**COMMISSIONERS' ORDER NO. _____**

AN ORDER ACCEPTING THE RESIGNATION FOR RETIREMENT OF OFFICER JOANNE RIGNEY FROM THE COVINGTON POLICE DEPARTMENT, EFFECTIVE SEPTEMBER 1, 2020.

* * * *

NOW THEREFORE,
BE IT ORDERED BY THE BOARD OF COMMISSIONERS OF THE CITY OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

That the Board of Commissioners hereby accepts the resignation for retirement of Officer JoAnne Rigney from the Covington Police Department, effective September 1, 2020. The Board wishes to the Officer Rigney for the many years of service to the City and its residents.

Section 2

That this order shall take effect and be in full force when passed and recorded according to law.

_____
MAYOR

ATTEST:

_____
CITY CLERK

Passed: _____

**COMMISSIONERS' ORDER NO. ____**

AN ORDER AUTHORIZING THE MAYOR AND APPROPRIATE CITY STAFF TO SIGN AGREEMENTS AND PLATS APPROVING THE CONVEYANCE OF A PORTION OF AIR RIGHTS AND RELATED EASEMENTS AT THE REAL PROPERTY LOCATED AT THE NORTHWEST CORNER OF MADISON AVENUE AND RIVERCENTER BOULEVARD.

* * *

WHEREAS, The City of Covington ("City") and the City of Covington, Kentucky Municipal Properties Corporation ("Municipal Corporation") are the fee simple owners of that parcel of land located at the northwest corner of Madison Avenue and RiverCenter Boulevard, in the City of Covington, Kentucky (the "West Lot"); and

WHEREAS, In July 1997, the City and the Municipal Corporation leased the West Lot to the Commonwealth of Kentucky (the "Commonwealth") pursuant to the terms of the First Amended and Restated Land Lease Agreement (the "Land Lease"). The Commonwealth then built a parking garage on the West Lot; and

WHEREAS, In 1999, the Commonwealth executed a Second Amended and Restated Hotel Air Rights Sub-Lease Agreement (as since amended, the "Hotel Air Rights Sub-Lease") with CPX RiverCenter Development Corporation ("CPX") which granted to CPX rights to certain air space above the West Lot, and within which the Covington Marriott Full Service Hotel was constructed and is currently being operated. In 2004, CPX assigned its rights in the Hotel Air Rights Lease to EHP RiverCenter Landmark, LLC. In 2007, EHP RiverCenter Landmark, LLC assigned its rights in the Hotel Air Rights Lease, as amended, to AP/AIM RiverCenter Landmark, LLC. In November 2018, AP/AIM RiverCenter Landmark, LLC assigned its interest in the Hotel Air Rights Sub-Lease Agreement, as amended, to RiverCenter Landlord, LLC, a Delaware limited liability company ("RiverCenter Landlord").

WHEREAS, In 1999, the Commonwealth executed a Second Amended and Restated Office Air Rights Sub-Lease Agreement (as since amended, the "Office Air Rights Sub-Lease Agreement") with CPX RiverCenter Development Corporation ("CPX"), which granted to CPX rights to certain air space above the West Lot, and within which the Madison Place Apartment building (formerly the Madison Place Office Building) was constructed and is currently being operated. In 1999, CPX assigned its rights in the Office Air Rights Lease to CPX Madison Place Office, LLC. In 2019, CPX Madison Place Office, LLC changed its company name to CPX Madison Place Apartments, LLC; and

WHEREAS, In January 2010, the Commonwealth conveyed all of its interest in the Land Lease with respect to the West Lot together with its interest in the Madison Place Parking Garage to CPX West Air Lot LLC, a Kentucky limited liability company ("CPX WAL"); and

WHEREAS, RiverCenter Landlord as the current Sub-Lessee of the Hotel Air Lot has agreed to transfer a portion of the Hotel Air Lot located on Level A (the third level) to CPX Madison Place Apartments, LLC to be incorporated in and made a part of the Office Air Lot. RiverCenter Landlord has further agreed to grant certain easements over, upon, and across the Hotel Air Lot for the benefit of the Office Air Lot; and

WHEREAS, RiverCenter Landlord and Domaine de la Rive, LLC, a Kentucky limited

liability company ("Domaine") entered into a certain First Amended and Restated Agreement, Grant of Easements and Space Sublease dated October 2, 2004 and recorded February 18, 2005 in the Kenton County, Kentucky Clerk's records at Covington, Kentucky concerning the use of the health and fitness center and pool and sublease of certain spa space located within the Hotel Air Lot; and

WHEREAS, RiverCenter Landlord and Domaine, in conjunction with the transfer of the portion of the Hotel Air Lot on Level A, wherein the spa space is located, desire to enter into and have requested that the City approve that certain Second Amended and Restated Agreement, Grant of Easements and Termination of Spa Sublease to, among other matters, terminate the spa sublease; and

WHEREAS, CPX Madison Place Apartments, LLC requested that the City Board of Commissioners approve an Order to permit the Mayor and appropriate City staff to execute various agreements and plats to memorialize the above-described requests.

NOW, THEREFORE, BE IT ORDERED BY THE BOARD OF COMMISSIONERS OF THE CITY OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

That the Mayor and appropriate City staff are hereby authorized to execute all necessary documents and plats to memorialize the City's consent to the proposed transfer from RiverCenter Landlord, as the current Sub-Lessee of the Hotel Air Lot, to CPX Madison Place Apartments, LLC of a portion of the Hotel Air Lot located on Level A (the third level) to be incorporated in and made a part of the Office Air Lot and to the termination of the spa sublease, on behalf of the City subject to the review and approval of the City Solicitor and City Manager.

Section 2

That this order shall take effect and be in full force when passed and recorded according to law.

_____
MAYOR

ATTEST:

_____
CITY CLERK

Passed:_____

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**COMMISSIONERS' ORDER NO. ____**

AN ORDER OF THE CITY OF COVINGTON DOCUMENTING AUTHORIZATION BY THE CITY OF COVINGTON, KENTUCKY, MUNICIPAL PROPERTIES CORPORATION FOR THE CORPORATION'S PRESIDENT AND APPROPRIATE OFFICIALS TO SIGN AGREEMENTS AND PLATS APPROVING THE CONVEYANCE OF A PORTION OF AIR RIGHTS AND RELATED EASEMENTS AT THE REAL PROPERTY LOCATED AT THE NORTHWEST CORNER OF MADISON AVENUE AND RIVERCENTER BOULEVARD

* * *

WHEREAS, The City of Covington ("City") and the City of Covington, Kentucky Municipal Properties Corporation ("Municipal Corporation") are the fee simple owners of that parcel of land located at the northwest corner of Madison Avenue and RiverCenter Boulevard, in the City of Covington, Kentucky (the "West Lot"); and

WHEREAS, In July 1997, the City and the Municipal Corporation leased the West Lot to the Commonwealth of Kentucky (the "Commonwealth") pursuant to the terms of the First Amended and Restated Land Lease Agreement (the "Land Lease"). The Commonwealth then built a parking garage on the West Lot; and

WHEREAS, In 1999, the Commonwealth executed a Second Amended and Restated Hotel Air Rights Sub-Lease Agreement (as since amended, the "Hotel Air Rights Sub-Lease") with CPX RiverCenter Development Corporation ("CPX") which granted to CPX rights to certain air space above the West Lot, and within which the Covington Marriott Full Service Hotel was constructed and is currently being operated. In 2004, CPX assigned its rights in the Hotel Air Rights Lease to EHP RiverCenter Landmark, LLC. In 2007, EHP RiverCenter Landmark, LLC assigned its rights in the Hotel Air Rights Lease, as amended, to AP/AIM RiverCenter Landmark, LLC. In November 2018, AP/AIM RiverCenter Landmark, LLC assigned its interest in the Hotel Air Rights Sub-Lease Agreement, as amended, to RiverCenter Landlord, LLC, a Delaware limited liability company ("RiverCenter Landlord").

WHEREAS, In 1999, the Commonwealth executed a Second Amended and Restated Office Air Rights Sub-Lease Agreement (as since amended, the "Office Air Rights Sub-Lease Agreement") with CPX RiverCenter Development Corporation ("CPX"), which granted to CPX rights to certain air space above the West Lot, and within which the Madison Place Apartment building (formerly the Madison Place Office Building) was constructed and is currently being operated. In 1999, CPX assigned its rights in the Office Air Rights Lease to CPX Madison Place Office, LLC. In 2019, CPX Madison Place Office, LLC changed its company name to CPX Madison Place Apartments, LLC; and

WHEREAS, In January 2010, the Commonwealth conveyed all of its interest in the Land Lease with respect to the West Lot together with its interest in the Madison Place Parking Garage to CPX West Air Lot LLC, a Kentucky limited liability company ("CPX WAL"); and

WHEREAS, RiverCenter Landlord as the current Sub-Lessee of the Hotel Air Lot has agreed to transfer a portion of the Hotel Air Lot located on Level A (the third level) to CPX Madison Place Apartments, LLC to be incorporated in and made a part of the Office Air Lot.

RiverCenter Landlord has further agreed to grant certain easements over, upon, and across the Hotel Air Lot for the benefit of the Office Air Lot; and

WHEREAS, RiverCenter Landlord and Domaine de la Rive, LLC, a Kentucky limited liability company ("Domaine") entered into a certain First Amended and Restated Agreement, Grant of Easements and Spa Sublease dated October 2, 2004 and recorded February 18, 2005 in the Kenton County, Kentucky Clerk's records at Covington, Kentucky concerning the use of the health and fitness center and pool and sublease of certain spa space located within the Hotel Air Lot; and

WHEREAS, RiverCenter Landlord and Domaine, in conjunction with the transfer of the portion of the Hotel Air Lot on Level A, wherein the spa space is located, desire to enter into and have requested that the City approve that certain Second Amended and Restated Agreement, Grant of Easements and Termination of Spa Sublease to, among other matters, terminate the space sublease; and

WHEREAS, CPX Madison Place Apartments, LLC requested that the Municipal Corporation adopt an appropriate document authorizing the President and any other required officers to execute various agreements and plats to memorialize the above-described requests.

