hereunder shall be in writing, shall be sent by first class, registered or certified, U.S. mail, postage prepaid, and shall be deemed to be given two (2) days after the day of mailing, addressed:

   a. If to Tenant, at the following address:

       Public Works Director  
       City of Covington  
       16720 SE 271st Street, Suite 100  
       Covington, WA 98042

   b. If to Landlord, at the following address:

       Kent School District  
       Attn: Capital Planning Team  
       12033 SE 256th St., A600  
       Kent, WA 98031-6643

29. JURISDICTION, VENUE AND GOVERNING LAW. The parties hereto, their
successors and assigns, hereby consent to the jurisdiction and venue of the King County Superior Court, State of Washington, for the determination of any dispute that may arise pursuant to the terms of this lease and other agreements contained herein. All the rights and remedies of the respective parties shall be governed by the provisions of this instrument and by the laws of the State of Washington as such laws relate to the respective rights and duties of commercial Landlords and Tenants.

30. PARAGRAPH HEADINGS. The paragraph headings used in the lease are for the convenience of the parties. In the event of a conflict between a paragraph heading and the text of a particular paragraph, the written text shall prevail.

31. HEIRS AND SUCCESSORS. Subject to the provisions hereof pertaining to assignment and subletting, the covenants and agreements of this lease shall be binding upon the heirs, legal representatives, successors, and assigns of any or all of the parties hereto.

32. LANDLORD’S RECAPTURE RIGHT. Landlord reserves the right to recapture the premises, in whole or in part, pursuant to RCW 28A.335.040(1) if needed for school purposes, and shall give written notice to Tenant at least eighteen (18) months prior to the effective date that such recapture shall occur. Recapture shall work a termination of this Lease as to the whole of the premises or that portion recaptured, and the provision of paragraph 24 shall apply to Tenant’s property.

IN WITNESS WHEREOF, the parties hereto have executed this lease the day and year first above written.

[Signature page follows]
Landlord: KENT SCHOOL DISTRICT

Tenant: CITY OF COVINGTON

By ______________________

By ______________________

Its: ______________________

Its: ______________________

STATE OF WASHINGTON )
) ss.
COUNTY OF ________________ )

I certify that I know or have satisfactory evidence that __________________________ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the __________________of ________________to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: ______________________

Notary Public
Print Name _____________________________
My commission expires ____________________________

(Use this space for notarial stamp/seal)

STATE OF WASHINGTON )
) ss.
COUNTY OF KING )

I certify that I know or have satisfactory evidence that __________________________ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the __________________of ________________to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: ______________________

Notary Public
Print Name _____________________________
My commission expires ____________________________

(Use this space for notarial stamp/seal)
EXHIBIT “A”

Parcel No.: 2422059090
Owners Name: Kent School District
FUTURE MAINTENANCE FACILITY LEASE AREA

LEGAL DESCRIPTION OF GRANTOR’S PARCEL

W 777.7 FT OF S 278.7 FT OF NW QTR SW QTR STR 24-22-05 EXC N 70 FT OF W 417.07 FT THEREOF; AND EXC S 70 FT OF W 130 FT THEREOF; AND EXC PORTION THEREOF CONVEYED TO KING CO FOR ROAD PURPOSES BY DEED UNDER RECORDING NO 4485559; AND EXC W 15 FT THEREOF CONVEYED TO CITY OF COVINGTON BY DEED UNDER RECORDING NO 20060605001698

LEGAL DESCRIPTION OF LEASE AREA

The above described parcel less the easterly 235.63 feet.

Contains: 106,828 Square Feet, more or less.
EXHIBIT “A”

Parcel No.: 2422059105
Owners Name: Kent School District
SKATE PARK LEASE AREA

LEGAL DESCRIPTION OF GRANTOR’S PARCEL

N 363 FT OF SW QTR SW QTR STR 24-22-05 EXC W 30 FT THEREOF FOR COUNTY ROAD; AND EXC W 15 FT THEREOF CONVEYED TO CITY OF COVINGTON BY DEED UNDER RECORDING NO 20060605001697

LEGAL DESCRIPTION OF LEASE AREA

The northerly 65 feet of the westerly 82 feet of the above described parcel.

Contains: 5,330 Square Feet, more or less.
SUBJECT: AUTHORIZE CITY MANAGER TO EXECUTE A DECLARATION OF RESTRICTIVE COVENANTS FOR SOCO PARK PARCEL 362205-9098 PURSUANT TO GRANT FUNDING SOURCE.

RECOMMENDED BY: Ethan Newton, Parks and Recreation Director

ATTACHMENT(S):
1. Declaration of Restrictive Covenants

PREPARED BY: Ethan Newton, Parks and Recreation Director

EXPLANATION:
The city has an interlocal agreement with King County that allows Conservation Futures Tax Levy (CFT) funds be allocated towards suitable open space acquisition projects in the city. $808,979 of CFT funding has been approved and used to purchase parcels #2 and #3 at SoCo Park. A condition of using these funds to purchase a property is to record a declaration of restrictive covenants on said property, subject to open space use restrictions and restrictions on alienation as specified in RCW 84.34.200, et seq., and King County Code 26.12.005, et seq. In this instance, parcel 362205-9098 will be the property receiving the recording declaration of restrictive covenants.

ALTERNATIVES: None

FISCAL IMPACT: None

CITY COUNCIL ACTION: _____Ordinance _____Resolution ___X__Motion _____Other

Council member _____________ moves, Council member _____________ seconds, to authorize the City Manager to execute a Declaration of Restrictive Covenants for SoCo Park parcel 362205-9098 in substantial form as presented.

REVIEWED BY: Finance Director, City Attorney, City Manager

20 of 120
Declaration of Restrictive Covenants

City of Covington, a Political Subdivision of the State of Washington, is the owner of a real estate located in King County, State of Washington more particularly described in Exhibit A attached hereto and made part hereof (the “Property”).

The purpose of this instrument is to place of record those certain Restrictive Covenants, which pursuant to certain grant funding sources made available to City of Covington to acquire said Property require that the property be restricted to uses in accordance with the funds used to purchase said property. Said Restrictive Covenants should have been included in that deed recorded under recording No. 20191219000598 between Virginia R. Smith and City of Covington (Grantee).

Therefore the Property is hereby subject to the following Restrictive Covenants:

The property herein conveyed was purchased with King County Conservation Futures Tax Levy funds and is subject to open space use restrictions and restrictions on alienation as specified in RCW §84.34.200, et seq., and King County Code §26.12.005, et seq.

In witness whereof City of Covington has set its hand and seal this ____ day of __________________, 20__.

City of Covington
a Political Subdivision of the State of Washington

By: _____________________________
Title: ____________________________

STATE OF WASHINGTON )
COUNTY OF KING ) SS.

I certify that I know or have satisfactory evidence that __________________ is the person who appeared before me, and said person acknowledged that __he signed this instrument, on oath stated that __he is authorized to execute the instrument and acknowledged it as the ______________________ of City of Covington to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____________________

______________________________
Printed name

______________________________
Notary Public in and for the State of Washington
Residing at ___________________

My appointment expires _______
Exhibit A

Legal Description

The Northeasterly 100 feet of that portion of the Southwest quarter of the Northeast quarter and
the Southeast quarter of the Northwest quarter of Section 36, Township 22 North, Range 5 East,
Willamette Meridian, in King County, Washington, described as follows:

Beginning at a point in the center line of the County Road No. 962, which point is 1253.4 feet
Southwesterly from the intersection of the said center line with the East and West center line of
the Northwest Quarter of the Northeast Quarter of said Section 36;
Thence Southeasterly at right angles to said road center line, 400 feet;
Thence Southwesterly parallel with said road center line 400 feet;
Thence Northwesterly at right angles to said road center line 400 feet;
Thence Northeasterly along said road center line 400 feet to the point of beginning;

EXCEPT County Road No. 962.
SUBJECT: PROPOSED RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH KIM HUNTER LAW FOR THE PROVISION OF PROSECUTION SERVICES.

RECOMMENDED BY: Regan Bolli, City Manager

ATTACHMENT(S):
1) Proposed Resolution with Exhibit A - Proposed Professional Services Agreement

PREPARED BY: Sharon Scott, City Clerk/Executive Assistant

EXPLANATION:
Attorney Kim Hunter has provided prosecutorial services for the City of Covington since January 1, 2020 and desires to continue to provide the City with prosecution services. The City desires to enter into a contractual relationship with Kim Hunter Law for prosecution services through December 31, 2020. The City and Kim Hunter Law have negotiated contract terms that are acceptable to both parties. That proposed contract is attached as Exhibit A to the proposed resolution.

ALTERNATIVES:
1. Enter into a contract for prosecution services with another law firm.

FISCAL IMPACT: None.

CITY COUNCIL ACTION: ___Ordinance ___X__Resolution ___Motion ___Other

Councilmember __________ moves, Councilmember __________ seconds, to pass a Resolution authorizing the City Manager to execute an agreement with Kim Hunter Law for the provision of prosecution services.

REVIEWED BY: City Manager, City Attorney, Finance Director
RESOLUTION NO. 2020-___

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COVINGTON, KING COUNTY, WASHINGTON, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH KIM HUNTER LAW FOR THE PROVISION OF PROSECUTION SERVICES.

WHEREAS, Kim Hunter Law provided prosecutorial services for the City of Covington from January 1, 2020 to present; and

WHEREAS, the City wishes to continue receiving its prosecuting services from Kim Hunter Law on a contract basis; and

WHEREAS, the City has determined that it would be in the best interests of the City to contract with Kim Hunter Law;

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Covington, King County, Washington, as follows:

Section 1. The City Manager is hereby authorized to execute a contract with Kim Hunter Law for provision of prosecution services, in the form attached hereto as Exhibit “A.”

PASSED in open and regular session on this 24th day of March, 2020.

_______________________
Mayor Jeff Wagner

Attested:

______________________________
Sharon Scott, City Clerk

APPROVED AS TO FORM:

______________________________
Mark Orthmann, City Attorney
PROFESSIONAL SERVICES AGREEMENT
FOR PROSECUTION SERVICES

WHEREAS the Prosecutor has been licensed to practice law in the State of Washington and has been previously acting as the contract Prosecutor for the City of Covington, and

WHEREAS the Prosecutor has the demonstrated ability to provide high quality legal representation for the City in the City of Covington and the King County District Court in a professional, skilled manner consistent with minimum standards set forth by the American Bar Association, applicable state bar association standards, the Rules of Professional Conduct, case law and applicable court rules defining the duties of counsel and the rights of defendants in criminal cases; and

WHEREAS the City Council finds that it is in the best interests of the public that the City retain the services of the Prosecutor;

NOW THEREFORE, in consideration of the mutual promises and obligations hereinafter set forth, the parties hereto agree as follows:

1. Parties

This Agreement is entered into between the City of Covington, King County, Washington (“City”), and Kim Hunter Law (“Prosecutor”); collectively, the “Parties.”

2. Term

This Agreement is effective as of the date both Parties sign the Agreement. This Agreement shall extend through December 31, 2020.

3. General description of services

Prosecutor has been retained by the City to provide professional legal services in Covington as required.

