Questions and Answers

Question:

Are the tree preservation and protection requirements applicable to my property?

Answer:

Yes.

CMC 18.45.040 Applicability of regulations.

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

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

(3) If there is any conflict between the Chapter 18.65 CMC or Chapter 16.05 CMC requirements the most restrictive applies. Should a conflict occur between the provisions of this chapter or between this chapter and the laws, regulations, codes, or rules promulgated by any other authority having jurisdiction within the City, the requirement which most supports the provisions 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.

Question:

I have a tree(s) on my property that I want removed. Who do I talk with to see what the requirements are to remove trees within the City?

Answer:

Before you start cutting down trees, please contact the Community Development Department for more information or to help navigate the requirements of the municipal code.

Question:

What trees are exempt from the requirements of obtaining a permit?

Answer:

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

(1) Emergency Removal. Removal of trees necessary to protect public safety or public or private property from imminent danger in response to emergencies declared by the City, County, State or Federal governments. In the case of a declared emergency, the written approval requirement herein shall be waived.

(2) Emergency Removal of an At Risk Tree or Trees. Removal of an at risk tree following a tree risk assessment and recommendation by a qualified arborist that the tree is a safety risk and should be removed. For a tree to be considered an at risk tree it must be defective either in some part or as a whole, with risk for failure and a target that is threatened. Trees are declared at risk if a tree risk assessment has been completed and mitigation is required to prevent a failure from causing damage affecting the target. The City may, at its sole discretion and in consideration of ISA tree risk assessment guidance, waive the qualified arborist requirement if City staff conducts an on-site inspection and determines that a tree clearly and obviously constitutes a risk. City staff should consider the following conditions when conducting a tree risk assessment:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Question:

How do I use the exemption process to remove a tree?

Answer:

Exempt tree removal, without a permit, and as allowed pursuant to CMC 18.45.050, shall be reported to the City on a form provided by the City within 21 days of removal.

Question:

What is a significant tree?

Answer:

"Significant tree," for purposes of this chapter, means a tree that is in a healthy condition and is a noninvasive species, which is:

(1) Any deciduous tree that is twelve inches or more in diameter at DBH;

(2) Any coniferous tree that is six inches or more in diameter at DBH;

(3) A required replacement tree of any size; or

(4) Any tree that is six inches or more at DBH that is located within critical areas and the shoreline jurisdiction.

Question:

What is a landmark tree?

Answer:

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

Question:

What is a heritage tree?

Answer:

"Heritage tree(s)" means a significant tree that is equal to or greater than thirty-two (32) DBH.

Question:

What does DBH mean?

Answer:

"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. 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]).

Question:

What is the drip line of a tree?

Answer:

"Drip line" 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.

Question:

What is Excessive canopy raising?

Answer:

"Excessive canopy raising," means the excessive removal of lower canopy limbs (especially on conifers), by reducing the live crown ratio (the ratio of live crown to total tree height) lower than 60% of the original crown. Excessive canopy raising can pose a high risk. A trees 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.

Question:

What is a tree(s) canopy?

Answer:

“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.

Question:

What is considered the crown of a tree?

Answer:

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

Question:

What is an imminent danger?

Answer:

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

Question:

What is a protected tree?

Answer:

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

Question:

What is a tree risk assessment?

Answer:

"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.

Question:

Who is qualified arborist?

Answer:

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

Question:

What is an at risk tree?

Answer:

"At risk tree," means any significant tree determined by a qualified arborist through a tree risk assessment as a likely source of imminent danger life or property, or determined to have a structural defect, combination of defects, or disease, resulting in the loss of a major structural component of that tree in a manner that is likely to:

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

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

(3) Prevent emergency access by first responders.

Question:

What is risk?

Answer:

"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.

Question:

What is a target?

Answer:

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

Question:

What is a nuisance tree?

Answer:

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

Common Name	Species Name
Red alder	Alnus rubra
Black cottonwood	Populus trichocarpa

Question:

What is an invasive tree?

Answer:

“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.

Common Name	Species Name
Norway maple	Acer platanoides
Sycamore maple	Acer pseudoplatanus
Horse chestnut	Aesculus hippocastanum
Tree-of-heaven	Ailanthus altissima
European white birch	Betula pendula
English/European hawthorn	Crataegus monogyna
English holly	Ilex aquifolium
Princess tree	Paulownia tomentosa
White poplar	Populus alba
Sweet cherry	Prunus avium
Cherry laurel	Prunus laurocerasus
Portugal laurel	Prunus lusitanica
Black locust	Robinia pseudoacacia

Common Name	Species Name
European mountain ash	Sorbus aucuparia
Siberian elm	Ulmus pumila

Question?

What is tree topping allowed under the code? What constitutes tree topping?

Answer:

No. Tree topping is prohibited pursuant to CMC 18.45.050(3) and CMC 18.45.070(2).

“Tree topping” 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.

Question:

What is a critical root zone and how is it measured?

Answer:

“Critical root zone (CRZ)” means the International Society of Arboriculture (ISA) definition of CRZ, which is an area equal to a one-foot radius from the base of the tree’s trunk for each one inch of the tree’s diameter at 4.5 feet above grade (referred to as diameter at breast height). Example: A 24-inch diameter tree at 4.5 feet above grade would have a critical root zone radius

(CRZ) of 24 feet. In this example, the total protection zone, including trunk, would be 50 feet in diameter.