NOW, THEREFORE, BE IT ORDERED BY THE BOARD OF COMMISSIONERS OF THE CITY OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

That the Board of Commissioners hereby documents the authorization by the City of Covington, Kentucky Municipal Properties Corporation for the Corporation's President and other required officers to execute all necessary documents and plats to memorialize the City's consent to the proposed transfer from RiverCenter Landlord, as the current Sub-Lessee of the Hotel Air Lot, to CPX Madison Place Apartments, LLC a portion of the Hotel Air Lot located on Level A (the third level) to be incorporated in and made a part of the Office Air Lot and to the termination of the spa sublease.

Section 2

That this order shall take effect and be in full force when passed and recorded according to law.

_____
MAYOR

ATTEST:

_____
CITY CLERK

Passed:_____

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**COMMISSIONERS' ORDER NO. _____**

AN ORDER APPROVING THE PROMOTION OF MARGARET VOLKERING TO THE POSITION OF PAYROLL SPECIALIST IN THE FINANCE DEPARTMENT, EFFECTIVE AUGUST 31, 2020.

* * * *

NOW THEREFORE,
BE IT ORDERED BY THE BOARD OF COMMISSIONERS OF THE CITY OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

That the Board of Commissioners hereby approves the promotion of Margaret Volkering to the position of Payroll Specialist in the Finance Department, effective August 31, 2020.

Section 2

That this order shall take effect and be in full force when passed and recorded according to law.

_____
MAYOR

ATTEST:

_____
CITY CLERK

Passed: _____

**COMMISSIONERS' ORDER NO. _____**

AN ORDER APPROVING THE PROMOTION OF SANDY SHOEMAKER FROM PART-TIME FINANCE TECHNICIAN TO FULL-TIME FINANCE TECHNICIAN IN THE FINANCE DEPARTMENT, EFFECTIVE AUGUST 31, 2020.

* * * *

NOW THEREFORE,
BE IT ORDERED BY THE BOARD OF COMMISSIONERS OF THE CITY OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

That the Board of Commissioners hereby approves the promotion of Sandy Shoemaker from Part-time Finance Technician to Full-time Finance Technician in the Finance Department, effective August 31, 2020.

Section 2

That this order shall take effect and be in full force when passed and recorded according to law.

_____
MAYOR

ATTEST:

_____
CITY CLERK

Passed: _____

**COMMISSIONERS' ORDER NO. _____**

AN ORDER AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT FOR DISPOSITION OF SURPLUS PROPERTY WITH THE CITY OF ELSMERE FOR THE TRANSFER OF TWO PIECES OF FIELD ARTILLERY CURRENTLY LOCATED ON MONTAGUE ROAD AT THE ENTRANCE TO DEVOU PARK.

* * * *

WHEREAS, for many years, two field artillery pieces, sponsored by the Park Hills VFW, have been located at the entrance to Devou Park in Lewisburg; and

WHEREAS, after the closure of the Park Hills VFW, the Elsmere VWF requested if they could relocate the pieces to their posts; and

WHEREAS, staff reached out to the VFW post in Latonia and they were not interested in the artillery; and

WHEREAS, as the memorial honored those who died from the VFW post, staff is recommending that the City allow these pieces be displayed at the VFW post in Elsmere.

NOW THEREFORE,
BE IT ORDERED BY THE BOARD OF COMMISSIONERS OF THE CITY OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

That the Board of Commissioners hereby authorizes the Mayor to execute an Agreement for Disposition of Surplus Property with the City of Elsmere for the transfer of two pieces of field artillery currently located on Montague Road at the entrance to Devou Park.

Section 2

That this order shall take effect and be in full force when passed and recorded according to law.

_____
MAYOR

ATTEST:

_____
CITY CLERK

Passed: _____

**COMMISSIONERS' ORDER NO. _____**

AN ORDER AUTHORIZING THE CITY MANAGER TO DIRECT AN OUTSIDE COUNSEL TO FILE SMALL CLAIMS, FORECLOSURES, AND/OR OTHER LEGAL PROCEEDINGS FOR UNPAID TAX, NUISANCE LIENS AND OTHER SIMILAR COLLECTION MATTERS.

* * * *

WHEREAS, pursuant to ORD-118-20, Commission set its priorities for FY 2021; and

WHEREAS, one of the priorities was to engage outside counsel to foreclose on tax and other city liens on properties; and

WHEREAS, staff is recommending that the City Manager be authorized to file legal proceedings as necessary to effectuate this priority.

NOW THEREFORE,
BE IT ORDERED BY THE BOARD OF COMMISSIONERS OF THE CITY OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

That the Board of Commissioners hereby authorizes the City Manager to direct an outside counsel to fil small claims, foreclosures, and/or other legal proceedings for unpaid tax, nuisance liens and other similar collection matters.

Section 2

That this order shall take effect and be in full force when passed and recorded according to law.

_____
MAYOR

ATTEST:

_____
CITY CLERK

Passed: _____

**COMMISSIONERS' ORDER NO. _____**

AN ORDER AUTHORIZING THE MAYOR TO EXECUTE AN INTERLOCAL AGREEMENT WITH THE HOUSING AUTHORITY OF COVINGTON RELATED TO THE CITY'S ADMINISTRATION OF TENANT PROTECTION VOUCHERS.

* * * *

WHEREAS, in order to proceed with the Housing Authority's application to HUD for the closing of City Heights, the City and the Housing Authority must enter into an agreement to partner on the tenant relocation plan; and

WHEREAS, the City, through its Housing Choice Voucher (Section 8) Program will apply for, receive, manage and administer up to 360 new Housing Choice Vouchers called Tenant Protection Vouchers; and

WHEREAS, these vouchers will assist those tenants effected by the closure of City Heights and they can be used anywhere in the United States.

NOW THEREFORE,
BE IT ORDERED BY THE BOARD OF COMMISSIONERS OF THE CITY OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

That the Board of Commissioners hereby authorizes the Mayor to execute an Interlocal Agreement with the Housing Authority of Covington related to the City's administration of Tenant Protection Vouchers.

Section 2

That this order shall take effect and be in full force when passed and recorded according to law.

_____
MAYOR

ATTEST:

_____
CITY CLERK

Passed: _____

**COMMISSIONERS' ORDER NO. _____**

AN ORDER AUTHORIZING THE MAYOR TO EXECUTE AN EASEMENT AGREEMENT AND ALL OTHER NECESSARY DOCUMENTS WITH KY COVINGTON JRG, LLC FOR THE CONSTRUCTION OF A WATER METER PIT ENCROACHING IN THE NEW PEDESTRIAN ALLEY ABUTTING THE JOHN R. GREEN PROJECT PARKING GARAGE.

* * * *

WHEREAS, a water meter pit is required to be constructed and maintained to service the John R. Green project; and

WHEREAS, this pit will be constructed against the garage and encroach into the new pedestrian alley by approximately 4 inches requiring an easement; and

WHEREAS, per the agreement, the developer will construct the water meter pit and maintain insurance and will indemnify and hold harmless the City.

NOW THEREFORE,
BE IT ORDERED BY THE BOARD OF COMMISSIONERS OF THE CITY OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

That the Board of Commissioners hereby authorizes the Mayor to execute an Easement Agreement and all other necessary documents with KY Covington JRG, LLC for the construction of a water meter pit encroaching in the new pedestrian alley abutting the John R. Green project parking lot.

Section 2

That this order shall take effect and be in full force when passed and recorded according to law.

_____
MAYOR

ATTEST:

_____
CITY CLERK

Passed: _____

**COMMISSIONERS' ORDER NO. _____**

AN ORDER APPROVING THE APPOINTMENT OF ROSS PATTEN TO THE POSITION OF ASSISTANT DIRECTOR IN THE ECONOMIC DEVELOPMENT DEPARTMENT, EFFECTIVE SEPTEMBER 1, 2020.

* * * *

NOW THEREFORE,
BE IT ORDERED BY THE BOARD OF COMMISSIONERS OF THE CITY OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

That the Board of Commissioners hereby approves the appointment of Ross Patten to the position of Assistant Director in the Economic Development Department, effective September 1, 2020.

Section 2

That this order shall take effect and be in full force when passed and recorded according to law.

_____
MAYOR

ATTEST:

_____
CITY CLERK

Passed: _____

**COMMISSIONERS' ORDER NO. _____**

AN ORDER AUTHORIZING THE MAYOR TO EXECUTE A FIRST AMENDMENT TO THE DISPOSITION AND DEVELOPMENT AGREEMENT WITH BHB PROPERTIES, LLC FOR PROPERTY LOCATED AT 1316 GREENUP STREET.

* * * *

WHEREAS, the amendment will revise the milestone dates for completion of Phases 1 and 2 to a single milestone date of November 1, 2020; and

WHEREAS, citing the Commercial Building Code, PDS was unable to grant separate Certificates of Occupancy for each separate phase of the project which precluded the developer's ability to comply with sections of the original agreement.

NOW THEREFORE,
BE IT ORDERED BY THE BOARD OF COMMISSIONERS OF THE CITY OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

That the Board of Commissioners hereby authorizes the Mayor to execute a First Amendment to the Disposition and Development Agreement with BHB Properties, LLC for property located at 1316 Greenup Street.

Section 2

That this order shall take effect and be in full force when passed and recorded according to law.

_____
MAYOR

ATTEST:

_____
CITY CLERK

Passed: _____

**COMMISSIONERS' ORDER NO. _____**

AN ORDER AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENT, ASSIGNMENT, AND ASSUMPTION OF LEASE AGREEMENT ASSIGNING THE 112 PIKE STREET LEASE TO NKUF PROPERTIES 10, LLC.

* * * *

WHEREAS, after approval of the lease assignment to NKU Foundation in July, staff was notified that the foundation wished to create a new LLC to hold the lease; and

WHEREAS, other than the name change to NKUF Properties 10 LLC, no other changes to the assignment were requested.