4. Scope of Work

A. Prosecutor agrees to provide all necessary prosecution services to the City of Covington, including:
1) Providing advice to Covington Police Officers (KCSO) on matters relating to criminal law and proper procedures for enforcing the law;
2) Reviewing police reports for determination of probable cause and charging;
3) Drafting and filing criminal complaints and probable cause statements as necessary;
4) Appearing at arraignments, pretrial hearings, and motions;
5) Initiating settlement discussions and plea negotiations;
6) Handling all phases of jury trials; (see below)
7) Drafting briefs and motions;
8) Appearing at sentencing and review hearings;
9) Tracking case dispositions, including reasons for declining to prosecute particular cases;
10) Appearing on infractions where the violator has retained legal counsel;
11) Responding to and appearing on behalf of the City in RALJ appeals;
12) Handling code enforcement cases as requested by the City.

B. The services performed by the Prosecutor shall not exceed the Scope of Work without prior written authorization from the City.

C. The City may from time to time require changes or modifications in the Scope of Work. However, such changes, including any decrease or increase in the amount of compensation, shall be agreed to by the parties and incorporated in written amendments to this Agreement.

5. Schedule of Work and Continuity of Representation

A. It is agreed by the parties that continuity of representation is very important for effective prosecution. Therefore, Kim Hunter shall be the primary person providing services under this Agreement and she shall make good faith efforts to be personally present for all court hearings unless she is unable to appear due to vacation, illness, emergency, or occasional scheduling conflicts. Prosecutor shall make good faith efforts to ensure that there is continuity of representation in choice of substitute prosecutors and that she thoroughly prepare all cases for the substitute prosecutor.

B. Prosecutor shall appear for all regularly scheduled court hearings to perform the services described in the Scope of Work.

C. As of the effective date of this Agreement, Prosecutor shall be required to appear in Court three calendar days, currently Tuesdays, each month. Jury trials, an additional criminal calendar in months with five Tuesdays, and other special hearings that may require occasional additional appearances and compensation for those appearance as addressed below.

D. Prosecutor agrees and understands that, while the City will make good faith efforts to consult with Prosecutor prior to changing the schedule of court hearings, and will
take Prosecutor’s needs into accounts, the City will have final discretion to alter the scheduling of court hearings and it shall be Prosecutor’s responsibility to ensure such hearings are covered by Prosecutor.

E. In the event the prosecution of any person would constitute a conflict of interest for the Prosecutor pursuant to the Washington State Bar Association Rules of Professional Conduct, the Prosecutor shall not prosecute such person and the City shall be responsible for the cost of outside legal representation for the City.

6. Compensation

   A. Base Rate. The City shall pay the Prosecutor a base rate of $5,500 per month for performing all services necessary to effectively prosecute violations of the Covington Municipal Code and for representing the City on infraction cases where the violator has retained counsel. This amount shall include all in court and out of court work (including but not limited to clerical staff, office rent, photocopies and letters; mailing costs; telephone expenses), training for law enforcement, travel and attendance at necessary meetings. Prosecutor, at her expense, shall obtain and keep in force any and all necessary licenses and permits.

   B. Additional Calendars: In the event that there is a fifth criminal calendar scheduled in a calendar month, the extra calendar day shall be compensated at the rate of $1,500 to cover the preparation of all cases set for that day and appearance at that calendar unless it is a half-day calendar, in which compensation will be $800. The same applies in the event that there is a trial scheduled on the City’s designated trial day. Except that the prosecutor shall only be compensated $1,500 for such trial even if the trial extends beyond one day.

7. Payment

   A. Base Rate. The Prosecutor shall be required to submit an invoice by the 1st of each month for the preceding month’s services. Payment of the base rate shall be made on the tenth (10th) day of every month for the preceding month of services, unless the 10th falls on a weekend or holiday, in which case payment by be made on the first business day following. Should this Agreement be terminated before the end of a full month, the base rate shall be prorated by subtracting payment for any scheduled courts days where Prosecutor failed to appear.

   B. Records Retention. Prosecutor shall keep cost records and accounts pertaining to this Agreement available for inspection by City representatives for three (3) years after final payment unless a longer period is required by a third-party agreement. Copies shall be made available on request.
9. Notices

All notices required by this Agreement shall be considered properly delivered when personally delivered, when received by facsimile, or on the third day following mailing, postage prepaid, certified mail, return receipt requested to:

City:  
City of Covington  
16720 SE 271st St #100  
Covington, WA 98042-4964  
Contact: City Manager, City of Covington  
Phone: 253-480-2400  
Fax: 253-480-2401

Prosecutor:  
Kim Hunter Law  
13036 SE Kent Kangley Rd #455  
Kent, WA 98030  
Contact: Kim Hunter  
Tax I.D.#45-0842466  
Phone: 253-709-5050  
Fax: 253-397-3520  
kim@khunterlaw.com

It is the responsibility of Prosecutor to notify the City in writing if the contact information appearing above should change.

10. Discrimination and Compliance with Laws

A. Prosecutor agrees not to discriminate against any employee or applicant for employment or any other person in the performance of this Agreement because of race, creed, color, national origin, marital status, sex, age, disability, or other circumstance prohibited by federal, state, or local law or ordinance.

B. Prosecutor shall comply with all federal, state, and local laws and ordinances applicable to the work to be done under this Agreement.

C. Violation of Section 10 shall be a material breach of this agreement and grounds for cancellation, termination, or suspension of the Agreement by City, in whole or in part, and may result in ineligibility of Prosecutor to do further work for City.

11. Termination of Agreement

A. Termination without fault. Either party may terminate this Agreement upon a minimum of ninety (90) days’ advance notice to the other party. Such notice shall indicate the date of termination.

B. Termination for cause. The City may terminate the Prosecutor’s contract for “cause” (as defined in this section) immediately upon written notice to the Prosecutor. Such notice shall specify in reasonable detail the nature of the cause.
For purposes of this Agreement, “cause” shall include, without limitation: (1) material breach of this Agreement; (2) failure to satisfactorily perform her responsibilities and job duties; (3) unethical practices as set forth in the Rules of Professional Conduct; (4) loss of license to practice law in the state of Washington; or (5) fraudulent or dishonest conduct. The City shall have the sole discretion to determine whether there is cause to terminate the Prosecutor’s services under this Agreement.

12. Standard of Care

Prosecutor represents and warrants that he or she, and any agents used to perform services under this Agreement, has the requisite training, skill and experience necessary to provide the services described herein and is appropriately accredited and licensed by all applicable agencies and governmental entities. Services provided under this Agreement shall be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing in similar circumstances. All obligations and services of Prosecutor undertaken pursuant to this agreement shall be performed diligently and completely in a professional, skilled manner consistent with minimum standards set forth by the American Bar Association, applicable state bar association standards, the Rules of Professional Conduct, case law and applicable court rules defining the duties of counsel.

13. Indemnification/Hold Harmless

Prosecutor shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Prosecutor in performance of this Agreement, provided however, that such provision shall not apply to the extent that damage or injury results from the fault of the City or its officers, other agents, or employees. “Fault” as used herein shall have the same meaning as set forth in RCW 4.22.015.

14. Insurance

The Prosecutor shall procure and maintain for the duration of the Agreement professional liability insurance from a company licensed to do business in the State of Washington with limits no less than $500,000 per claim and $500,000 policy aggregate limit. This policy shall be written to insure Prosecutor and its agents, representatives, and employees.

15. Assigning or Subcontracting
This agreement may not be assigned by either party without the express written consent of the other party, and said consent can be withheld in that parties’ sole discretion.

16. Independent Contractor

Prosecutor is and shall be at all times during the term of this Agreement an independent contractor. Prosecutor acknowledges that she is responsible for the payment of all charges and taxes applicable to the services performed under this agreement, and Prosecutor agrees to comply with all applicable laws regarding the reporting of income, maintenance of insurance and records, and all other requirements and obligations imposed as a result of the Prosecutor’s status as an independent contractor. If the City is assessed, liable or responsible in any manner for those charges or taxes, Prosecutor agrees to hold the City harmless from those costs, including attorneys’ fees.

This agreement shall be for the sole benefit of the parties hereto, and nothing contained herein shall create a contractual relationship with, or create a cause of action in favor of, a third party against either party hereto.

17. Governing Law and Venue for Disputes

Any action for claims arising out of or relating to this Agreement shall be governed by the laws of the State of Washington. Venue shall be in King County, Washington.

18. Attorneys’ Fees

In any suit or action instituted to enforce any right granted in this Agreement, each party shall be responsible for its own costs, disbursements, and attorneys’ fees.

19. Extent of Agreement/Modification

This Agreement represents the entire Agreement between the parties and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended or modified only by express written consent of both parties. The headings in this Agreement are inserted for convenience only and shall not affect the interpretations of this Agreement.
20. Severability

In any term or provision of the Agreement is held invalid, the remainder of such terms or provisions of this Agreement shall not be affected, if such remainder would then continue to confirm to the terms and requirements of applicable law.

21. Interpretation and Fair Construction of Contract

This Agreement has been reviewed and approved by each of the parties. In the event it should be determined that any provision of this Agreement is uncertain or ambiguous, the language in all parts of this Agreement shall be in all cases construed as a whole according to its fair meaning and not strictly construed for, nor against, either party.

22. Waiver of Breach

The failure of any Party hereto to insist upon strict performance of any of the covenants and agreements herein contained, or to exercise any option or right herein conferred, in any one or more instances, shall not be construed to be a waiver or relinquishment of any such option or right or of any other covenants or agreement, but the same shall be and remain in full force and effect.

BY ITS SIGNATURE BELOW, EACH PARTY ACKNOWLEDGES HAVING READ AND UNDERSTOOD THE TERMS AND CONDITIONS OF THIS AGREEMENT AND AGREES TO BE BOUND BY THEM.

CITY OF COVINGTON
Regan Bolli

By: ________________________
Print Name: ________________________
Title: ________________________
Date: ________________________

PROSECUTOR
Kim Hunter

By: ________________________
Print Name: ________________________
Title: ________________________
Date: ________________________
C. **Dispute over Services.** If the services rendered do not meet the requirements of the Agreement, Prosecutor will correct or modify the work to comply with the Agreement. City may withhold payment for such work until the work meets the requirements of the Agreement.

D. **Deductions.** In the event the Prosecutor fails to pay any taxes, assessments, penalties, or fees imposed by any governmental body, including a court of law, arising out of services rendered hereunder, then the Prosecutor authorizes the City to deduct and withhold or pay over to the appropriate governmental body those unpaid amounts upon demand by the governmental body. It is agreed that this provision shall apply to taxes and fees imposed by City ordinance, if any. Any such payments shall be deducted from the Prosecutor's total compensation.

8. **Contract Administration and Management.**

   A. The City of Covington ("City Manager") or his or her designee shall have primary responsibility for administering services to be performed by the Prosecutor and shall coordinate all communications between the Prosecutor and the City. The City Manager, or his/her designee, shall be responsible for evaluation of Prosecutor performance. Supervision and evaluation efforts may include in-court observations and periodic conferences.