Question:

What triggers a minor tree removal permit?

Answer:

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

Question:

What triggers a major tree removal permit?

Answer:

Major tree clearing permits are those permits involving any removal of trees, clearing and grading of land with trees, shrubs, or understory vegetation on sites one acre in size or greater, unless the activity falls within an exemption listed in CMC 18.45.050, in which no permit is required.

Question:

How many trees do I have to retain on my property?

Answer:

Pursuant to the provisions of CMC 18.45.080(1)Tree Retention and Preservation for All Zones. The following tree retention and preservation percentages apply to all residential, commercial, or industrial zoned properties unless exempt pursuant to CMC 18.45.050, Exemptions:

> (a) R-1 Zoned Lots. A minimum of 40 percent of the significant trees shall be retained within areas unconstrained by critical areas and outside shoreline jurisdiction.
>
> (b) R-4 and R-6 Zoned Lots. A minimum of 35 percent of the significant trees shall be retained within areas unconstrained by critical areas and outside shoreline jurisdiction.

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

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

Question:

If I cut down a tree am I required to replace it?

Answer:

Yes.

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Coast redwood,

(ii) Incense cedar,

(iii) Ponderosa pine,

(iv) Jeffrey pine,

(v) Lodgepole pine,

(vi) Knobcone pine,

(vii) Sugar pine,

(viii) Western white pine,

(ix) White bark pine, limber pine,

(x) Sitka spruce,

(xi) Western red cedar,

(xii) Alaskan-cedar, and

(xiii) All hard woods,

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

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

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

Question:

Does the City provide incentives for the preservation of landmark or heritage trees?

Answer:

Yes.

Pursuant to the provisions of CMC 18.45.050(3) Incentives. The following incentives are available for higher levels of landmark or heritage tree preservation:

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

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

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

(2) Preservation of a landmark or heritage tree as part of a continuous canopy adjacent to a public park and/or other protected open space; or

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

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

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

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

(3) Preservation of a landmark or heritage tree able to be incorporated into required landscaping; or

(4) An isolated cluster of landmark or heritage trees.

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

Question:

I am required to replace trees removed on-site. Where should I put them?

Answer:

Pursuant to the provisions of CMC 18.45.050 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.

Question:

I can not fit the required replacement trees on my property. Are there provisions within the code that allow me to plant the replacement trees off site? Are there any alternatives?

Answer:

Yes.

Pursuant to the provisions of CMC 18.45.050(5) Location for Tree Replacement – Alternatives Sites Subject to City Approval. The location of replacement trees shall be consistent with a report produced by a qualified arborist. Replacement costs, including materials plus labor, shall be at the applicant's expense. When on-site replacement cannot be completely achieved, the following alternatives may be considered, subject to City approval:

(a) Off-Site Tree Replacement.

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

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

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

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

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

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

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

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

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

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

Question:

Does the City have guidelines or requirements for tree replacement?

Answer:

Yes.

Pursuant to the provisions of CMC 18.45.050(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.

Question:

Does the City have standards for tree protection and tree fencing?

Answer:

Yes.

Pursuant to the provisions of CMC 18.45.060(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:

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

(b) A tree protection area, corresponding to the critical root zone of a significant tree, shall be identified by a qualified arborist during the construction stage, and temporary fencing in accordance with subsection (5)(d) of this section shall be installed around the tree protection area prior to any tree clearing and/or grading. Fencing shall remain throughout construction. No disturbance to the tree protection area is authorized and if any sign of disturbance is observed 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;

(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 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 tree;

(g) Grade level changes described in subsection (5)(e) of this section shall be done according to a plan prepared by a qualified 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.

Question:

Does the City have a requirement for protecting bald eagle habitat? What do I do if I have a tree that contains a bald eagle nest or I have trees near a bald eagle's nest?

Answer:

Pursuant to the provisions of CMC 18.45.060(7)(a) Bald Eagle and Other Federal and State Requirements. All 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.

Question:

Does the City have a requirement for the maintenance of retained, replaced, or relocated trees?

Answer:

Yes.

Pursuant to the provisions of CMC 18.45.050(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.

Question:

Does the City have tree protection standards?

Answer:

Yes.

Pursuant to the provisions of CMC 18.45.090 Tree protection standards, the following protection standards are required:

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

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

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

(b) No portion of a tree tract shall be less than 20-feet in width.

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

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

(5) Priority Location of Tree Tracts. Placement of tree tracts is encouraged in certain areas to enhance their viability and to complement natural and environmental features of the property. The priority locations below are encouraged for placement of all trees in designated tree tracts. When such tree tracts are located according to the following priority, a subdivision or development is eligible for up to a one percent reduction in the tree retention percentage requirement outlined in CMC 18.45.080.

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

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

(8) 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.

Question:

Does the City still have a heritage tree program?

Answer:

No.

The heritage tree program was eliminated.

Question:

What happens if I remove trees in violation of Chapter 18.45 CMC Tree Preservation and Protection?

Answer:

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

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

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

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

Question:

Is there an appeal process and if so, what are the provisions?

Answer:

CMC 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.