NOW THEREFORE,
BE IT ORDERED BY THE BOARD OF COMMISSIONERS OF THE CITY OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

That the Board of Commissioners hereby authorizes the Mayor to execute the Amendment, Assignment, and Assumption of Lease Agreement assigning the 112 Pike Street lease to NKUF Properties 10, LLC.

Section 2

That this order shall take effect and be in full force when passed and recorded according to law.

_____
MAYOR

ATTEST:

_____
CITY CLERK

Passed: _____

**COMMISSIONERS' ORDER NO. _____**

AN ORDER APPOINTING ELLA FRYE TO THE RENAISSANCE COVINGTON BOARD FOR A THREE-YEAR TERM, EFFECTIVE AUGUST 26, 2020 THROUGH AUGUST 25, 2023.

* * * *

NOW THEREFORE,
BE IT ORDERED BY THE BOARD OF COMMISSIONERS OF THE CITY OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

That the Board of Commissioners hereby appoints Ella Frye to the Renaissance Covington Board for a three-year term, effective August 26, 2020 through August 25, 2023.

Section 2

That this order shall take effect and be in full force when passed and recorded according to law.

_____
MAYOR

ATTEST:

_____
CITY CLERK

Passed: _____

**COMMISSIONERS' ORDINANCE NO. _____**

AN ORDINANCE REPEALING THE "URBAN FORESTRY" SUBCHAPTER OF CHAPTER 94 OF THE COVINGTON CODE OF ORDINANCES, SECTIONS 94.50 THROUGH 94.64, AND AMENDING SECTION 94.99 "PENALTIES" TO REMOVE PENALTIES RELATING TO THE URBAN FORESTRY SUBSECTION.

* * * *

WHEREAS, Sections 94.50 through 94.64, the "Urban Forestry regulations" of the Covington Code of Ordinances sets forth various regulations concerning public and private trees within the City of Covington; and

WHEREAS, due to a restructuring of the City's departments in 2019, the Urban Forestry regulations would be more appropriately located under the Department of Public Works, covered by Title V of the City's ordinances; and

WHEREAS, the Urban Forestry Subchapter is in need of additional updates to reflect Board of Commissioner recommendations; and

WHEREAS, City staff proposes various changes to the current Urban Forestry regulations to improve organization of the ordinance, streamline permitting processes, and move section of the code regarding the Covington Urban Forestry Board to the section of the City's code which houses City boards and organizations.

NOW THEREFORE,
BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

Sections 94.50 through 95.64 of the Covington Code of Ordinances, which read as follows, are hereby repealed:

[ ~~URBAN FORESTRY~~

~~§ 94.50 PURPOSE AND INTENT.~~
~~(A) The purpose of this subchapter is to establish a Covington Urban Forestry Program and a Covington Urban Forestry Board that shall promote and protect the public health, safety and general welfare, and further shall accentuate the scenic, cultural, historical, and aesthetic attributes of the city by providing policies, regulations, and standards relevant for establishing, maintaining, and preserving desirable trees, shrubs and other plants under Covington's jurisdiction.~~
~~(B) The intent of this subchapter is to:~~

~~(1) Protect residents from hazards or public nuisances caused by the improper planting, maintenance, or removal of trees, shrubs and other plants.~~

~~(2) Articulate an image for Covington by enhancing the city's physical appearance by using trees architecturally to provide space definition and landscape continuity.~~

~~(3) Promote value, protection, management, and enhancement of the urban forest resources.~~

~~(4) Advocate for the establishment and retention of efficient and appropriate tree planting spaces.~~

~~(5) Support Covington's landscape regulations and promote arboriculture in the city.~~

~~§ 94.51 JURISDICTION AND SCOPE OF AUTHORITY.~~

~~(A) The city shall have jurisdiction of all trees, shrubs, and other plants in, on, or along (except on private property) any public street, sidewalk, right-of-way, easement, and in any park or other public place owned by the city ("public arboriculture"). The city shall have the power to cause the planting, maintenance, removal, and replacement of such trees, shrubs and other plants. The city shall not regulate trees, shrubs, or other plants located on private property except hazard trees, public nuisances, and/or through application of the city's landscape regulations, as set forth in Zoning Code.~~

~~(B) The Covington Urban Forestry Board ("the Board") will advise and make recommendations to the City's Board of Commissioners regarding trees, shrubs, and other plants under Covington's jurisdiction.~~

~~(C) The Covington Urban Forestry Program ("the Program") and the Board will promote the stewardship of trees, shrubs, and other plants upon private property within the city limits. A program will be established to guide the preservation of "landmark trees".~~

~~(D) The Board will advise and make recommendations to the City's Board of Commissioners regarding issues as they relate to Covington's urban forest.~~

~~§ 94.52 DEFINITIONS.~~

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

~~ANNUAL REPORT. A report prepared by the Director of Parks and Recreation and/or Urban Forester to help evaluate performance of the Urban Forest Program.~~

~~ARBOR DAY. A U.S. spring holiday observed in some cities by planting trees.~~

~~ARBORICULTURE. The cultivation of trees, shrubs, and/or plants.~~

~~BMPs. Best Management Practices, regarding urban forestry, shall govern species selection, planting practices, care, maintenance, pruning, and removal of trees, shrubs, and other plants.~~

~~BUFFER ZONE. An open or landscaped area of appropriate design providing a visual and/or noise separation between incompatible land uses.~~

~~CALIPER. Diameter measurement of the trunk taken six inches above ground level for trees up to and including four inch caliper size. Measurement shall be taken 12 inches above the ground level for larger trees.~~

~~CERTIFIED ARBORIST. An individual who has achieved a level of knowledge in the art and science of tree care through at least three years experience and who has passed a comprehensive examination administered by the International Society of Arboriculture.~~

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

~~CITY COMMISSION. The Board of Commissioners of the City of Covington, Kentucky~~

~~CRITICAL ROOT ZONE (CRZ). The minimum area beneath a tree which must be left undisturbed in order to preserve a sufficient root mass to give a tree a reasonable chance of survival. The CRZ will typically be represented by a concentric circle centering on the tree's trunk with a radius equal in feet to one and one-half times the number of inches of the trunk diameter.~~

~~CROWN SPREAD. The distance from the ends of branches on one side of the tree, through the trunk, to the ends of the branches on the other side.~~

~~DIAMETER BREAST HEIGHT (DBH). The diameter of a tree four and one-half feet above the average ground level.~~

~~DRIP LINE. The imaginary vertical lines that extend to the ground and mark the outermost edges of the tree crown.~~

~~GREENSPACE. Natural or vegetated areas that are deemed significant by a community. Waterways and wetlands are integral to greenspace.~~

~~HAZARD TREE. Any tree that poses a high risk of damage to persons or property, such as a dead or dying tree.~~

~~IMPERVIOUS COVER. Surfaces that substantially reduce the rate of infiltration of stormwater and other nutrients into the earth.~~

~~LANDMARK TREE. A tree which has special significance because one or more of the following criteria may apply: rare species, old age, size, location, association with an historical event or person, scenic enhancement, or unique characteristics.~~

~~LARGE TREE. Any tree having a height of 30 feet or more at maturity.~~

~~LINE CLEARANCE. Removal of limbs and branches growing within a set distance of utility distribution lines.~~

~~PAVED AREA. Any ground surface covered with concrete, asphalt, stone, gravel, brick, or other paving material.~~

~~PLANTING STRIP OR AREA. Ground surface free of paved material which is reserved for landscaping purposes.~~

~~PRIVATE TREE. Any tree on non-public land.~~

~~PRIVATE ARBORICULTURE. Any trees, shrubs, and other plants on private property (nonpublic arboriculture).~~

~~PUBLIC NUISANCE. Any tree, shrub, or other plant material with an infectious disease or insect problem; any tree, shrub, or other plant that obstructs street lights, traffic signs, or the free passage of pedestrians or vehicles; a tree that has been repeatedly topped or otherwise abused or vandalized; a tree or vine growing into power lines and transformers.~~

~~PUBLIC ARBORICULTURE. Any trees, shrubs, and other plants in, on, or along (except on private property) any public street, sidewalk, right-of-way, easement, and in any park or other public place owned by the city.~~

~~PUBLIC TREE. Any tree in, on, or along (except on private property) any public street, sidewalk, right-of-way, easement, and in any park or other public place owned by the city.~~

~~PRUNING. Selective removal and thinning of a tree or shrub, taking into account the shape and natural structure of the plant.~~

~~SMALL TREE. Any tree having a height less than 30 feet at maturity.~~

~~SHRUB. Any woody plant with a multiple stem capable of growing to a height of up to 15 feet.~~

~~STREET TREE. Any public tree growing along a street, public right-of-way, median or along a similar area in which the public right-of-way borders privately owned areas.~~

~~TOPPING. Any pruning practice that results in cutting back limbs, within the tree's crown, leaving stubs, so as to remove the normal canopy with inadequate regard for the natural structure of the tree.~~

~~TREE. Any woody plant with a single trunk, or multiple trunks capable of growing to a height of 15 feet or more.~~

~~TREE CITY USA. A special recognition given by the National Arbor Day Foundation when a city meets certain requirements regarding urban forestry activities.~~

~~URBAN FORESTER. A qualified individual, who is preferably a certified arborist or who has knowledge of arboriculture with a background in forestry, horticulture, or landscape architecture, appointed by the City Commission to perform the duties of the Urban Forester, as those duties are set forth in the job description adopted by the City Commission, and to administer the Urban Forestry Program.~~

~~§ 94.53 URBAN FORESTRY PROGRAM.~~

~~(A) Responsible official. The Urban Forester, or other person designated by the City Commission, shall be the responsible official for administering the Urban Forestry Program. The Urban Forestry Board and City Parks and Recreation Department shall provide advice and assistance to the Urban Forester in carrying out his or her duties.~~

~~(B) Authority and responsibilities of the Urban Forester. The Urban Forester shall:~~

~~(1) Regulate, supervise, and authorize the planting, pruning, removal, replacement, and maintenance of public arboriculture to ensure safety, proper workmanship and to maintain the quality of the urban forest.~~