   B. Prosecutor, at such times and in such form as the City may require, shall maintain a case reporting and management information system that includes number and type of cases, attorney hours, and disposition of cases and shall furnish the City with periodic reports pertaining to the work and services undertaken pursuant to this agreement. The Prosecutor will make available to the City all work-related accounts, records and documents for inspection, auditing, or evaluation during normal business hours in order to assess performance, compliance, and/or quality assurance under this agreement; provided, that any such system shall be maintained independently from client files so as not to disclose personal or privileged information.

   C. The Prosecutor shall not assign, subcontract, delegate, or transfer any obligation, interest or claim to or under this agreement or for any of the compensation due hereunder without the prior written consent of the City; provided that, any counsel associated with or employed by the Prosecutor shall have the authority to perform the services called for herein, and Prosecutor may employ associated counsel to assist her at Prosecutor's expense. The Prosecutor and any other attorneys retained pursuant to this Agreement shall be admitted to practice pursuant to the rules of the Supreme Court of the State of Washington and shall meet the standards set forth herein.
SUBJECT: CONFIRM AND ADOPT CITY OF COVINGTON PROCLAMATION OF EMERGENCY IN RESPONSE TO COVID-19

RECOMMENDED BY: Regan Bolli, City Manager

ATTACHMENT(S):
1) City of Covington Proclamation of Emergency, dated March 12, 2020

PREPARED BY: Krista Bates, Executive Assistant/Deputy City Clerk

EXPLANATION:
On March 12, 2020, the City of Covington City Manager, Regan Bolli, issued a Proclamation of Emergency authorizing the city to exercise its emergency powers to prepare for and respond to the COVID-19 emergency.

The Proclamation of Emergency authorizes the city manager to exercise the powers vested under RCW 38.52.070(2) in the light of the exigencies of an extreme emergency situation without regard to time-consuming procedures and formalities prescribed by law (excepting mandatory constitutional requirements), including, but not limited to, budget law limitations, requirements of competitive bidding and publication of notices, provisions pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, the purchase of supplies and materials, the levying of taxes, and the appropriation and expenditures of public funds.

The proclamation will expire unless the Covington City Council confirms and adopts the proclamation.

ALTERNATIVES: Allow the emergency proclamation to expire.

FISCAL IMPACT: Unknown; however, the city manager is authorized under the Proclamation of Emergency to spend funds that have not otherwise been appropriated by the council in the adopted budget.

CITY COUNCIL ACTION: ____ Ordinance ____ Resolution X Motion ____ Other

Councilmember _______ moves, Councilmember _______ seconds, to confirm and adopt the March 12, 2020 City of Covington Proclamation of Emergency in response to COVID-19.

REVIEWED BY: City Manager, City Attorney
CITY OF COVINGTON PROCLAMATION OF EMERGENCY

WHEREAS, the City of Covington Municipal Code ("CMC") Section 2.50.050 authorizes the city manager to exercise all powers granted under Chapter 38.52 RCW, Emergency Management; and

WHEREAS, federal, state, regional, and local emergency management officials have reported that multiple patients in the region have tested positive for the novel coronavirus ("COVID-19"), and the Centers for Disease Control and Prevention has issued warnings regarding the impacts and severity of this event; and

WHEREAS, on January 31, 2020, the United States Department of Public Health and Human Services Secretary declared a public emergency for COVID-19 beginning on January 27, 2020; and

WHEREAS, on February 29, 2020, the Governor of the State of Washington proclaimed a state of emergency in response to COVID-19 in all counties in the State of Washington; and

WHEREAS, on March 1, 2020, the King County Executive proclaimed an emergency in King County in response to COVID-19; and

WHEREAS, COVID-19 is a respiratory disease that can cause serious illness or death, and can easily spread from person to person; and

WHEREAS, the protection of the lives, public peace, safety and welfare of the residents of Covington during this outbreak of COVID-19 is of utmost importance; and

WHEREAS, measures must be taken to protect public health, safety, and welfare of city residents, businesses, visitors, personnel; and

WHEREAS, the duration of this event is unknown, and its severity may exceed the capability of local resources; and

WHEREAS, the City of Covington may require supplemental assistance; and

WHEREAS, the current conditions warrant the proclamation of the existence of an emergency as defined in CMC 2.50.020(4); and

NOW THEREFORE, I, REGAN BOLLI, AS CITY MANAGER OF THE CITY OF COVINGTON, PROCLAIM AND DECLARE AS FOLLOWS:

A. An emergency exists in the City of Covington due to the COVID-19 outbreak, which necessitates the utilization of the emergency powers granted under RCW 38.52.070.
B. The City of Covington, by and through the city manager and his/her designees, is authorized to exercise all powers granted under RCW 38.52.070 and Chapter 2.50 CMC to prepare for and respond to the emergency.

C. This emergency proclamation shall expire unless confirmed and adopted by the Covington City Council at the next regularly scheduled city council meeting. If confirmed, this proclamation shall remain in effect until it is terminated by the city manager or council action.

Regan Boll, City Manager

3-12-2020

Date
SUBJECT: APPOINTMENTS TO THE HUMAN SERVICES COMMISSION

RECOMMENDED BY: Julie Johnston, Personnel & Human Services Planner

ATTACHMENTS: See applications provided separately.

PREPARED BY: Joan Michaud, Senior Deputy City Clerk

EXPLANATION:
The Human Services Commission currently has four open positions.

- Two positions (Position Nos. 1 and 2) are for adults that live inside Covington or within the three-mile radius. These are full term positions that expire on March 31, 2023.

- Two positions (Position Nos. 4 and 5) are for youth (ages 14 to 18) that live inside Covington or within the three-mile radius. These positions expire on March 31, 2021 as youth serve for one year with an option to continue a second year.

Two applications have been received for re-appointment: one adult, Debbie Jacobson, interviewed March 24, and one youth, Karson Humiston, interviewed on March 10.

<table>
<thead>
<tr>
<th>Name of Applicant</th>
<th>Resides</th>
<th>Attendance Last 12 Months</th>
</tr>
</thead>
<tbody>
<tr>
<td>Debbie Jacobson (currently in Position No. 1)</td>
<td>Covington</td>
<td>2 missed meetings</td>
</tr>
<tr>
<td>Karson Humiston (currently in Position No. 4)</td>
<td>Within 3-mile radius</td>
<td>2 missed meetings</td>
</tr>
</tbody>
</table>

NOTE: Ordinance Nos. 10-13, 04-05 § 1, and 22-02 § 1) Membership, terms, residence requirement: “Three members shall be adults residing or working within the City of Covington, two shall be adults residing inside or outside of the City of Covington but within a three-mile radius of the City limits and two shall be youth members between the ages of 14 and 18 years at the start of their terms residing in or within a three-mile radius of the City of Covington.

ALTERNATIVES:
Not appoint at this time and direct staff to continue to advertise for additional applicants to be considered for the positions.
CITY COUNCIL ACTION:  _____ Ordinance  _____ Resolution  _____ Motions  _____ Other

Councilmember _____________ moves, Councilmember _____________ seconds, to appoint _____________ to fill adult Position No. 1 on the Human Services Commission with a term expiring March 31, 2023.

Councilmember _____________ moves, Councilmember _____________ seconds, to appoint _____________ to fill youth Position No. 4 on the Human Services Commission with a term expiring March 31, 2021.

REVIEWED BY:  Personnel & Human Services Planner
                City Manager
SUBJECT: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COVINGTON, KING COUNTY, AMENDING CHAPTER 18.45 CMC TREE PRESERVATION AND PROTECTION.

RECOMMENDED BY: Covington Planning Commission 
Gina Estep, Community Development Director

ATTACHMENT(S):
1. Ordinance No. _____ 
   a. Attachment A – Proposed amendments to Chapter 18.45 CMC Tree Preservation and Protection
2. Public Comment
3. Presentation

PREPARED BY: Ryan Harriman, EMPA, AICP

EXPLANATION:
Periodic code reviews and updates allow an opportunity to review code effectiveness, ensure the codes remain relevant, are consistent with best available science, and align with the community’s vision. Balancing growth and development while maintaining a livable community is a primary reason for reviewing codes for tree protection. This project was included in the 2019 and 2020 Planning Commission workplan as approved by City Council.

Over the past decade, trees have been removed at a greater rate than they have been replaced, and the City is quickly losing one of the important characteristics that makes Covington special, its trees. Without amending the code, trees within the City will systematically be eliminated through the development process.

On February 6, 2020, the Covington Planning Commission held a properly noticed public hearing on the proposed code amendments to Chapter 18.45 Covington Municipal Code (CMC), Tree Preservation and Protection. The Planning Commission voted unanimously to recommend that the City Council adopt the proposed amendments contained in Exhibit A of the Ordinance, Attachment 1.

The purpose of the proposed amendments is to increase urban forestry canopy coverage throughout the City and to provide a mechanism to soften the impact of development on the natural environment.

REGULATORY REQUIREMENTS:
SEPA Compliance (SEPA 19-11): A SEPA Threshold Determination of Nonsignificance (DNS) was issued on January 17, 2020; with the comment period that ended on January 31, 2020. A legal public notice was published in the Covington Reporter on January 17, 2020, as well as posted on the City website and at City Hall.
Public Notice, Public Comment, and Planning Commission Review: Per CMC 14.27.050 and CMC 14.27.060 Planning Commission Review, legal notice on these proposed amendments was published in the Covington Reporter on January 17, 2020, as well as posted on the City’s website and at City Hall.

The Planning Commission met on October 17, 2019 to discuss the current tree preservation and protection code and recommended that staff prepare a draft amendment for the November 21, 2019 Planning Commission Meeting. At the November 21, 2019 Planning Commission meeting, staff provided a draft code amendment based on feedback received from the October 17, 2019 meeting.

The Planning Commission hosted a public engagement workshop on January 16, 2020, to gather policy preferences that were important to the community. Seventeen residents attended the meeting, and all but one individual were in support of the proposed amendments.

The Planning Commission held a public hearing on February 6, 2020. Two residents commented in favor and one resident commented in opposition. The Planning Commission voted unanimously to recommend to the City Council approval of the amendments as set forth in Exhibit A of the Ordinance. One comment was received from the public see Attachment 2.

Washington State 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.

PLANNING COMMISSION REVIEW:

CMC 14.27.040 Decision criteria.

The 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 complies 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, this is the first request for these amendments.

(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.

OPTIONS:
1. Adopt the recommended proposed ordinance.
2. Recommend amendments to the proposed ordinance.
3. Return the issue to city staff for further study and analysis.

FISCAL IMPACT: Staff time to respond to inquiries and then administer and enforce the new regulations.

CITY COUNCIL ACTION:  X Ordinance  ___Resolution  ___Motion  ___Other

Councilmember __________ moves, Councilmember __________ seconds, to adopt an ordinance of the City of Covington, Washington, amending Chapter 18.45 CMC, Tree Preservation and Protection.