~~(2) Examine all public arboriculture and private arboriculture to determine whether they are contagiously diseased, dead or hazardous, obstructing the right-of-way, or posing a threat to public safety.~~

~~(3) Develop and update, at least every three years, the Covington Urban Forestry Best Management Practices, with the advice and assistance of the Urban Forestry Board.~~

~~(4) Develop and review, and update yearly, the Covington Comprehensive Urban Forest Plan ("CUFP"), with the advice and assistance of the Urban Forestry Board.~~

~~(5) Administer and implement the CUFP.~~

~~(6) Review site plans of new development and redevelopment to guide the compliance of such with Covington's landscape regulations. Based on the review, the Urban Forester will make recommendations to the Zoning Administrator, the City Planning Department, or other appropriate official, department, or agency.~~

~~(7) Review project plans for publicly sponsored developments, civic improvements, and changes to the public right-of-way as they relate to tree planting opportunities, tree protection, and tree removal. Based on the review, the Urban Forester will make recommendations to the appropriate city official, department, or agency.~~

~~(8) Develop and implement the Landmark Tree Program.~~

~~(9) Develop and conduct educational and outreach programs for the public promoting the benefits and best management practices of the urban forest.~~

~~(10) Implement a monitoring program to evaluate goals and accomplishments.~~

~~(11) Seek funding from state, federal, and other granting sources.~~

~~(12) Enforce the Covington Urban Forestry Ordinance regarding private arboriculture when it creates, in the opinion of the Urban Forester, based upon his or her investigation, a safety hazard and/or public nuisance. For purposes of carrying out the enforcement duties under this subchapter, the Urban Forester shall be classified as a "code enforcement officer" and shall carry out his or her enforcement duties pursuant to Chapter 92, including, but not limited to, following the procedures set forth in § 92.17 through § 92.99.~~

~~(13) Prepare the annual report on the Covington Urban Forestry Program.~~

~~(14) Serve as an ex-officio member of the Covington Urban Forestry Board.~~

~~(15) Report directly to and be supervised by the Director of Parks and Recreation.~~

~~(D) Policy. It shall be the policy of the Urban Forestry Program to:~~

~~(1) Encourage the establishment of large trees to the extent practicable and aesthetically pleasing.~~

~~(2) Encourage new tree plantings on public and private property to ensure a rich and diverse urban forest into perpetuity.~~

~~(3) Encourage proper tree care to maintain safe and healthy trees.~~

~~(4) Provide flexibility in tree selection and planting based on site conditions, zoning, and objectives.~~

~~(5) Make every effort to replace or repair public facilities without removing or damaging adjacent trees.~~

~~(E) Coordination. The Urban Forester and other city departments shall endeavor to share plans, specifications, requests, ideas, and other data affecting Covington's urban forest, in a timely and cooperative manner, to provide for coordination and the most feasible use of all public lands and resources.~~

~~(F) Performance evaluation.~~

~~(1) The Urban Forester shall collect and maintain all records and data necessary to objectively evaluate progress toward the purpose, intent, and goals of the Urban Forestry Program. The Urban Forester shall prepare the annual report. The report shall be submitted to the Urban Forestry Board for approval and then presented to the Mayor and City Commissioners upon request.~~

~~(2) The annual report shall include:~~

~~(a) The number, location and type of projects subject to the Urban Forest Program;~~

~~(b) The number of trees planted and removed;~~

~~(c) The amount of fines collected; (d) the cost of the Urban Forest Program; and (e) problem areas that need to be addressed.~~

~~§ 94.54 URBAN FORESTRY BOARD.~~

~~The current Covington Tree Board shall be restructured and henceforth be known as the Covington Urban Forestry Board ("the Board").~~

~~(A) Creation and establishment. There is hereby created and established an Urban Forestry Board for the City of Covington, Kentucky, which shall consist of 13 voting members, who are citizens and residents of the city, and who shall serve without compensation. Board members shall be appointed by the Mayor and approved by the City Commission. In addition, the Urban Forester shall serve as an ex-officio member of the Board.~~

~~(B) Representation. To the extent practical, representation shall reflect the social and geographic diversity of the city. Five members shall demonstrate an interest in conservation or urban forestry, and shall have a background in forestry, arboriculture, horticulture, landscape architecture, architecture, city planning, public relations, business management or law.~~

~~(C) Terms. Board members shall serve three-year terms, except that the term of five members appointed to the first board shall be only one year and the term for five members of the first board shall be for two years. Members may serve successive terms. In the event that a board member vacates his or her term, a successor shall be appointed for the unexpired portion of that term. The Mayor and City Commissioners, by majority vote, may remove any appointed member from the Board prior to the expiration of their term, with or without cause.~~

~~(D) Functions. The Urban Forestry Board shall:~~

~~(1) Hold regular meetings as it deems necessary. A majority of the Board shall constitute a quorum for the purpose of transacting the business of the Board.~~

~~(2) Elect a chair, vice-chair and a secretary thereof, as soon as practical after the time of the annual appointment of members to the Board.~~

~~(3) Make its own rules and regulations and keep a record of its proceeding. Copies of the minutes shall be made available to the Mayor and City Commissioners upon request.~~

~~(E) Responsibilities. The Urban Forestry Board shall:~~

~~(1) Promote the goals of the Urban Forest Program, including the value, protection, management, and the enhancement of the urban forest resources of Covington.~~

~~(2) Advise and assist the Urban Forester in:~~

~~(a) Developing and updating on a yearly basis the Covington Comprehensive Urban Forest Plan (CUFP);~~

~~(b) Developing and periodically updating the Covington Urban Forestry Best Management Practices;~~

~~(c) Reviewing project plans for publicly sponsored developments, civic improvements, and changes to the public right-of-way, and making recommendations;~~

~~(d) Developing and conducting educational and outreach urban forest programs for the public;~~

~~(e) Seeking grants for the Covington Urban Forest Program;~~

~~(f) Planning tree planting and maintenance programs for the trees, shrubs and other plants under Covington's jurisdiction; and~~

~~(g) Developing and implementing the Landmark Tree Program.~~

~~(3) Advise and assist the City Commission and city departments on issues related to urban forestry concerns.~~

~~(4) Serve as a clearinghouse for information related to the urban forest, through the Department of Parks and Recreation.~~

~~(5) Advise and assist with the development of legislation and policies that affect the city's urban forest.~~

~~§ 94.55 URBAN FORESTRY BEST MANAGEMENT PRACTICES.~~

~~(A) In an effort to establish and maintain a healthy and sustainable urban forest, and to ensure public health and safety, the urban forester, with the advice and assistance of the Urban Forestry Board, shall develop and adopt the Covington Urban Forestry Best Management Practices (BMPs).~~

~~(B) The Covington Urban Forestry BMPs shall govern species selection, planting practices, care, maintenance, pruning and removal of public arboriculture. The BMPs shall be based on the most current edition of the International Society of Arborist Standards for Tree Care or other nationally recognized standard.~~

~~(C) Within six months of the adoption of this subchapter, the Urban Forester shall make recommendations to the City Commission regarding adoption of the Covington Urban Forestry BMPs.~~

~~(D) The BMPs shall be reviewed and updated at least every three years by the Urban Forester.~~

~~§ 94.56 COMPREHENSIVE URBAN FOREST PLAN.~~

~~Effective and sustained stewardship of the urban forest can be accomplished only on the basis of a comprehensive urban forest plan.~~

~~(A) Within two years of the adoption of this subchapter, the Urban Forester, with the advice and assistance of the Board and the City Parks and Recreation Department, shall prepare the Covington comprehensive Urban Forest Plan (CUFP) for adoption by the City Commission. The process for developing the CUFP shall:~~

~~(1) Include an assessment of the current condition of the urban forest, including the 2002 Street Tree Inventory and the recommendations of such;~~

~~(2) Create a vision and goals that incorporate community values;~~

~~(3) Consider and reference existing plans that relate to trees, including Covington's landscape regulations; and~~

~~(4) Include strategies and activities for achieving the envisioned urban forest, i.e., specific guidance to agencies and the public by developing education programs, establishing continuous and consistent tree care practices, identifying funding priorities and opportunities, and assuring that all needs of the urban forest are recognized and addressed.~~

~~(B) The CUFP, or any amendments thereto, shall be forwarded to affected city agencies for review and recommendations before adoption.~~

~~(C) The Urban Forester, with the advice and assistance of the Board and Recreation Department, shall collect and maintain all records and data necessary to objectively evaluate progress in attaining stated goals of the CUFP. The Annual Report shall be prepared to address this and shall include analysis of the evaluation and recommendations for action. The Annual Report shall be presented to the City Commission upon request.~~

~~§ 94.57 PUBLIC EDUCATION AND OUTREACH.~~

~~(A) The Urban Forester, with the advice and assistance of the Urban Forestry Board and Recreation Department, shall develop and conduct educational and outreach programs for the public, promoting the benefits and BMPs of the urban forest.~~

~~(B) The Urban Forester, with the advice and assistance of the Urban Forestry Board and the City Parks and Recreation Department, shall promote trees as essential infrastructure with inherent value to the City of Covington. As infrastructure, trees shall require consideration when designing and engineering public and private development projects, and when planning the development and management of the city.~~

~~(C) The Urban Forestry Program's outreach shall include, but not be limited to:~~

~~(1) Fostering an understanding of the benefits of the urban forest;~~

~~(2) Promoting public understanding of city tree programs, policies, regulations, and standards;~~

~~(3) Working with the media to bring urban forestry concerns and information to the public;~~

~~(4) Facilitating presentations, programs, and other outreach to property owners, business council, tree care professionals, schools, and others who may have an interest; and~~

~~(5) Promoting special events such as a city-wide Arbor Day celebration.~~

~~§ 94.58 LANDMARK TREE PROGRAM.~~

~~The urban forester, with advice and assistance of the Urban Forestry Board and the Parks and Recreation Department, shall develop and implement Covington's Landmark Tree Program.~~

~~(A) The Landmark Tree Program shall recognize the significance of landmark trees, and designate such trees on public and on private property. A tree on private property may be designated a Landmark Tree if it is prominently visible to the public along major roads or public places, or if it is nominated for such a recognition. A tree may qualify as a Landmark Tree if it meets one or more of the following criteria:~~