REVIEWED BY:  City Manager
City Attorney
Finance Director
WHEREAS, Chapter 35A.63 of the Revised Code of Washington ("RCW") empowers the City of Covington (the "City") to enact planning and environmental regulations; and

WHEREAS, the Washington State Constitution at article 11, section 11 grants cities the police power authority to protect the public health, safety, and welfare. Pursuant to that authority, a city may regulate the use of property. Cities may regulate property for purposes such as abating nuisances, enforcing building and health codes, zoning and planning, and environmental protection; and

WHEREAS, trees provide important aesthetic, environmental, and economic benefits and are an integral part of the City’s character. These benefits come from significant contributions to stormwater management, public health improvement, energy use reduction, air pollution abatement, and overall quality of life; and

WHEREAS, the ecosystem, economic, and social services provided by trees will become even more important to the City of Covington as the population increases and economic development continues; and

WHEREAS, the planting of trees means improved water quality, which results in less runoff and erosion. This allows more recharging of the ground water supply and wooded areas help prevent the transport of sediment and chemicals into streams; and

WHEREAS, over the past decade trees have been removed at a greater rate than they have been replaced and the City is quickly losing one of the important characteristics that makes Covington special, its trees. Without amending the municipal code, trees within the City will systematically be eliminated through the development process; and

WHEREAS, the Natural Environment Element chapter of the City’s Comprehensive Plan ("Comprehensive Plan") states as follows: "the City is committed to the thoughtful, well-planned stewardship of the natural environment, in order to preserve and improve the quality of life for its residents. The natural environment is a complex system of interrelated components including air, water, soils, plants, and animals. All of these systems are affected by human activity. Through thoughtful planning and implementation of local, state, and federal regulations, Covington seeks to accommodate development needed for growth while preserving the natural environment and protecting residents as well as public and private property, from natural hazards’; and

WHEREAS, the Natural Environment Element chapter of the Comprehensive Plan states as follows: “Unmatched quality of life requires thoughtful, well-planned stewardship of the natural environment. Stewardship of the natural environment is foundational for achieving citywide goals”; and
WHEREAS, the Natural Environment Element chapter of the Comprehensive Plan states as follows: “The quality of the natural environment is an important component of our quality of life. The natural environment provides a variety of valuable and beneficial functions, such as contributing to the clean air we breathe and the beauty of our surroundings”; and

WHEREAS, the Natural Environment Element chapter of the Comprehensive Plan states as follows: “The City strives to preserve and improve the natural environment by protecting significant trees, limiting impervious surfaces, and promoting low-impact development, energy conservation, mixed-use development, multi-modal transportation options, and other measures”; and

WHEREAS, the Natural Environment Element chapter of the Comprehensive Plan states as follows: “The City’s approach to preserving and improving the natural environment includes adopting regulations that require new development to protect the natural environment and that provide incentives for environmental restoration”; and

WHEREAS, Goal NE-I of the Natural Environment Element chapter of the Comprehensive Plan states as follows: “Foster recognition of the significant role played by natural features and systems in determining the overall environmental quality and livability of Covington”; and

WHEREAS, Goal NE-II of the Natural Environment Element chapter of the Comprehensive Plan states as follows: “Recognize the value of vegetation in increasing the livability of Covington, and minimize the loss of vegetation as development occurs”; and

WHEREAS, Policy NE-6 of the Natural Environment Element chapter of the Comprehensive Plan states as follows: “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”; and

WHEREAS, Policy LU-12 of the Land Use Element chapter of the Comprehensive Plan states as follows: “Promote the use of landscaping that can thrive in urban settings, conserve water, retain desirable trees, and is comprised of native plant materials”; and

WHEREAS, Policy NE-5 of the Natural Environment Element chapter of the Comprehensive Plan states as follows: “Maximize retention of a healthy tree cover and native vegetation and encourage restoration, replacement, and enhancement of unhealthy or disturbed trees and vegetation”; and

WHEREAS, Policy NE-1 of the Natural Environment Element chapter of the Comprehensive Plan states as follows: “Protect the ecological integrity of the natural environment while allowing for compatible growth and development”; and

WHEREAS, in February 2008, the City adopted its first comprehensive tree code in Chapter 18.45 of the Covington Municipal Code (“CMC”), “Tree Preservation and Protection.” The initial development of the code spanned several years and involved the general public and the Ad Hoc Technical Subcommittee on Tree Ordinance Revisions; and
WHEREAS, in 2012, the City conducted an I-tree survey to determine the urban tree canopy throughout the City. The survey indicated the City had a canopy coverage of 37 percent; and

WHEREAS, in September 2018, an Urban Tree Canopy Assessment was completed to provide a baseline and benchmark of the City’s tree canopy and interpret the results across a range of geographic boundaries. The result of the study indicated that in 2017, the city contained 30 percent urban tree canopy (or 1,130 of the City’s 3,868 total acres) and contains possible planting areas (“PPA”) of 16 percent; and

WHEREAS, the purpose of the proposed amendments to Chapter 18.45 CMC is to increase urban forestry canopy coverage throughout the City of Covington and to provide a mechanism to soften the impact of development on the natural environment; and

WHEREAS, the City’s Planning Commission (“Planning Commission”) work plan for 2019 and 2020 includes an evaluation of Chapter 18.45 CMC and eventual amendments to the existing code; and

WHEREAS, the Planning Commission is responsible for the review of amendments to the City’s tree retention and protection ordinance and making modification recommendations; and

WHEREAS, the Planning Commission is required to hold a noticed public hearing and make a recommendation to the City Council as to whether the proposed amendments meet the criteria set forth in CMC 14.27.040 Decision criteria; and

WHEREAS, on January 15, 2020, City staff transmitted a copy of the proposed code amendments to the Washington State Department of Commerce for review and comment, pursuant to RCW 36.70A.106. Expedited review of the proposed code amendments was granted on January 29, 2020; and

WHEREAS, a legal notice of public hearing for the proposed amendments was published January 17, 2020 in the Covington/Maple Valley Reporter as well as posted on the City’s website and at city hall; and

WHEREAS, pursuant to the State Environmental Policy Act (“SEPA”) and Chapter 191-11 Washington Administrative Code (“WAC”), a Determination of Nonsignificance (“DNS”) for non-project action was issued and noticed on January 17, 2020 for the proposed amendments; and

WHEREAS, pursuant to WAC 197-11-340(2), the Department provided a 14-day comment period for the DNS issued on the proposed amendments with an appeal and comment period ending January 31, 2020. One comment was received in favor of the proposed amendments and no appeals were filed; and

WHEREAS, the Planning Commission met on October 17, 2019 to discuss the current tree preservation and protection code and recommended that staff prepare a draft amendment for the November 21, 2019 Planning Commission Meeting; and
WHEREAS, at the November 21, 2019 meeting of the Planning Commission, staff provided a draft code amendment based on feedback received from the October 17, 2019 Planning Commission meeting; and

WHEREAS, the Planning Commission recommended that staff make further code modifications; and

WHEREAS, the Planning Commission reviewed the proposed amendments at their regularly scheduled meetings on January 2, 2020 and on January 16, 2020; and

WHEREAS, the Planning Commission and staff worked on the proposed amendments by focusing on modifications that are directly tied to existing policies as described in the Comprehensive Plan, the long-term vision of the City; and

WHEREAS, the Planning Commission held a community engagement workshop on January 16, 2020, to gather input from residents regarding what is important to them from a policy standpoint in relation to tree preservation and protection. The workshop was attended by more than 16 residents, and the Planning Commission was able to capture a sense of the residents’ policy preferences; and

WHEREAS, the individuals who participated in the community engagement workshop on January 16, 2020 were asked to rank 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. The top four policy statements selected were all policy statements from the Comprehensive Plan, and are referenced above; and

WHEREAS, on February 6, 2020 the Planning Commission held a properly noticed public hearing on the proposed amendments; and

WHEREAS, after the public hearing and review, the Planning Commission recommended that the City Council adopt the amendments to Chapter 18.45 CMC as proposed with the following modifications to CMC 18.45.130(6):

Civil infraction violations of this Chapter shall be assessed a monetary penalty of $300 per inch of DBH of any significant tree, $600 per inch of DBH of any landmark tree, or $900 per inch of DBH of any heritage tree removed or damaged.

WHEREAS, the proposed amendments meet the decisional criteria set forth in CMC 14.27.040; and

WHEREAS, the City Council, upon review of the facts and findings and recommendations of the Planning Commission, and after review and information provided by City staff, find that all applicable and substantive requirements of the law have been met, that adoption of this ordinance promotes the public health, safety, and general welfare of the community and the adoption of this ordinance serves the public interest.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COVINGTON, KING COUNTY, WASHINGTON, DO ORDAIN AS FOLLOWS:
Section 1. Findings of Facts. The “whereas” provisions listed above are adopted as Findings of Fact and are incorporated by reference as if fully set forth herein.

Section 2. Amendments to Chapter 18.45 CMC. Chapter 18.45 CMC Tree Preservation and Protection is hereby amended as set forth in the attached Exhibit A, which is incorporated herein by this reference.

Section 3. Corrections. The City Clerk and the codifiers of this ordinance are authorized to make necessary clerical corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any references thereto.

Section 4. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional or invalid for any reason, such invalidity shall not affect the validity or effectiveness of the remaining portions of this ordinance or its application to any persons or circumstances.

Section 5. Effective Date. This Ordinance shall be effective five days after passage and publication as provided by law.

Passed by the City Council of the City of Covington on the 24th day of March 2020.

Mayor Jeff Wagner

ATTESTED: APPROVED AS TO FORM:

Sharon Scott, City Clerk Mark Orthmann, City Attorney

PUBLISHED: March 27, 2020 EFFECTIVE: April 1, 2020
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 residents 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 to 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. 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 four and one half feet above grade (referred to as Diameter at Breast Height). Example: A 24-inch diameter tree at four and one half 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.

Diameter Breast Height (DBH) “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 percent 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 inches 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 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>Sweet cherry</td>
<td>Prunus avium</td>
</tr>
<tr>
<td>Common Name</td>
<td>Species Name</td>
</tr>
<tr>
<td>---------------------</td>
<td>----------------------</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>

“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 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>

“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.

“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 ISA, 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 or 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 qualified arborist, certified 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 and 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 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 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 is 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 is 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 tree 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, and 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 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 trees on lots less than or equal to 7,200 square feet and one 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 a separate, freestanding permits, if no development or construction is currently anticipated. 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 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;

(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 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;

(v) 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

(ix) 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;

(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 established 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 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 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 hazard 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, 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 for Residential Zones. The following tree preservation methods and retention and preservation percentages apply to all residential zoned lands on sites greater than one acre in size, residential, commercial, and 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,
   (x) Limber pine,
   (xi) Sitka spruce,
   (xii) Western red cedar,
   (xiii) Alaskan-cedar, and
   (xiv) 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) 150 percent tree credit for a landmark tree or 200 percent credit for a heritage tree pursuant to the following provisions:

(1) Preservation of a landmark or heritage tree must be part of a continuous canopy adjacent to an environmentally critical area and associated buffer;

(2) Preservation of a landmark or heritage tree must be 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 must be part of any other on-site and/or off-site continuous canopy.

(ii) 125 percent credit for a landmark tree or 150 percent credit for a heritage tree pursuant to the following provisions.