~~(1) Has historical significance to a person, place or event;~~

~~(2) Has attained significant size in height, caliper or canopy spread for its age and species;~~

~~(3) Has significance because of its age;~~

~~(4) Has special aesthetic qualities for its species and/or is of specials importance to the city;~~

~~(5) Possesses rare horticulture value; and~~

~~(6) It is not a hazard.~~

~~(B) Landmark trees under Covington's jurisdiction shall be given special consideration regarding maintenance, protection, and removal.~~

~~(C) Preservation of landmark trees on private property shall not be regulated but shall be guided.~~

~~§ 94.59 PUBLIC HEALTH AND SAFETY.~~

~~(A) Emergency removal or pruning. In the case of emergencies, if immediate removal or pruning is required to protect the health and safety of the public or to restore order in the city, work to mitigate the immediate hazard may be performed on trees, shrubs and~~

~~other plants under Covington's jurisdiction without a permit. Only the work required to remove the immediate hazard shall be performed and the Urban Forester shall be notified as soon as possible. Decisions regarding any further work shall be made by the Urban Forester.~~

~~(B) Hazard trees and public nuisances.~~

~~(1) Any tree that poses a high risk of damage to persons or property shall constitute a hazard tree. The standard for rating the degree of hazard of a tree shall be the International Society of Arboriculture's twelve-point hazard evaluation system.~~

~~(2) Any tree, shrub or other plant interfering with public or private utilities, or which interferes with or restricts the full use or visibility of any public street, sidewalk, alley, or intersection to any person lawfully using such right-of-way shall constitute a public nuisance. A public nuisance may further include any tree, shrub, or other plant on public or private property that harbors insects or disease infestations that may readily spread to infect and cause permanent harm to neighboring arboriculture. A hazard tree is one that is dead or dying and its presence would cause hardship or endanger the public or an adjoining property owner.~~

~~(3) The Urban Forester shall manage or eliminate any public arboriculture that constitutes a hazard or a public nuisance.~~

~~(4) Private property owners shall be responsible for managing or eliminating any tree, shrub, or other plant on their property that constitutes a hazard or a public nuisance. The Urban Forester, as a code enforcement officer, may serve notice to property owner(s), pursuant to §§ 92.17 and 92.18, if the Urban Forester, based upon personal observation or investigation, determines that a hazard tree or public nuisance exists on their property. Failure to abate said hazard or public nuisance within the time period set forth in the notice may result in a citation being issued by the urban forester, with appeals to the Code Enforcement Department, if such a citation is properly contested.~~

~~§ 94.60 PROTECTION OF TREES, SHRUBS AND OTHER PLANTS.~~

~~(A) Topping. It shall be unlawful for any person, partnership, corporation, or other legal entity, including a public or private utility and a city, county, or state, or any employee thereof, to top any tree under Covington's jurisdiction. Trees severely damaged by storms or other natural cause, or certain trees under utility wires or other obstructions, may be exempted, with express authorization from the Urban Forester or the Director of Parks and Recreation Department, when other pruning practices are impractical.~~

~~(B) Harmful or potentially harmful acts require permitting. It shall be unlawful for any person, partnership, corporation, or other legal entity, including a public or private utility and a city, county, or state, or any employee thereof, to commit the following acts without a written permit for such action issued by the Urban Forester or the Director of Parks and Recreation.~~

~~(1) To treat with fertilizer, herbicide, or insecticide any tree, shrub, or other plant in, on, or along (except on private property) any public street, sidewalk, right-of-way, easement, and in any park or other public place owned by the city without the proper permit. Any person using herbicides and/or insecticides on public arboriculture must be licensed and certified by the State of Kentucky for such work;~~

~~(2) To plant a tree, shrub, or other plant in, on, or along (except on private property) any public street, sidewalk, right-of-way, easement, and in any park or other public place owned by the city;~~

~~(3) To cut, prune, break, injure, alter, transplant or remove public arboriculture;~~

~~(4) To attach rope, wire, chain, sign or other device, whatsoever, to public arboriculture;~~

~~(5) To place or maintain any object, fill (such as soil, mulch, stone, or rock), impervious matter (such as cement or blacktop) or other substance which may impede the free passage of air, water or nutrients to the roots, within the drip line, of any tree, shrub, or other plant in, on, or along (except on private property) any public street, sidewalk, right-of-way, easement, and in any park or other public place owned by the city;~~

~~(6) To conduct activity which may compact the soils or change the drainage, within the drip line, of any tree, shrub, or other plant in, on, or along (except on private property) any public street, sidewalk, right-of-way, easement, and in any park or other public place owned by the city;~~

~~(7) To cut, unduly disturb or interfere in any way with the root system, within the drip line, of any tree, shrub or other plant in, on, or along (except on private property) any public street, sidewalk, right-of-way, easement, and in any park or other public place owned by the city;~~

~~(8) To perform, or contract with another to perform, construction work (including the operation or storage of equipment or materials) within the drip line of any tree, shrub or other plant in, on, or along (except on private property) any public street, sidewalk, right-of-way, easement, and in any park or other public place owned by the city.~~

~~(9) To install, remove or damage any guard or device placed to protect public arboriculture.~~

~~(C) Permitting process.~~

~~(1) The Urban Forester shall issue permits to any person who wishes to plant arboriculture on a public street, sidewalk, right-of-way, easement, and in any park or other public place owned by the city or wishes to remove, prune, trim, or treat public arboriculture. Permits are not required for work performed on public arboriculture by city employees, or for public utilities that follow the requirements of division (E) below.~~

~~(2) Printed Urban Forestry BMPs shall be part of any permit issued regarding public arboriculture. Permitted actions shall follow the Urban Forestry BMPs.~~

~~(3) The Urban Forester, before issuing any permit, shall determine that the workmanship and method proposed in the permit application are satisfactory.~~

~~(4) Work authorized by said permit shall be completed within the time specified and in the manner described.~~

~~(5) Any permit shall be void if any of its terms are violated and the civil fines prescribed in this subchapter may be applied.~~

~~(6) Application for such permit shall be made at least ten working days in advance of the time proposed for such work.~~

~~(D) Certified Arborist required. Any landscaping or tree service contractor engaged in the business of planting, removing, pruning, trimming, or treating trees, shrubs, or other plants under Covington's jurisdiction shall have a Covington business license, including proof of appropriate liability insurance on file. Such contractor shall be an arborist certified by the International Society of Arboriculture (ISA) or have on staff an ISA-~~

~~certified arborist who will oversee all tree-related work. Such contractor shall coordinate all proposed work with these trees, shrubs, and other plants with the Urban Forester and shall follow the Urban Forestry BMPs.~~

~~(E) Regulations regarding utilities. Public and private utilities operating under the jurisdiction of their respective franchise agreements or policies with the city may, without a permit, perform such maintenance and construction, including street tree pruning, as may be required to provide utility service in the city or comply with the public safety regulations under which they operate, however, a utility must notify the Urban Forester of such work at least ten working days before undertaking the work, unless an emergency exists. Work in, on, and around the public arboriculture shall conform to the Urban Forestry BMPs. The Urban Forester shall have the authority to stop or modify any work in, on, or around the public arboriculture that does not conform to these BMPs.~~

~~(F) Road and/or sidewalk projects. Individual permits will not be required for city, county or state road and/or sidewalk projects as long as tree preservation and protection requirements, conforming to the Urban Forestry BMPs, are included in the project plans.~~

~~§ 94.61 GENERAL ARTICLES.~~

~~(A) Liability disclaimer. Nothing contained in this subchapter shall be deemed to impose any liability upon the City of Covington, its officers or employees, nor relieve the owner of any private property from his or her duty to keep any tree, shrub, or other plant on or over his or her property or under his or her control in such condition as to prevent it from constituting a hazard or public nuisance within the city.~~

~~(B) Noninterference. No person, partnership, or other legal entity shall interfere with persons acting under city authority while engaged in the inspection, planting, pruning, treatment, or removal of any tree, shrub, or other plant under Covington's jurisdiction.~~

~~(C) Enforcement. The Urban Forester, as a code enforcement officer, may serve notice to individuals, pursuant to §§ 92.17 and 92.18, if the Urban Forester, based upon personal observation or investigation, determines that a violation of this subchapter has occurred. Failure to abate said hazard or public nuisance within the time period set forth in the notice may result in a citation being issued by the Urban Forester, with appeals to the Code Enforcement Department, if such a citation is properly contested.~~

~~§ 94.62 APPEALS OF CODE ENFORCEMENT BOARD DECISION — FINAL JUDGMENT.~~

~~(A) An appeal from any final order issued by the Code Enforcement Board ("the board") may be made to the Kenton District Court within 30 days after the date when the order is issued by the Board. The appeal shall be initiated by the filing of a complaint and a copy of the Board's order in the same manner as any civil action under the Rules of Civil Procedure. The appeal shall be limited to a review of the record created before the Board.~~

~~(B) A judgment of the Kenton District Court may be appealed to the Kenton Circuit Court in accordance with the Rules of Civil Procedure.~~

~~(C) If no appeal from a final order of the Board is filed within the time period set forth in this section, the Board's order shall be deemed final for all purposes.~~

~~§ 94.63 LIEN — RECORDING — FINES, CHARGES AND FEES.~~

~~(A) For citations issued for hazard trees and public nuisances, the city shall possess a lien on real property owned by the person found by a final order as defined in Chapter 92 of these ordinances, or by final judgment of a court, to have committed a violation of a city ordinance in the amount of all fines assessed for the violation and for all charges and fees incurred by the city in connection with the enforcement of the ordinance in question. The lien shall be notice to all persons from the time of its recording and shall bear interest until paid. The lien shall take precedence over all other liens, except state, county, school, and city taxes if all legal requirements are satisfied, and may be enforced by judicial proceedings.~~

~~(B) In addition to any other civil remedies prescribed in this code, a person found to have committed a violation of this code shall be personally responsible for the amount of all fines assessed for the violation and for all charges and fees incurred by the city in connection with the enforcement of the ordinance. The city may bring a civil action against the person to recover such damages.~~