(1) Preservation of a landmark or heritage tree must provide relief from identified environmental impacts;

(2) Preservation of a landmark or heritage tree must provide perimeter connectivity and/or off-site screening;

(3) Preservation of a landmark or heritage tree must be 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 CMC 18.45.080(2). 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 of the trees. 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. Only in rare cases, and as a last resort, may a fee in lieu of tree replacement be allowed, subject to approval by the Director. The Director may allow up to 25 percent of the required replacement trees to 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 and 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 that 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 within tree tracts or a tree conservation easement, regardless of the size or number of lots. 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 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.

(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: Tree tract or tree conservation easement size and percentage of sites devoted to tree preservation shall meet the following standards, and multiple tree tracts are allowed:

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

(b) 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.

(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 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-owners 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 not to 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 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 conditions.
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.

(ba) Initial Violation – Civil Penalties. Any person, firm, or corporation who violates or fails to comply with any term or provision of this Chapter or of an exemption, a minor tree removal, or major tree removal permit issued under this chapter shall be deemed to have committed As an additional concurrent penalty, it shall be 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 of this Chapter shall be assessed a monetary penalty of $300 per inch of DBH of any significant tree, $600 per inch of DBH of any landmark tree, or $900 per inch of DBH of any heritage tree removed or damaged in violation of this Chapter. If the DBH cannot be measured, the monetary penalty shall be assessed per inch based on the diameter of the remaining tree stump. If the DBH cannot be measured, the monetary penalty shall be assessed per inch based on the diameter of the remaining tree stump. Removal of any tree in violation of this chapter shall require replacement planting as described in CMC 18.45.080. A person, firm, or corporation found to have committed a civil infraction shall be assessed a monetary penalty in accordance Chapter 1.30 CMC. All civil infraction violations issued pursuant to this chapter shall be enforced in accordance with the procedures set forth in Chapter 1.30 CMC.
(b) Subsequent Violation – Criminal Penalties. Any person who engages and/or causes another to engage in a subsequent 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. Removal of any tree in violation of this chapter shall require replacement planting as described in CMC 18.45.080. All criminal infraction violations issued pursuant to this chapter shall be enforced in accordance with the procedures set forth in Chapter 9.05 CMC.

(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 business within the City.

(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.
People have to remove the “.” From Gov…or it’ll be rejected

**Lonnie Dotson Sr.**

17416 SE 261\(^{st}\) street  
Covington, WA 98042  
Cell: 253-209-0010  
Home: 253-631-8895

Please see if we can reduce the number of trees being removed from all over to include home owners….soon we won’t have any!

**Lonnie Dotson Sr.**

17416 SE 261\(^{st}\) street
Proposed Code Amendments to Chapter 18.45 CMC: Tree Preservation and Protection

City Council Meeting
March 24, 2020
City Council’s Role Tonight

- Zoning Code & Development Regulations Review and Approval
- Shoreline Management or Environmental Protection review and Recommendation
- City Comprehensive Plan Review and Recommendation
## Project Timeline

<table>
<thead>
<tr>
<th>DATE</th>
<th>ACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>October 17, 2019</td>
<td>Planning Commission meeting and discussion about the current code and their desire to amend it.</td>
</tr>
<tr>
<td>November 21, 2019</td>
<td>Planning Commission meeting: Staff provided a draft code amendment based on the feedback received during the October 17, 2019 Planning Commission meeting.</td>
</tr>
<tr>
<td>January 2, 2020</td>
<td>Planning Commission meeting to review and address concerns with proposed code amendments.</td>
</tr>
<tr>
<td>January 16, 2020</td>
<td>Planning Commission meeting and public workshop.</td>
</tr>
<tr>
<td>February 6, 2020</td>
<td>Public Hearing and recommendation to City Council.</td>
</tr>
<tr>
<td>March 24, 2020</td>
<td>City Council Meeting</td>
</tr>
</tbody>
</table>
Purpose

Work Plan

Periodic code reviews and updates allow an opportunity to review code effectiveness, and ensure the codes remain relevant, are consistent with best available science, and align with the community’s vision. Balancing growth and development while maintaining a livable community is a primary reason for reviewing codes for tree protection.

The Planning Commission work plan for 2019 and 2020 includes an evaluation of Chapter 18.45 CMC and eventual amendments to the existing code.

What will the amendments accomplish?

- More protection of biodiversity;
- Increase the retention and preservation of trees on any size lot;
- Create incentives for tree retention and preservation;
- Require the replacement of trees removed; and
- Preserve the character of the City while providing avenues for new development.
Benefits of trees in our community

- Trees reduce air pollution;
- Trees reduce noise pollution;
- Trees provide energy-saving shade and cooling;
- Trees provide habitat for wildlife;
- Trees enhance aesthetics;
- Trees raise property values;
- Trees improve water quality;
- Trees reduce stormwater impacts; and
- Trees contribute to a positive community image, pride, and quality of life.
Studies & the value of trees.

- The net cooling effect of a young, healthy tree is equivalent to ten room-size air conditioners operating 20 hours a day. *U.S. Department of Agriculture*

- One large tree can provide a day’s supply of oxygen for up to four people. *North Carolina State University*

- One acre of forest absorbs six tons of carbon dioxide and puts out four tons of oxygen. This is enough to meet the annual needs of 18 people. *U.S. Department of Agriculture*

- The planting of trees means improved water quality, resulting in less runoff and erosion. This allows more recharging of the ground water supply. Wooded areas help prevent the transport of sediment and chemicals into streams. *USDA Forest Service*
Studies & the value of trees.

- In laboratory research, visual exposure to settings with trees has produced significant recovery from stress within five minutes, as indicated by changes in blood pressure and muscle tension. Dr. Roger S. Ulrich Texas A&M University

- Having large trees in yards along streets increases a home’s value from 3 percent to 15 percent. Wolf, Kathleen L, PhD, University of Washington (2007) City Trees and Property Values. Arborist News. 16, 4:34-36.
Covington’s Tree Code - History

- In February 2008, the City adopted its first comprehensive tree code in Chapter 18.45 of the Covington’s Municipal Code, “Tree Preservation and Protection”. The initial development of the code spanned several years and involved the general public and the Ad Hoc Technical Subcommittee on Tree Ordinance Revisions.

- In 2012, the City of Covington conducted an I-tree survey to determine the urban tree canopy throughout the City. The survey indicated the City had a canopy coverage of 37 percent.

- In September 2018, an Urban Tree Canopy Assessment was completed to provide a baseline and benchmark of the City’s tree canopy and interpret the results across a range of geographic boundaries. The result of the study indicated that in 2017, the city contained 30 percent urban tree canopy (or 1,130 of the City’s 3,868 total acres) and contains possible planting areas (PPA) of 16 percent.
Things to consider

- The publicly and privately-owned forests combine to create an urban tree canopy that provides numerous benefits to city residents, businesses, and the Puget Sound region as a whole.

- Trees provide important aesthetic, environmental, and economic benefits and are an integral part of the City of Covington’s character. These benefits come from significant contributions to stormwater management, public health improvement, energy use reduction, air pollution abatement, and overall quality of life.

- The ecosystem, economic, and social services provided by trees will become even more important to the City of Covington as the population increases and economic development continues.
Things to consider

- Trees are dying at an alarming rate throughout the greater Puget Sound Region. Hemlock, fir, and red cedar are being severely impacted by longer sustained periods of dryness, longer sustained periods of hot temperatures, and longer periods of sustained sun exposure. Big leaf maples and other deciduous species are being impacted by toxic fungi and insects.
What is exempt now?

- Sites with 20 significant trees or less.
- Emergency removal of hazard trees.
- Normal and routine maintenance of existing trees.
- Commercial and wholesale nurseries and tree farms.
- Tree harvesting with a State Forest Practices Permit.
- Residential sites one acre or less and commercial or industrial sites two acres or less.
- Any site in the commercial or industrial zones with an approved Tree Enhancement Plan.
- Removal of trees on City owned property for installation of utilities and public facilities and maintenance of City property.
- Limited removal of trees on existing, developed residential and commercial/industrial lots around structures.
- Limited exemption for firewood removal on ten acres or less.
What requires a permit now?

- 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.

- Minor tree removal permits are those permits involving removal of trees on lots greater 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.

- Major tree clearing permits are those permits involving any removal of trees, clearing and grading of land with trees, shrubs, or other ground cover on sites 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.
Policy Summary

The following Comprehensive Plan policies were considered throughout this process:

- **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.

- **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.

- **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.

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

The City Council is considering amendments to Chapter 18.45 of the Covington Municipal Code (CMC) by:

- Updating the definitions section;
- Allowing for a variety of exemptions for property owners to remove trees without obtaining a permit;
- Increasing tree retention by requiring a sliding scale based on zoning classification;
- Requiring tree replacement of removed significant trees;
- Providing incentives for tree retention and replacement;
- Requiring a minor tree removal permit for property one acre or less (unless exempt);
- Requiring a major tree removal permit for property one acre or greater (unless exempt);
- Removing the minimum tree tract size; and
- Modifying the penalty for tree removal inconsistent with Chapter 18.45 CMC.
The Five W’s

- **Who will be subject to the proposed amendments?** All properties zoned residential, commercial, and industrial.

- **What is the purpose of the proposed amendments?** The purpose of the proposed amendments is to increase urban forestry canopy coverage throughout the City of Covington and to provide a mechanism to soften the impact of development on the natural environment.

- **When will the proposed amendments go into effect?** The proposed amendments will go into effect once approved by the City Council.

- **Where can I get more information regarding the proposed amendments?** On the City of Covington website [https://www.covingtonwa.gov/city_departments/communitydevelopment/treepreservation.php](https://www.covingtonwa.gov/city_departments/communitydevelopment/treepreservation.php) or requesting a copy of the proposed amendments.

- **Why is updating the code important?** Over the past decade trees have been removed at a greater rate than they have been replaced and the City is quickly losing one of the important characteristics that makes Covington special, its trees. Without amending the code, trees within the City will systematically be eliminated through the development process.
Next Steps

Options for Council Consideration

1. The City Council may adopt the proposed amendments as presented;

2. The City Council may modify the proposed amendments as presented and adopt;

3. The City Council may remand the proposed amendments back to the Planning Commission for additional review; or

4. Do nothing and keep the CMC exactly like it is now.
Recommendations

Staff recommends the City Council adopt the proposed amendments to Chapter 18.45 CMC as recommended by the Planning Commission.
SUBJECT: 2019 FOURTH QUARTER FINANCIAL REPORTS

RECOMMENDED BY: Casey Parker, Finance Director

ATTACHMENT(S):
1. 2019 Fourth Quarter Report
2. Quarterly Performance Reports by Fund

PREPARED BY:
Casey Parker, Finance Director

EXPLANATION:
It is the policy of the City and a requirement of state law (RCW 35A.34.240) to provide financial reports to the governing body on a quarterly basis.

ALTERNATIVES:
N/A

FISCAL IMPACT:
None.

CITY COUNCIL ACTION:    _____Ordinance _____Resolution _____Motion    X    Other

ASK QUESTIONS OF STAFF

REVIEWED BY: City Manager
**December 31, 2019**

**2019 4th Quarter**

**ATTACHMENT 1**
**Year End Summary**

**General Fund**
- Total fund balance increased $467,080 or 4.9%.
- Total revenues, excluding transfers–in, surpassed budget estimates by 2.4%.
- Total expenditures, excluding transfers–out, were below budget estimates by 4.5%.