~~§ 94.64 NOTICE OF COMPLAINT; WHEREABOUTS UNKNOWN.~~

~~All notices, complaints, findings, or orders issued by the Urban Forester pursuant to this subchapter shall be served on persons by the method described in the individual sections of this subchapter. However, if the whereabouts of a person is unknown and it cannot be ascertained by the Urban Forester in the exercise of reasonable diligence, or if the whereabouts of the owner is known and he or she refuses to accept personal service or the certified letter mailed to him or her, then the Urban Forester shall make an affidavit to that effect, and thereafter, such notice, complaint, findings, or order may be served on such persons by posting a same in a conspicuous place on the premises, by sending a copy of same by regular U.S. mail to the person's last known mailing address, and by newspaper publication, pursuant to KRS Chapter 424.~~

Section 2

Section § 94.99 of the Covington Code of Ordinances is amended to read as follows:

**§ 94.99 PENALTIES.**

(A) A violation of this subchapter shall constitute a civil offense. Unless otherwise addressed in this section, any person, firm, or corporation who violates any provision of this subchapter, shall be subject to a civil fine or fines as set forth in § 92.99. [~~Each date that a violation of this code continues after due notice has been served in accordance with the terms of this code shall be deemed a separate offense.~~]

(B) The city shall possess a lien on property for all fines, penalties, charges, attorney's fees, and other reasonable costs associated with enforcing this code and placing of a lien on a parcel of real property pursuant to this code. The lien shall be superior to and have priority over all other liens, except state, county, school board, and city taxes if all legal requirements are satisfied.

[~~(C) Repair or replacement of trees. As a result of the violation of any provision of this subchapter, if the injury, mutilation, or death of a public tree, shrub, or plant is caused,~~

~~the cost of the repair or replacement of such tree, shrub, or plant shall be borne by the party in violation, in addition to any civil fines assessed by the Code Enforcement Board. Replacement value of the tree(s) shall be determined in accordance with the latest revision of "A Guide to the Professional Evaluation of Landscaped Trees, Specimen Shrubs, and Evergreens," as published by the International Society of Arboriculture.~~

~~(D) *Hazardous trees and public nuisances.* In the event that a hazardous tree or public nuisance is not abated by the date specified in any citation from the Urban Forester, or in any order of the Code Enforcement Board, if the citation is appealed, the city may abate the hazard or nuisance. The reasonable cost of such abatement shall be filed as a lien against the property on which the hazard or nuisance was located. In addition, the owner of the property on which the hazard or nuisance was located shall be subject to the civil fines set forth above.]~~

[~~(E)~~]***(C)*** *Operation of motorized vehicles on public property and park lands.* Any violation of the provisions of § 94.20(A) may be classified as a civil offense, pursuant to the authority of KRS 65.8808. The City Code Enforcement Board shall have power to issue remedial orders and impose civil fines to enforce this section. Enforcement of this section shall be in accordance with the procedures outlined in the Code Enforcement Board guidelines located in §§ 92.16 through 92.23. Civil fines for violations of this section shall be those set forth in § 92.99(A). The city shall possess a lien on property, real or personal, for all fines, penalties, charges, attorney's fees, and other reasonable costs associated with enforcing this code, and the cost of placing of a lien on a personal or real property pursuant to this code. In addition to or in place of the above civil penalties, a person who violates of any provision in § 94.20(A) may be charged in Kenton District Court with a Class A misdemeanor, and, upon conviction, shall be subject to a fine and/or jail time in accordance with the penalties for a Class A misdemeanor provided for in the Kentucky Revised Statutes.

Section 3

That this ordinance shall take effect and be in full force when passed, published, and recorded according to law.

_____
MAYOR

ATTEST:

_____
CITY CLERK

Passed: _____ (Second Reading)

_____ (First Reading)

# CITY OF COVINGTON
## Office of the Assistant City Manager

**MEMORANDUM**

**To:** David W. Johnston, City Manager

**From:** Bruce M. Applegate Jr., Assistant City Manager

**Date:** August 20, 2020

**Re:** CREATION OF CHAPTER 51: URBAN FORESTRY ORDINANCE AMENDMENT – MINOR LANUGAE ADJUSTMENTS PRIOR TO SECOND READING

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Introduction

An item for City Commission's consideration is an amended Ordinance creating Chapter 51: Urban Forestry.

Background

Per request of the City Commission several adjustments were made to the Ordinance creating Chapter 51: Urban Forestry between the first and second reading. As previously addressed during the first reading of Ordinances there were still two outstanding items under review by the Legal Department for incorporation.

Those items have been finalized and incorporated into the attached Ordinance Revision. Revisions can be seen highlighted in yellow.

**Encroachment Ordinance Language Agreement**

Commissioners commented that the language of § 51.11 concerning permit requirements for right of ways should include language that agrees with the clauses of the City's Encroachment Ordinances. Those adjustments have been made and can be found in § 51.11(E)(2).

**Appeal Process Before the Board of Commissioners**

Minor language changes were made to § 51.11(D)(4) to improve the language concerning the method for requesting an appeal before the Board of Commissioners. The adjusted language ensures notice is provided to the City Clerk and Legal Department for all requests to appeal before the Commission.

Recommendation

Staff recommend adoption of the attached amended Ordinance.

Bruce M. Applegate Jr.
Bruce M. Applegate Jr.
Assistant City Manager

Attachments: AMENDED ORDINANCE

**COMMISSIONERS' ORDINANCE NO. _____**

AN ORDINANCE CREATING A NEW CHAPTER 51 ENTITLED "URBAN FORESTRY."

* * * *

NOW THEREFORE,
BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

Sections § 51.01 through 51.99, which read as follows, are added to and amend the Covington Code of Ordinances:

**TITLE V: PUBLIC WORKS**

***CHAPTER 51: URBAN FORESTRY***

***§ 51.01 PURPOSE AND INTENT.***

***(A) The purpose of this subchapter is to establish a Covington Urban Forestry Program and a Covington Urban Forestry Board(UFB). The Public Works Department through the Covington Urban Forestry Program shall promote and protect the public health, safety and general welfare, and further shall accentuate the scenic, cultural, historical, and aesthetic attributes of the City by providing policies, regulations, and standards relevant for establishing, maintaining, and preserving desirable trees, shrubs and other plants under Covington's jurisdiction.***

***(B) The intent of this subchapter is to:***

***(1) Promote public safety by reducing public nuisances caused by the improper planting, maintenance, or removal of trees, shrubs and other plants.***

***(2) Articulate an image for Covington by enhancing the City's physical appearance by using trees architecturally to provide space definition and landscape continuity.***

***(3) Promote value, protection, management, and enhancement of the urban forest resources.***

*(4) Advocate for the establishment and retention of efficient and appropriate tree planting spaces.*

*(5) Support Covington's landscape regulations and promote arboriculture in the City.*

*§ 51.02 DEFINITIONS.*

*For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:*

*ANNUAL REPORT. A report prepared by the Director of Public Works Director and/or Urban Forester to help evaluate performance of the Urban Forest Program.*

*ARBOR DAY. A U.S. spring holiday observed in some cities by celebrating trees.*

*ARBORICULTURE. The cultivation of trees, shrubs, and/or plants.*

*BMPs, Best Management Practices, regarding Public Arboriculture, shall govern species selection, planting practices, care, maintenance, pruning, and removal of trees, shrubs, and other plants.*

*CALIPER. Diameter measurement of the trunk taken six inches above ground level for trees up to and including four inch caliper size. Measurement shall be taken 12 inches above the ground level for larger trees.*

*CERTIFIED ARBORIST. An individual who has achieved a level of knowledge in the art and science of tree care through at least three years of experience and who has passed a comprehensive examination administered by the International Society of Arboriculture.*

*CITY. The City of Covington, Kentucky.*

*CITY COMMISSION. The Board of Commissioners of the City of Covington, Kentucky*

*CRITICAL ROOT ZONE (CRZ). The CRZ will typically be represented by a concentric circle centering on the tree's trunk with a radius equal in feet to one and one-half times the number of inches of the trunk diameter, measured at 4.5 inches above the ground line. The minimum area beneath a tree which must be left undisturbed in order to preserve a sufficient root mass to give a tree a reasonable chance of survival.*

***HAZARD TREE.*** *Any tree that poses a high risk of damage to persons or property, such as a dead or dying tree.*

***LANDMARK TREE.*** *A tree which has special significance because one or more of the following criteria may apply: rare species, old age, size, location, association with an historical event or person, scenic enhancement, or unique characteristics designated by the Landmark Tree Program.*

***LARGE TREE.*** *Any tree having a height of 30 feet or more.*

***LINE CLEARANCE.*** *Removal of limbs and branches growing within a set distance of utility distribution lines.*

***PAVED AREA.*** *Any ground surface covered with concrete, asphalt, stone, gravel, brick, or other paving material.*

***PRIVATE ARBORICULTURE.*** *Any trees, shrubs, and other plants on private property (nonpublic arboriculture).*

***PUBLIC NUISANCE.*** *Any tree, shrub, or other plant material with an infectious disease or insect problem; any tree, shrub, or other plant that obstructs street lights, traffic signs, or the free passage of pedestrians or vehicles; a tree that has been repeatedly topped or otherwise abused or vandalized; a tree or vine growing into power lines and transformers.*

***PUBLIC ARBORICULTURE.*** *Any trees, shrubs, and other plants in, on, or along (except on private property) any public street, sidewalk, right-of-way, easement, and in any park or other public place owned by the City.*

***PRUNING.*** *Selective removal and thinning of a tree or shrub, taking into account the shape and natural structure of the plant.*

***SHRUB.*** *Any woody plant with a multiple stem capable of growing to a height of up to 15 feet.*

***TOPPING.*** *Any pruning practice that results in cutting back limbs, within the tree's crown, leaving stubs, so as to remove the normal canopy with inadequate regard for the natural structure of the tree.*