**Street Fund**
- Total fund balance decreased $40,258 or 13.4%.
- Total revenues, excluding transfers–in, were below budget estimates by 12.9%.
- Total expenditures, excluding transfers–out, were below budget estimates by 9%.

**Development Services Fund**
- Total fund balance increased $516,965 or 10.3%.
- Total revenues, excluding transfers–in, surpassed budget estimates by 41.4%.
- Total expenditures, excluding transfers–out, were below budget estimates by 5.7%.

**SWM Fund**
- Total fund balance decreased $61,661 or 0.6%.
- Total revenues, excluding transfers–in, surpassed budget estimates by 2.9%.
- Total expenditures, excluding transfers–out, were below budget estimates by 8%.

**On the horizon...**

Although most funds ended on a high note for 2019, the current outbreak of the coronavirus is now the largest downside risk to the economy. City staff will continue to closely monitor both revenues and expenditures and update City Council as things develop.

- Casey Parker, Finance Director

**Inside this issue:**

<table>
<thead>
<tr>
<th>Inside this issue</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Property Tax</td>
<td>2</td>
</tr>
<tr>
<td>Real Estate Excise Tax</td>
<td>2</td>
</tr>
<tr>
<td>Retail Sales and Use Tax</td>
<td>3</td>
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<tr>
<td>Utility Tax</td>
<td>3</td>
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<td>General Fund</td>
<td>4</td>
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<td>Public Works</td>
<td>5</td>
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<tr>
<td>Development Services</td>
<td>5</td>
</tr>
<tr>
<td>Parks, Aquatics, Recreation, and Athletics</td>
<td>5</td>
</tr>
<tr>
<td>Cash and Investments</td>
<td>6</td>
</tr>
<tr>
<td>Capital Investment Program</td>
<td>7</td>
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</tbody>
</table>

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Property Tax

Property tax is collected by King County and distributed on a daily basis to all taxing agencies within the county. Since taxes are due on April 30 and October 31 each year, the major distributions are realized in early May and November.

Through 4th quarter the city received $2,803,177 or 100% of budget. Property taxes for 2019 are reported at the full levy, which is an accounting change from past years.

Property tax is the most stable source of revenue the city has. It is one leg of the “three legged” stool which the general fund relies on for revenue. The other two legs are sales tax and utility tax.

Property tax revenues are unrestricted. As such they may be used to pay for any need within the city. Currently, property taxes are allocated 100% to the general fund.

The 2018 levy for 2019 collection is $2,803,177 and the levy rate is $1.02/$1,000 assessed value. The legal cap for property tax collections is $2.10/$1,000 assessed value.

The city’s assessed valuation is $2.7 billion—an increase of $281.7 million or 11.5% over the previous year.

Real Estate Excise Tax (REET)

REET is a restricted revenue dedicated to paying debt service on the 2007 transportation bonds (through 2027) which paid for 168th Place SE/165th Place SE and loans from the Public Works Trust Fund (through 2024). This tax is levied by the city on all sales of real estate at the rate of one-half percent which is divided into two quarter percents.

Through December, collections are $1,477,343 or 130.5% of the $1,132,300 budget. This is $234,862 or 18.9% higher than 2018.

There were 71 new home sales, 389 existing home sales, 18 commercial, and 20 lot sales through 4th quarter.

<table>
<thead>
<tr>
<th>Year</th>
<th>Jan</th>
<th>Feb</th>
<th>Mar</th>
<th>Apr</th>
<th>May</th>
<th>Jun</th>
<th>Jul</th>
<th>Aug</th>
<th>Sep</th>
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<td>2016</td>
<td>47</td>
<td>103</td>
<td>136</td>
<td>185</td>
<td>238</td>
<td>291</td>
<td>372</td>
<td>476</td>
<td>543</td>
<td>643</td>
<td>739</td>
<td>819</td>
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<td>2017</td>
<td>57</td>
<td>129</td>
<td>200</td>
<td>269</td>
<td>333</td>
<td>432</td>
<td>647</td>
<td>719</td>
<td>797</td>
<td>906</td>
<td>984</td>
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<td>2018</td>
<td>110</td>
<td>165</td>
<td>224</td>
<td>504</td>
<td>591</td>
<td>699</td>
<td>808</td>
<td>916</td>
<td>1,003</td>
<td>1,066</td>
<td>1,165</td>
<td>1,271</td>
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<tr>
<td>2019</td>
<td>62</td>
<td>162</td>
<td>227</td>
<td>373</td>
<td>484</td>
<td>597</td>
<td>714</td>
<td>844</td>
<td>1,059</td>
<td>1,134</td>
<td>1,404</td>
<td>1,477</td>
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</table>
Sales and use tax is the largest revenue source available to the city. The 4th quarter is below 2018 levels by $82,337 or 1.6%. Total collections are at $5,079,190 or 99.6%. The budget for 2019 is $5,100,000. Comparing each category to the 4th quarter of 2018 shows that retail came in ahead at 3.4% and construction is negative –29.9%. Food services is up 4.3% for the quarter while all other categories were up 0.4%.

The city imposes a utility tax on electrical energy, natural gas, brokered natural gas, and telephone at the rate of 6.0%. Solid waste, cable TV, and SWM are taxed at an 8.0% rate. Utility tax supports the general fund, debt service and streets.

The 4th quarter y/y is down by $24,170 or 1.1%. Total collections are $2,242,436 or 96.7% of budget.
Operating revenues are 102.4% of budget or $13,926.8 million. This exceeds 2018 levels by $5,240. Sales, utility, and property tax collections are detailed on pages 2 and 3 and parks revenue is reviewed on page 5. Total expenditures excluding transfers out are $12,464.2 million. This is an increase in spending of 6.3% over the same period last year.

Overall, 95.9% of the budget was spent. Ending fund balance is 10,021,152 – an increase of $467,080.

### GENERAL FUND DEPARTMENT BUDGET UPDATE

<table>
<thead>
<tr>
<th>Department</th>
<th>YTD - 2018</th>
<th>% of Budget</th>
<th>YTD - 2019</th>
<th>% of Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>City Council</td>
<td>$142,628</td>
<td>77.7%</td>
<td>$217,419</td>
<td>102.3%</td>
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<tr>
<td>Municipal Court</td>
<td>475,921</td>
<td>85.7%</td>
<td>553,838</td>
<td>97.0%</td>
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<tr>
<td>Executive</td>
<td>1,138,099</td>
<td>100.7%</td>
<td>1,071,179</td>
<td>94.5%</td>
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<td>Finance</td>
<td>711,698</td>
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<td>600,894</td>
<td>82.6%</td>
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<tr>
<td>Legal</td>
<td>177,060</td>
<td>87.0%</td>
<td>196,156</td>
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<td>Human Resources</td>
<td>410,264</td>
<td>97.7%</td>
<td>419,857</td>
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<td>Central Services</td>
<td>745,068</td>
<td>95.2%</td>
<td>818,258</td>
<td>97.9%</td>
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<td>Law Enforcement</td>
<td>4,097,745</td>
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<td>4,695,590</td>
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<td>Community Development</td>
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<td>Parks Maintenance</td>
<td>551,282</td>
<td>91.6%</td>
<td>527,247</td>
<td>99.1%</td>
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<td>Aquatics</td>
<td>1,435,691</td>
<td>101.2%</td>
<td>1,339,087</td>
<td>86.7%</td>
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<td>Recreation &amp; Cultural Arts</td>
<td>723,078</td>
<td>87.4%</td>
<td>822,689</td>
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<td>Parks</td>
<td>344,368</td>
<td>85.7%</td>
<td>346,964</td>
<td>94.0%</td>
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<tr>
<td>Operating Transfers Out</td>
<td>2,521,532</td>
<td>100.0%</td>
<td>1,831,344</td>
<td>100.1%</td>
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<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$13,908,056</strong></td>
<td><strong>96.0%</strong></td>
<td><strong>$13,908,886</strong></td>
<td><strong>95.9%</strong></td>
</tr>
</tbody>
</table>
PUBLIC WORKS

Public Works consists of street operations and surface water management (SWM).

Street operations is funded by franchise fees received from Comcast, a motor vehicle fuel excise tax, and motor vehicle license fees (through 2019).

Comcast franchise fees are just under budget at $254,558 or 98.3% and are down 0.9% from 2018.

Total operating revenues are $1,076,104 or 87.1% for the 4th quarter.

Gas taxes are just below estimates at 99.1% or $453,456.

Motor vehicle license fees are at $325,453 or 98.6% of budget. December revenues have been reserved until the injunction has been ruled on.

Total expenditures excluding transfers out are at 91.1% or $1,423,555.

Street operating revenues are less than operating expenditures by $347,451. Operating transfers of $323,854 from the general fund help offset that deficit.

Ending fund balance for Streets is $259,762 a decrease of $40,258.

SWM is primarily funded through drainage fees collected by King County and distributed to the city. The total levy for 2019 is $2,660,466. Total operating revenues are at 102.9% or $2,734,004.

Total expenditures excluding transfers out are at 92% of budget or $2,434,403.

DEVELOPMENT SERVICES

Total revenue is at $2,284,123 or 141.4% of budget. This is a 9.3% increase over 2018. All categories have seen an increase.

There were 4 multi-family permits and 2 commercial permit year-to-date.

The number of permits for single family residences are at 100 compared to 65 in 2018.

Operational expenditures came in at 94.3% or $1,767,158.

Ending fund balance for 2019 was $5,536,646 an increase of $516,965.

AQUATICS, RECREATION and CULTURAL ARTS

Parks is divided into four divisions: aquatics, maintenance, recreation and cultural arts, and parks administration. Two divisions bring in revenue: aquatics, and recreation and cultural arts.

Fourth quarter budget-to-actual aquatics revenue is $836,282 or 112.6%; and recreation and cultural arts is $417,227 or 121.9%.

Total year-to-date attendance for aquatics is 126,422–5,739 more than 2018 for the same time period. Athletics had 2,882 participants and recreation 2,126. 2018 had 2,801 and 1,807 participants respectively y/y.

Operating expenditures for the two divisions total $2,161,776 which exceeds corresponding revenue by $908,267.

The individual expenditure breakdown is as follows: aquatics is $1,339,087; and recreation and cultural arts is $822,689.
Cash and investments total $26,085,195. This is an increase from December 2018 of $823,118. The largest gainers are the General Fund, REET Funds, and Development Services Fund. The CIP Fund and SWM Fund decreased as money is being utilized to fund new capital projects.

The Local Government Investment Pool (LGIP) earned 1.7% in December 2019. The City has $20,559,557 invested with the LGIP (as of 4th Qtr).

Investments outside the LGIP total $2,995,549 (market value). They are currently all US Government Agencies. Cash on hand is kept at US Bank and various petty cash funds throughout the City. Investment securities are kept with US Bank Safekeeping.

The chart below reflects the amount of cash and investments allocated to each fund within the City. This is reconciled and updated on a monthly basis.