***TREE.*** *Any woody plant with a single trunk, or multiple trunks capable of growing to a height of 15 feet or more.*

***TREE CITY USA.*** ***A special recognition given by the National Arbor Day Foundation when a City meets certain requirements regarding urban forestry activities.***

***URBAN FORESTER.*** ***A qualified individual, who is preferably a certified arborist or who has knowledge of arboriculture with a background in forestry, horticulture, or landscape architecture, designated by the City Manager to perform the duties of the Urban Forester, as those duties are set forth in the job description adopted by the City Commission, and to administer the Urban Forestry Program.***

***§ 51.03 JURISDICTION AND SCOPE OF AUTHORITY.***

***(A) The City shall have jurisdiction of all trees, shrubs, and other plants in, on, or along (except on private property) any public street, sidewalk, right-of-way, easement, and in any park or other public place owned by the City ("public arboriculture"). The City shall have the power to cause or prohibit the planting, maintenance, removal, and replacement of such trees, shrubs and other plants. This ordinance shall not regulate trees, shrubs, or other plants located on private property. The City may have separate regulatory powers over trees under additional City ordinances, including but not limited to the City's zoning and subdivision ordinances.***

***(B) The UFB will advise and make recommendations to the City's Board of Commissioners regarding issues as they relate to Covington's urban forest.***

***(C) The Covington Urban Forestry Program ("the Program") and the UFB will promote, but not regulate, the stewardship of trees, shrubs, and other plants upon private property within the City limits.***

***§ 51.04 URBAN FORESTRY PROGRAM.***

***(A) Policy. It shall be the policy of the Urban Forestry Program to:***

***(1) Encourage the establishment of large trees to the extent practicable and aesthetically pleasing.***

***(2) Encourage new tree plantings on public and private property to ensure a rich and diverse urban forest into perpetuity.***

***(3) Encourage proper tree care to maintain safe and healthy trees.***

***(4) Provide flexibility in tree selection and planting based on site conditions, zoning, and objectives.***

*(5) Make every effort to replace or repair public facilities without removing or damaging adjacent trees.*

*(6) Annually coordinate the City's Arbor Day proclamation, and observance, in order to retain Tree City USA status.*

*(B) Responsible official. The Urban Forester, or other person designated by the City Manager, shall be the responsible official for administering the Urban Forestry Program. The UFB and the City Department of Public Works shall provide advice and assistance to the Urban Forester in carrying out his or her duties. Responsibilities of the Urban Forester shall be identified in the corresponding position description.*

*(C) Coordination. The Urban Forester and other City departments shall endeavor to share plans, specifications, requests, ideas, and other data affecting Covington's urban forest, in a timely and cooperative manner, to provide for coordination and the most feasible use of all public lands and resources.*

*(D) Performance evaluation.*

*(1) The Urban Forester shall collect and maintain all records and data necessary to objectively evaluate progress toward the purpose, intent, and goals of the Urban Forestry Program. The Urban Forester shall prepare an annual report. The report shall be submitted to the UFB for approval and then presented to the Director of Public Works. The annual report shall be submitted to the Mayor and City Commissioners.*

*(2) The annual report shall include:*

*(a) The number, location and type of projects subject to the Urban Forest Program;*

*(b) The number of trees planted and removed;*

*(c) The cost of the Urban Forest Program; and*

*(d) Opportunities for improvement of the Urban Forestry Program.*

*(e) Progress towards the goals of the Urban Forestry Master Plan.*

*§ 51.05 URBAN FORESTRY BOARD.*

*This subsection has been moved to Chapter 32 (§32.19).*

***§ 51.06 URBAN FORESTRY BEST MANAGEMENT PRACTICES.***

***(A) In an effort to establish and maintain a healthy and sustainable urban forest, and to ensure public health and safety, the Urban Forester, with the advice and assistance of the UFB, shall develop and adopt the Covington Urban Forestry Best Management Practices (BMPs).***

***(B) The Covington Urban Forestry BMPs shall govern species selection, planting practices, care, maintenance, pruning and removal of public arboriculture. The BMPs shall be based on the most current edition of the International Society of Arborist Standards for Tree Care or other nationally recognized standard.***

***(C) The BMPs shall be reviewed and updated as necessary by the Urban Forester.***

***(D) The BMP's shall be adopted by Order of the Commission before going into effect.***

***§ 51.07 URBAN FORESTRY MASTER PLAN.***

***Effective and sustained stewardship of the urban forest can be accomplished only on the basis of a comprehensive urban forest plan.***

***(A) The Urban Forester, with the advice and assistance of the Board and the City Department of Public Works, shall prepare the Covington Urban Forestry Master Plan (UFMP) for adoption by the City Commission. The process for developing the UFMP shall:***

***(1) Include an assessment of the current condition of the urban forest;***

***(2) Create a vision and goals that incorporate community values;***

***(3) Consider and reference existing plans that relate to trees, including Covington's landscape regulations; and***

***(4) Include strategies and activities for achieving the envisioned urban forest, i.e., specific guidance to agencies and the public by developing education programs, establishing continuous and consistent tree care practices, identifying funding priorities and opportunities, and assuring that all needs of the urban forest are recognized and addressed.***

***(B) The UFMP, or any amendments thereto, shall be forwarded to City Commission for review and recommendations before adoption.***

***(C) The Urban Forester, with the advice and assistance of the Public Works Department, shall collect and maintain all records and data necessary to objectively evaluate progress in attaining stated goals of the UFMP.***

***§ 51.08 PUBLIC EDUCATION AND OUTREACH.***

***(A) The Urban Forester, with the advice and assistance of the UFB and City Departments, shall develop and conduct educational and outreach programs for the public, promoting the benefits and BMPs of the urban forest.***

***(B) The Urban Forester, with the advice and assistance of the UFB and the Public Works Department, shall promote trees as essential infrastructure with inherent value to the City of Covington. As infrastructure, trees shall require consideration when designing and engineering public and private development projects, and when planning the development and management of the City.***

***(C) The Urban Forestry Program's outreach shall include, but not be limited to:***

***(1) Fostering an understanding of the benefits of the urban forest;***

***(2) Promoting public understanding of City tree programs, policies, regulations, and standards;***

***(3) Working through the City Manager or his/her designee and the media to bring urban forestry concerns and information to the public;***

***(4) Facilitating presentations, programs, and other outreach to property owners, business council, tree care professionals, schools, and others who may have an interest; and***

***(5) Promoting special events such as a City-wide Arbor Day celebration.***

***§ 51.09 LANDMARK TREE PROGRAM.***

***The Urban Forester, with advice and assistance of the UFB and Public Works Department, shall develop and implement Covington's Landmark Tree Program.***

***(A) The Landmark Tree Program shall recognize the significance of landmark trees, and designate such trees on public and on private property. A tree on private property may be designated a Landmark Tree if it is prominently visible to the public along major roads or public places, or if it is nominated for such a recognition. A tree may qualify as a Landmark Tree if it meets one or more of the following criteria:***

*(1) Has historical significance to a person, place or event;*

*(2) Has attained significant size in height, caliper or canopy spread for its age and species;*

*(3) Has significance because of its age;*

*(4) Has special aesthetic qualities for its species and/or is of specials importance to the City;*

*(5) Possesses rare horticulture value; and*

*(6) It is not a hazard.*

*(B) Landmark trees under Covington's jurisdiction shall be given special consideration regarding maintenance, protection, and removal.*

*(C) Preservation of landmark trees on private property shall not be regulated but shall be guided.*

*§ 51.10 PUBLIC HEALTH AND SAFETY.*

*(A) Hazard trees and public nuisances.*

*(1) Any tree that poses a high risk of damage to persons or property shall constitute a hazard tree. The standard for rating the degree of hazard of a tree shall be the International Society of Arboriculture's Tree Risk Assessment Manual. Reference copies of the International Society of Arboriculture's Tree Risk Assessment Manual will be made available in the office of the City Clerk, and the Public Works Department.*

*(2) Any tree, shrub or other plant interfering with public or private utilities, or which interferes with or restricts the full use or visibility of any public street, sidewalk, alley, or intersection to any person lawfully using such right-of-way shall constitute a public nuisance. A public nuisance may further include any tree, shrub, or other plant on public or private property that harbors insects or disease infestations that may readily spread to infect and cause permanent harm to neighboring arboriculture.*

*(3) The Urban Forester shall manage or eliminate any public arboriculture that constitutes a hazard or a public nuisance as determined through the City's nuisance ordinances.*

*§ 51.11 PERMIT REQUIRED FOR ACTIVITIES INVOLVING PUBLIC ARBORICULTURE*

***(A) It shall be unlawful for any person, partnership, corporation, or other legal entity, including a public or private utility and a city, county, or state, or any employee thereof, to plant, remove, prune, trim, treat, damage or disrupt Public Arboriculture, above ground or within the critical root zone, without first having obtained a Public Arboriculture Permit ~~permit~~ to do so from the Public Works Department of the City.***

***(B) Permits are not required for work performed on public arboriculture by City employees, or for public utilities that follow the requirements of division (E) below. Permits are also not required for watering or mulching street trees, but these should also be done in accordance with the City's Best Management Practices.***

***(C) Permit Requirements:***

***(1) Application for a permit shall be made on forms prescribed by the Public Works Director and submitted a minimum of 10 business days prior to any proposed work. The application shall contain:***

- ***(a) The name, mailing address, and contact information for the applicant;***
- ***(b) A statement or plan identifying the location and scope of work for the proposed planting, removal, pruning, trimming, treatment, or changes to the immediate area of Public Arboriculture;***
- ***(c) A digital image of the impacted area under the proposed work plan;***
- ***(d) The name and address of the owner of any abutting property;***
- ***(e) The name and qualifications of the individual doing the work;***
- ***(f) The protective measures that will be utilized to minimize damage to the Public Arboriculture being addressed;***
- ***(g) Identification of any overhead utilities in the work zone; and***
- ***(h) Any other pertinent information which the Public Works department may require.***

***Permit applications will be evaluated utilizing the City's most recent Best Management Practices document. Reference copies of the Best***