### TOTAL GENERAL LEDGER CASH ACCOUNTS

<table>
<thead>
<tr>
<th>INVESTMENTS</th>
<th>CASH</th>
<th>TOTAL</th>
<th>2018</th>
<th>△</th>
</tr>
</thead>
<tbody>
<tr>
<td>GENERAL FUND</td>
<td>$1,951,798.19</td>
<td>$7,380,358.67</td>
<td>$9,332,156.86</td>
<td>$8,283,258.13</td>
</tr>
<tr>
<td>STREET FUND</td>
<td>- 236,787.26</td>
<td>236,787.26</td>
<td>234,710.83</td>
<td>$2,076.43</td>
</tr>
<tr>
<td>CONTINGENCY FUND</td>
<td>- 420,803.59</td>
<td>420,803.59</td>
<td>416,517.99</td>
<td>$4,285.60</td>
</tr>
<tr>
<td>CUMULATIVE RESERVE FUND</td>
<td>- 1,530,190.89</td>
<td>1,530,190.89</td>
<td>1,479,443.74</td>
<td>$50,747.15</td>
</tr>
<tr>
<td>REET 1st 1/4% FUND</td>
<td>- 204,198.82</td>
<td>204,198.82</td>
<td>47,517.57</td>
<td>$156,681.25</td>
</tr>
<tr>
<td>REET 2nd 1/4% FUND</td>
<td>- 204,198.82</td>
<td>204,198.82</td>
<td>47,517.57</td>
<td>$156,681.25</td>
</tr>
<tr>
<td>DEVELOPMENT SERVICES FUND</td>
<td>1,043,750.86</td>
<td>4,592,924.34</td>
<td>5,636,675.20</td>
<td>5,146,317.66</td>
</tr>
<tr>
<td>CIP FUND</td>
<td>- 6,091,815.65</td>
<td>6,091,815.65</td>
<td>7,386,637.73</td>
<td>($1,294,822.08)</td>
</tr>
<tr>
<td>CUSTODIAL FUND</td>
<td>- 83,978.91</td>
<td>83,978.91</td>
<td>-</td>
<td>$83,978.91</td>
</tr>
<tr>
<td>SWM Fund</td>
<td>- 1,031,181.14</td>
<td>1,031,181.14</td>
<td>1,120,525.31</td>
<td>($89,344.17)</td>
</tr>
<tr>
<td>UNEMPLOYMENT INSURANCE</td>
<td>- 525,591.80</td>
<td>525,591.80</td>
<td>451,243.57</td>
<td>$74,348.23</td>
</tr>
<tr>
<td>EQUIPMENT REPLACEMENT</td>
<td>- 787,615.68</td>
<td>787,615.68</td>
<td>648,386.90</td>
<td>$139,228.78</td>
</tr>
<tr>
<td>TOTAL ALL FUNDS</td>
<td>$2,995,549.05</td>
<td>$23,089,645.57</td>
<td>$26,085,194.62</td>
<td>$25,262,077.00</td>
</tr>
</tbody>
</table>
The city has collected $585,215 in GMA mitigation fees, $133,308 in interest earnings and $729,296 in parks fees-in-lieu/park impact fees.

Please see the chart below for current CIP activity.

**BOND WATCH**

As of December 31, the balance of the 2016 Refunded Bonds is $6,600,000. Payoff for these bonds is 11/1/2027. The next principal payment of $755,000 will be 5/1/2020.

The Public Works Trust Fund Loan balance is $1,074,478. The payoff for this loan is 6/1/2024. The next principal payment will be 6/1/2020 for $214,896.

**IMPACT FEES**

The total balance of traffic impact fees at the end of 2019 is $4,125,029. These are collected throughout the year and distributed to projects as needed. Transportation impact fees are restricted and can only be used for public streets and roads. They must be used in conjunction with other funding sources but may not be used to correct existing deficiencies.

**CITY OF COVINGTON**

**FINANCE DEPARTMENT**

Casey Parker – Finance Director
Lindsay Hagen – Senior Accountant
Staci Cles – Accountant I
Shelley Wells – Accounting Technician
## 2019 Revenues by Category

<table>
<thead>
<tr>
<th>Category</th>
<th>Budget 2019</th>
<th>Actual 2019</th>
<th>YTD Rem 2019</th>
<th>% Coll/Spent 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Taxes</td>
<td>$10,731.5</td>
<td>$10,757.6</td>
<td>($26.1)</td>
<td>100.2%</td>
</tr>
<tr>
<td>Licenses &amp; Permits</td>
<td>81.8</td>
<td>84.7</td>
<td>(3.0)</td>
<td>103.6%</td>
</tr>
<tr>
<td>Intergovernmental Revenues</td>
<td>552.0</td>
<td>501.2</td>
<td>50.9</td>
<td>90.8%</td>
</tr>
<tr>
<td>Charges for Goods &amp; Svcs</td>
<td>1,897.0</td>
<td>2,009.7</td>
<td>(112.7)</td>
<td>105.9%</td>
</tr>
<tr>
<td>Fines &amp; Forfeits</td>
<td>91.2</td>
<td>103.1</td>
<td>(11.9)</td>
<td>113.1%</td>
</tr>
<tr>
<td>Investment Interest</td>
<td>88.8</td>
<td>241.8</td>
<td>(153.0)</td>
<td>149.7%</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>152.8</td>
<td>228.7</td>
<td>(75.9)</td>
<td>247.7%</td>
</tr>
<tr>
<td>Total Operating Revenues</td>
<td>$13,595.1</td>
<td>$13,926.8</td>
<td>($331.8)</td>
<td>102.4%</td>
</tr>
<tr>
<td>Operating Transfer In</td>
<td>450.4</td>
<td>449.1</td>
<td>1.2</td>
<td>99.7%</td>
</tr>
<tr>
<td>Total Sources</td>
<td>$14,045.4</td>
<td>$14,376.0</td>
<td>($330.5)</td>
<td>102.4%</td>
</tr>
</tbody>
</table>

## 2019 Expenditures by Category

<table>
<thead>
<tr>
<th>Category</th>
<th>Budget 2019</th>
<th>Actual 2019</th>
<th>YTD Rem 2019</th>
<th>% Coll/Spent 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries &amp; Wages</td>
<td>$3,579.6</td>
<td>$3,351.6</td>
<td>228.0</td>
<td>93.6%</td>
</tr>
<tr>
<td>Benefits</td>
<td>1,279.0</td>
<td>1,141.1</td>
<td>137.9</td>
<td>89.2%</td>
</tr>
<tr>
<td>Supplies</td>
<td>313.2</td>
<td>274.7</td>
<td>38.6</td>
<td>87.7%</td>
</tr>
<tr>
<td>Other Services &amp; Charges</td>
<td>7,681.6</td>
<td>7,557.0</td>
<td>124.6</td>
<td>98.4%</td>
</tr>
<tr>
<td>Intergovernmental</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>0.0%</td>
</tr>
<tr>
<td>Capital</td>
<td>192.4</td>
<td>139.9</td>
<td>52.5</td>
<td>72.7%</td>
</tr>
<tr>
<td>Total Operating Expenses</td>
<td>$13,045.9</td>
<td>$12,464.2</td>
<td>581.6</td>
<td>95.5%</td>
</tr>
<tr>
<td>Other Financing Uses</td>
<td>1,456.5</td>
<td>1,444.6</td>
<td>11.9</td>
<td>99.2%</td>
</tr>
<tr>
<td>Total Uses</td>
<td>$14,502.4</td>
<td>$13,908.9</td>
<td>$593.5</td>
<td>95.9%</td>
</tr>
</tbody>
</table>

### Athletic Program Registrations

<table>
<thead>
<tr>
<th>Season</th>
<th>2017</th>
<th>2018</th>
<th>2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Winter</td>
<td>681</td>
<td>670</td>
<td>681</td>
</tr>
<tr>
<td>Spring</td>
<td>1030</td>
<td>1070</td>
<td>1070</td>
</tr>
<tr>
<td>Summer</td>
<td>206</td>
<td>210</td>
<td>206</td>
</tr>
<tr>
<td>Fall</td>
<td>965</td>
<td>980</td>
<td>990</td>
</tr>
</tbody>
</table>
# City of Covington - Quarterly Performance Report - Street Fund as of 12/31/2019

## 2019 Revenues by Category

<table>
<thead>
<tr>
<th>Category</th>
<th>2019 Budget</th>
<th>2019 Actual</th>
<th>% Rem</th>
<th>% Coll/Actual</th>
</tr>
</thead>
<tbody>
<tr>
<td>Motor Vehicle License Fee</td>
<td>$330.0</td>
<td>$325.5</td>
<td>$4.5</td>
<td>98.6%</td>
</tr>
<tr>
<td>Cable TV Franchise</td>
<td>$259.0</td>
<td>$254.6</td>
<td>$4.4</td>
<td>98.3%</td>
</tr>
<tr>
<td>Intergovernmental Revenues</td>
<td>$618.7</td>
<td>$453.5</td>
<td>$165.3</td>
<td>73.3%</td>
</tr>
<tr>
<td>Charges for Goods &amp; Svcs</td>
<td>$24.0</td>
<td>$36.5</td>
<td>$(12.5)</td>
<td>152.2%</td>
</tr>
<tr>
<td>Investment Interest</td>
<td>$4.0</td>
<td>$4.7</td>
<td>$(0.7)</td>
<td>118.3%</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>$-</td>
<td>$1.4</td>
<td>$(1.4)</td>
<td>0.0%</td>
</tr>
<tr>
<td>Total Operating Revenues</td>
<td>$1,235.7</td>
<td>$1,076.1</td>
<td>$159.6</td>
<td>87.1%</td>
</tr>
<tr>
<td>Operating Transfer In</td>
<td>$963.1</td>
<td>$963.1</td>
<td>$-</td>
<td>100.0%</td>
</tr>
<tr>
<td>Total Sources</td>
<td>$2,198.8</td>
<td>$2,039.2</td>
<td>$159.6</td>
<td>92.7%</td>
</tr>
</tbody>
</table>

## 2019 Expenditures by Category

<table>
<thead>
<tr>
<th>Category</th>
<th>2019 Budget</th>
<th>2019 Actual</th>
<th>% Rem</th>
<th>% Coll/Actual</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries &amp; Wages</td>
<td>$426.4</td>
<td>$467.3</td>
<td>$(40.9)</td>
<td>109.6%</td>
</tr>
<tr>
<td>Benefits</td>
<td>$174.7</td>
<td>$177.7</td>
<td>$(3.0)</td>
<td>101.7%</td>
</tr>
<tr>
<td>Supplies</td>
<td>$64.7</td>
<td>$65.8</td>
<td>$(1.0)</td>
<td>101.6%</td>
</tr>
<tr>
<td>Other Services &amp; Charges</td>
<td>$899.2</td>
<td>$711.2</td>
<td>$188.0</td>
<td>79.1%</td>
</tr>
<tr>
<td>Intergovernmental</td>
<td>$-</td>
<td>$-</td>
<td>$-</td>
<td>0.0%</td>
</tr>
<tr>
<td>Capital</td>
<td>$-</td>
<td>$1.5</td>
<td>$(1.5)</td>
<td>0.0%</td>
</tr>
<tr>
<td>Total Operating Expenses</td>
<td>$1,565.0</td>
<td>$1,423.6</td>
<td>$141.5</td>
<td>91.0%</td>
</tr>
<tr>
<td>Other Financing Uses</td>
<td>$664.7</td>
<td>$655.9</td>
<td>$8.7</td>
<td>98.7%</td>
</tr>
<tr>
<td>Total Uses</td>
<td>$2,229.7</td>
<td>$2,079.5</td>
<td>$150.2</td>
<td>93.3%</td>
</tr>
</tbody>
</table>

## Sidewalk Repair Hours

<table>
<thead>
<tr>
<th>Year</th>
<th>Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>53</td>
</tr>
<tr>
<td>2016</td>
<td>26</td>
</tr>
<tr>
<td>2017</td>
<td>126</td>
</tr>
<tr>
<td>2018</td>
<td>16</td>
</tr>
<tr>
<td>2019</td>
<td>273</td>
</tr>
</tbody>
</table>
City of Covington - Quarterly Performance Report - Development Services Fund
as of 12/31/2019

2019 Revenues by Category

- Licenses and Permits: 50.6%
- Charges for Goods & Svcs: 44.0%
- Interest: 5.3%
- Miscellaneous: 0.1%
- Fines & Forfeits: 0.0%

2019 Expenditures by Category

- Salaries & Wages: 46.7%
- Benefits: 15.6%
- Supplies: 0.7%
- Other Svcs & Chgs: 37.0%
- Interest: 5.3%
- Miscellaneous: 0.1%

Rev & Exp - YTD

<table>
<thead>
<tr>
<th></th>
<th>2019 Budget</th>
<th>2019 Actual</th>
<th>$ Rem</th>
<th>% Coll/ Spent YTD</th>
<th>2018 Actual</th>
</tr>
</thead>
<tbody>
<tr>
<td>Licenses and Permits</td>
<td>$ 863.2</td>
<td>$ 1,155.8</td>
<td>$(292.6)</td>
<td>133.9%</td>
<td>$ 935.9</td>
</tr>
<tr>
<td>Charges for Goods &amp; Svcs</td>
<td>721.3</td>
<td>1,005.3</td>
<td>$(284.0)</td>
<td>139.4%</td>
<td>1,070.7</td>
</tr>
<tr>
<td>Fines &amp; Forfeits</td>
<td>0.6</td>
<td>0.7</td>
<td>$(0.1)</td>
<td>119.2%</td>
<td>0.5</td>
</tr>
<tr>
<td>Investment Interest</td>
<td>30.0</td>
<td>120.9</td>
<td>$(90.9)</td>
<td>402.9%</td>
<td>82.2</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>-</td>
<td>1.4</td>
<td>$(1.4)</td>
<td>0.0%</td>
<td>0.1</td>
</tr>
<tr>
<td>Total Operating Revenues</td>
<td>1,615.1</td>
<td>2,284.1</td>
<td>$(669.0)</td>
<td>141.4%</td>
<td>2,089.3</td>
</tr>
<tr>
<td>Operating Transfer In</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Total Sources</td>
<td>$ 1,615.1</td>
<td>$ 2,284.1</td>
<td>$(669.0)</td>
<td>141.4%</td>
<td>$ 2,089.3</td>
</tr>
<tr>
<td>Salaries &amp; Wages</td>
<td>$ 761.2</td>
<td>$ 825.2</td>
<td>$(64.0)</td>
<td>108.4%</td>
<td>$ 709.1</td>
</tr>
<tr>
<td>Benefits</td>
<td>267.4</td>
<td>276.2</td>
<td>$(8.8)</td>
<td>103.3%</td>
<td>228.5</td>
</tr>
<tr>
<td>Supplies</td>
<td>11.7</td>
<td>11.8</td>
<td>$(0.1)</td>
<td>101.0%</td>
<td>17.4</td>
</tr>
<tr>
<td>Other Services &amp; Charges</td>
<td>834.2</td>
<td>654.0</td>
<td>180.3</td>
<td>78.4%</td>
<td>542.7</td>
</tr>
<tr>
<td>Intergovernmental</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>0.0%</td>
<td>90.6</td>
</tr>
<tr>
<td>Capital</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
</tr>
<tr>
<td>Total Operating Expenses</td>
<td>1,874.6</td>
<td>1,767.2</td>
<td>107.4</td>
<td>94.3%</td>
<td>1,588.4</td>
</tr>
<tr>
<td>Other Financing Uses</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
</tr>
<tr>
<td>Total Uses</td>
<td>$ 1,874.6</td>
<td>$ 1,767.2</td>
<td>$ 107.4</td>
<td>94.3%</td>
<td>$ 1,588.4</td>
</tr>
</tbody>
</table>

Single Family Residential - Cumulative Permit Activity

- January: 6
- February: 13
- March: 30
- April: 36
- May: 48
- June: 52
- July: 56
- August: 63
- September: 69
- October: 83
- November: 91
- December: 100

116 of 120
City of Covington - Quarterly Performance Report - SWM Fund
as of 12/31/2019

2019 Revenues by Category

<table>
<thead>
<tr>
<th>Category</th>
<th>2019 Budget</th>
<th>2019 Actual</th>
<th>% Rem</th>
<th>% Coll/</th>
<th>2018 Actual</th>
</tr>
</thead>
<tbody>
<tr>
<td>Charges for Goods &amp; Svcs</td>
<td>2,632.5</td>
<td>2,708.1</td>
<td>75.6</td>
<td>102.9%</td>
<td>2,463.7</td>
</tr>
<tr>
<td>Investment Interest</td>
<td>22.0</td>
<td>16.5</td>
<td>5.5</td>
<td>74.8%</td>
<td>29.7</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>42.0</td>
<td>49.3</td>
<td>(7.3)</td>
<td>117.4%</td>
<td>49.3</td>
</tr>
<tr>
<td>Grants</td>
<td>1.4</td>
<td>1.4</td>
<td>0.0</td>
<td>99.2%</td>
<td>172.6</td>
</tr>
<tr>
<td>Total Operating Revenues</td>
<td>2,655.9</td>
<td>2,734.0</td>
<td>(78.1)</td>
<td>102.9%</td>
<td>2,677.0</td>
</tr>
<tr>
<td>Operating Transfer In</td>
<td>180.0</td>
<td>180.0</td>
<td>-</td>
<td>100.0%</td>
<td>-</td>
</tr>
<tr>
<td>Total Sources</td>
<td>$ 2,835.9</td>
<td>$ 2,914.0</td>
<td>(78.1)</td>
<td>102.8%</td>
<td>$ 2,677.0</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Category</th>
<th>2019 Budget</th>
<th>2019 Actual</th>
<th>% Rem</th>
<th>% Coll/</th>
<th>2018 Actual</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries &amp; Wages</td>
<td>$ 741.0</td>
<td>$ 707.5</td>
<td>33.5</td>
<td>95.5%</td>
<td>$ 614.8</td>
</tr>
<tr>
<td>Benefits</td>
<td>300.5</td>
<td>288.9</td>
<td>11.6</td>
<td>96.1%</td>
<td>243.7</td>
</tr>
<tr>
<td>Supplies</td>
<td>42.0</td>
<td>49.3</td>
<td>(7.3)</td>
<td>117.4%</td>
<td>49.3</td>
</tr>
<tr>
<td>Other Services &amp; Charges</td>
<td>1,353.7</td>
<td>1,203.8</td>
<td>149.9</td>
<td>88.9%</td>
<td>1,189.9</td>
</tr>
<tr>
<td>Intergovernmental</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>0.0%</td>
<td>87.8</td>
</tr>
<tr>
<td>Debt Service Interest</td>
<td>2.0</td>
<td>2.0</td>
<td>0.0</td>
<td>99.9%</td>
<td>2.0</td>
</tr>
<tr>
<td>Capital</td>
<td>206.7</td>
<td>189.9</td>
<td>23.8</td>
<td>88.5%</td>
<td>-</td>
</tr>
<tr>
<td>Total Operating Expenses</td>
<td>2,645.9</td>
<td>2,434.4</td>
<td>211.5</td>
<td>92.0%</td>
<td>2,187.5</td>
</tr>
<tr>
<td>Other Financing Uses</td>
<td>541.3</td>
<td>541.3</td>
<td>-</td>
<td>100.0%</td>
<td>891.7</td>
</tr>
<tr>
<td>Total Uses</td>
<td>$ 3,187.2</td>
<td>$ 2,975.7</td>
<td>211.5</td>
<td>93.4%</td>
<td>$ 3,079.2</td>
</tr>
</tbody>
</table>

Hours of Catch Basin Repair

<table>
<thead>
<tr>
<th>Year</th>
<th>Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017</td>
<td>36</td>
</tr>
<tr>
<td>2018</td>
<td>116</td>
</tr>
<tr>
<td>2019</td>
<td>296</td>
</tr>
</tbody>
</table>

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DISCUSSION OF FUTURE AGENDA ITEMS:

6:00 p.m., Tuesday, April 14, 2020 Special Meeting
Human Services Commission Interviews
& Youth Council Interviews

7:00 p.m., Tuesday, April 14, 2020 Regular Meeting

(Draft Agenda Attached)
CALL CITY COUNCIL REGULAR MEETING TO ORDER

ROLL CALL/PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

PUBLIC COMMUNICATION
  • Annual King County Update from King County Councilmember Reagan Dunn
  • Recognition for Retiring Executive Assistant/City Clerk Sharon Scott

RECEPTION TO HONOR EXECUTIVE ASSISTANT/CITY CLERK SHARON SCOTT

PUBLIC COMMENT Speakers will state their name, address, and organization. Comments are directed to the City Council, not the audience or staff. Comments are not intended for conversation or debate and are limited to no more than four minutes per speaker. Speakers may request additional time on a future agenda as time allows.

NOTICE to all participants: Pursuant to state law, RCW 42.17A.555, campaigning for any ballot measure or candidate in City Hall and/or during any portion of the council meeting, including the audience comment portion of the meeting, is PROHIBITED.

APPROVE CONSENT AGENDA
C-1. Minutes: March 10, 2020 Special & Regular Meetings and March 24, 2020 Special & Regular Meetings (Michaud)
C-2. Vouchers (Parker)
C-3. Authorize City Manager to Execute a Deed of Right to Use SoCo Park Parcel No. 362205-9098 for Public Outdoor Recreation (Newton)

PUBLIC HEARING
1. To Receive Public Testimony on Storage Units Moratorium (Estep)

NEW BUSINESS
2. Consider Appointments to Human Services Commission (Council)
3. Consider Appointments to Youth Council (Council)
4. Consider Ordinance Authorizing City Manager to Acquire, Dispose, or Lease Certain Real Property Interests for the Purpose of Installing and Maintaining Certain Road Improvements on 204th Avenue SE (Lindskov)

FUTURE AGENDA ITEMS

Note: Council will interview applicants for the Human Services Commission and Youth Council beginning at 6:00 p.m.
COUNCIL/STAFF COMMENTS

PUBLIC COMMENT See Guidelines on Public Comments above in First Public Comment Section

EXECUTIVE SESSION – if needed

ADJOURN