***Management Practices will be on hand in the City Clerk's Office, the Public Works Department, and posted to the City's website.***

***(2) The Public Works Department, before issuing any permit, shall determine that the workmanship and method proposed in the permit application are satisfactory.***

***(3) Work authorized by said permit shall be completed within the time specified and in the manner described.***

***(4) Any permit shall be void if any of its terms are violated and the civil fines prescribed in this subchapter may be applied.***

***(5) Failure to comply with any of these standards and conditions shall be adequate grounds for the denial of a permit application.***

***(D) Denied Permit Appeal Process:***

***(1) Upon determining that an application for permit is to be denied, the Urban Forester shall state the basis for such denial in writing, including the criteria upon which the denial is predicated.***

***(2) All applicants for permits under the provisions of this subchapter shall have the opportunity to submit a written appeal, to the Public Works Director within 5 business days of the initial permit denial. The Public Works Director will have 5 business days for a response on the appeal.***

***(3) A hearing before the City Manager, or his or her designee, may be requested, if the Public Works Director upholds the initial denial. All hearing requests must be submitted within 5 business days of the Public Works Directors decision. The hearing shall be held within 30 days of the request. Utilizing the decision making criteria of this ordinance, the City Manager or his or her designee shall weigh the testimony and evidence submitted by the appellant and the Urban Forester, and uphold, reverse, or remand to the Urban Forester for further consideration stipulating certain facts.***

***(4) A hearing before the Board of Commissioners may be requested, if the City Manager, or his or her designee, upholds the initial denial. All hearing requests must be submitted to the City Clerk with a copy to the City Solicitor within 5 business days of decision by the City Manager, or his or her designee's, decision. The hearing shall be held within 30 days of the request. Utilizing the decision-making criteria of this ordinance, the Board of Commissioners shall weigh the testimony and evidence submitted by the appellant and the Urban Forester, and uphold, reverse, or remand to the City Manager for further consideration stipulating certain facts.***

***(E) Limited Permitting Exceptions.***

***(1) Emergency removal or pruning. In the case of emergencies, if immediate removal or pruning is required to protect the health and safety of the public or to restore order in the City, work to mitigate the immediate hazard may be performed on public trees, shrubs and other plants under Covington's jurisdiction without a permit. Only the work required to remove the immediate hazard shall be performed and the Urban Forester shall be notified as soon as possible. Decisions regarding any further work shall be made by the Urban Forester.***

***(2) Limited permitting exception for utilities. Public and private utilities operating under the jurisdiction of their respective City franchise agreements or contracts with the City may, without a Public Arboriculture Permit ~~permit~~, perform such maintenance and construction, including street tree pruning, as may be required to provide utility service in the City or comply with the public safety regulations under which they operate. However, a utility must notify the Urban Forester of such work at least ten working days before undertaking the work, unless an emergency exists. Work in, on, and around the public arboriculture shall conform to the Urban Forestry BMPs and any other applicable public arboriculture regulations related to public or private utilities. The Public Works Director shall have the authority to stop or modify any work in, on, or around the public arboriculture that does not conform to these BMPs. Nothing in this paragraph shall be construed to waive requirements for any other permits applicable to maintenance and construction involving or impacting public arboriculture.***

***(3) Road and/or sidewalk projects. Individual permits will not be required for City, county or state road and/or sidewalk projects as long as tree preservation and protection requirements, conforming to the Urban Forestry BMPs, are included in the project plans.***

***§51.12 QUALIFICATIONS FOR PERFORMING WORK ON PUBLIC ARBORICULTURE***

***Any landscaping or tree service contractor engaged in the business of planting, removing, pruning, trimming, or treating Public Arboriculture shall have a Covington business license, including proof of appropriate liability insurance on file. Such contractor shall be an arborist certified by the International Society of Arboriculture (ISA) or have on staff an ISA-certified arborist who will oversee all tree-related work. Such contractor shall coordinate all proposed work with these trees, shrubs, and other plants with the Urban Forester and shall follow the Urban Forestry BMPs.***

***§ 51.13 GENERAL ARTICLES.***

***(A) Liability disclaimer. Nothing contained in this subchapter shall be deemed to impose any liability upon the City of Covington, its officers or employees, nor relieve the owner of any private property from his or her duty to keep any tree, shrub, or other plant on or over his or her property or under his or her control in such condition as to prevent it from constituting a hazard or public nuisance within the City.***

***(B) Noninterference. No person, partnership, or other legal entity shall interfere with persons acting under City authority while engaged in the inspection, planting, pruning, treatment, or removal of any Public Arboriculture.***

***§ 51.99 PENALTIES.***

***(A) A violation of this subchapter shall constitute a civil offense. Unless otherwise addressed in this section, any person, firm, or corporation who violates any provision of this subchapter, shall be subject to a civil fine or fines including abatement costs as set forth herein and in §92.99 of this code of ordinances.***

***(B) The City shall possess a lien on property for all fines, penalties, charges, attorney's fees, and other reasonable costs associated with enforcing this code and placing of a lien on a parcel of real property pursuant to this code. The lien shall be superior to and have priority over all other liens, except state, county, school board, and City taxes if all legal requirements are satisfied.***

***(C) Repair or replacement of trees. As a result of the violation of any provision of this subchapter, if the injury, mutilation, or death of Public Arboriculture is caused, the cost of the repair or replacement of such tree, shrub, or plant shall be assessed as abatement costs and included in the final civil fine to be borne by the party in violation by the Code Enforcement Board. Replacement value of the Public Arboriculture shall be determined in accordance with the latest revision of The Guide for Plant Appraisal, published by the International Society of Arboriculture. Reference copies of the Guide for Plant Appraisal will be made available in office of the City Clerk, and the Public Works Department.***

***(D) Hazardous trees and public nuisances. In the event that a hazardous tree or public nuisance is not abated by the date specified in any citation or final unappealable order of the Code Enforcement Board, the City may abate the hazard or nuisance. The reasonable cost of such abatement shall be filed as a lien against the property on which the hazard or nuisance was located. In addition, the owner of the property on which the hazard or nuisance was located shall be subject to the civil fines set forth above.***

***(E) The City Code Enforcement Board shall have power to issue remedial orders, determine the imposition of reasonable abatement costs, and impost civil fines to enforce this section. Enforcement of this section shall be in accordance with the procedures outlined in the Code Enforcement Board guidelines located in §§ 92.16 through 92.23. Civil fines for violations of this section shall be those set forth in § 92.99. The City shall possess a lien on property, real or personal, for all fines, penalties, charges, attorney's fees, and other reasonable costs associated with enforcing this code, and the cost of placing of a lien on a personal or real property pursuant to this code.***

Section 2

That this ordinance shall take effect and be in full force when passed, published, and recorded according to law.

_____
MAYOR

ATTEST:

_____
CITY CLERK

Passed: _____ (Second Reading)

_____ (First Reading)

**COMMISSIONERS' ORDINANCE NO. _____**

AN ORDINANCE AMENDING CHAPER 32 "DEPARTMENTS, BOARD AND COMMISSION" CREATING A NEW SECTION § 32.19 ENTITLED "COVINGTON URBAN FORESTRY BOARD."

* * * *

NOW THEREFORE,
BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

Section § 32.19 which reads as follows, is added to and amends the Covington Code of Ordinances:

***§ 32.19 COVINGTON URBAN FORESTRY BOARD.***

***(A) Creation and establishment. There is hereby created and established an Urban Forestry Board for the City of Covington, Kentucky which shall consist of 13 members, who are citizens and residents of the city, and who shall serve without compensation. Board members shall be appointed by the Mayor and approved by the City Commission. The Urban Forestry Board exists solely in an advisory capacity and shall not have authority to make final decisions. In addition, the Urban Forester shall serve as a liaison of the Board.***

***(B) Representation. To the extent practical, representation shall reflect the social and geographic diversity of the city. Five members shall demonstrate an interest in conservation or urban forestry, and shall have a background in forestry, arboriculture, horticulture, landscape architecture, or city planning.***

***(C) Terms. Board members shall serve three-year terms, except that the term of five initial members appointed to the board shall be only one year and the term for five members of the initial board shall be for two years. Members may serve successive terms. In the event that a board member vacates his or her term, a successor shall be appointed for the unexpired portion of that term. The Mayor and City Commissioners, by majority vote, may remove any appointed member from the Board prior to the expiration of their term, with or without cause.***

***(D) Functions. The Urban Forestry Board shall:***

*(1) Hold regular meetings as it deems necessary. A majority of the Board shall constitute a quorum for the purpose of transacting the business of the Board.*

*(2) Elect a chair, vice-chair, treasurer, and a secretary thereof, as soon as practical after the time of the annual appointment of members to the Board.*

*(3) Make its own bylaws not inconsistent with this ordinance, and keep a record of its proceeding in accordance with Kentucky Open Meetings requirements, which shall be provided to the City Clerk upon approval.*

*(E) Responsibilities. The Urban Forestry Board shall:*

*(1) Promote the goals of the Urban Forest Program, including the value, protection, management, and the enhancement of the urban forest resources of Covington.*

*(2) Advise and assist the Urban Forester in:*

*(a) Developing and updating the Urban Forestry Master Plan (UFMP);*

*(b) Developing and periodically updating the Covington Urban Forestry Best Management Practices;*

*(c) Advising the City on project plans for publicly sponsored developments, civic improvements, and changes to the public right-of-way which involve or impact the urban forest;*

*(d) Developing and conducting educational and outreach urban forest programs for the public;*

*(e) Seeking grants for the Covington Urban Forest Program;*

*(f) Recommending tree planting and maintenance programs for the trees, shrubs and other plants under Covington's jurisdiction; and*

*(g) Developing and implementing the Landmark Tree Program.*

*(3) Advising and assisting the City Commission and City departments on issues related to urban forestry concerns.*

*(4) Advising and assisting with the development of legislation and policies that affect the city's urban forest.*

Section 2

That this ordinance shall take effect and be in full force when passed, published, and recorded according to law.

_____
MAYOR

ATTEST:

_____
CITY CLERK

Passed: _____ (Second Reading)

_____ (First Reading)