

- L. Sheehan, Chair
- H. LeGris, Vice-Chair
- D. Wu
- T. Fogle
- S. Lynch
- B. Monarrez
- D. Gray
- P. Worley
- F. Brown
- D. Sevigny



AGENDA
Environmental Quality & Public Works Committee
February 7, 2023
1:00 P.M.

- I. **Approval of the November 1, 2022 Committee Summary** (1-2)
- II. **Capacity Assurance Program Update** (Sheehan/Dent) (3-21)
- III. **Hazardous Street Tree Program** (Plomin/Carey) (22-67)
- IV. **Items Referred to Committee** (68-73)
 - *Annual review of committee items

"Environmental Quality and Public Works committee to which shall be referred matters relating to the department of Environmental Quality and Public Works and its divisions, including capital improvement projects and any related partner agencies."- Council Rules & Procedures, Section 2.102 (3). Effective January 1, 2023. Adopted by Urban County Council September 22, 2022.

2023 Meeting Schedule

February 7	September 12
April 18	October 24
May 23	December 5
July 11	



Environmental Quality & Public Works Committee

November 1, 2022

Summary and Motions

Chair F. Brown called the meeting to order at 1:02 p.m. Committee Members Kay, Ellinger, Moloney, McCurn, LeGris, Sheehan, Kloiber, and Bledsoe were present. Committee Member Worley was absent. Council Member Reynolds was present as a non-voting member.

I. Approval of October 11, 2022 Committee Summary

Motion by Ellinger to approve the October 11, 2022 Environmental Quality & Public Works Committee Summary. Seconded by McCurn. Motion passed without dissent.

II. Annual Municipal Separate Storm Sewer System (MS4) Update

Lindsie Nicholas, Municipal Engineer in the Division of Water Quality, provided a brief overview of the Municipal Separate Storm Sewer System (MS4) program. She explained that Lexington is a large MS4 (population of 250,000 or higher) so we have an individual permit. This program is intended to maintain and improve the quality of the state's waterways by reducing the quantity of pollutants that stormwater picks up and carries into the MS4 during storm events. She reviewed the 10 elements of the MS4 program that fall into 3 main categories (public engagement, pollution prevention, and monitoring and reporting). Nicholas said the current MS4 permit requires the City to ensure legal authority to control discharges to our MS4 and this legal authority is accomplished in Chapter 16, Article X of the code of ordinances. She described the year in review and said Lexington was released from the storm water portion of the Consent Decree in 2021, but they continue to meet compliance goals in all program element categories per MS4 permit with the State. She spoke about the MS4 stakeholder committee meeting which allows for transparency of the program and said the next meeting is scheduled for December 2, 2022. She reviewed the summary of water quality conditions and she spoke about the Watershed-Focused Monitoring Program. She provided details on the Stormwater Quality Incentive Grant Program and highlighted the various grants awarded in FY22. There was committee discussion about compliance and the difference between active versus targeted construction sites. Nicholas pointed out that active sites include all construction sites while targeted sites are projects that disturb more than five acres and this also includes projects that involve construction along or in a stream that require obtaining a permit. All capital projects are considered targeted construction sites as well. When asked what the compliance mechanism is, Nicholas referenced the enforcement procedures outlined in the Code of Ordinances. There is a separate set of enforcement procedures for construction site inspections or inspections of stormwater control. When asked how we solve runoff through Town Branch and UK, Nicholas said this is a tall task and she explained how valuable watershed planning is to process. Nicholas also explained the process for how Lexington's MS4 permit relates to how the state reports. No action was taken on this item.

III. Division and Program Reviews

The Division Reports for Streets and Roads and Traffic Engineering were included in the packet as information only. These reports will be kept on file with the Council Core Staff. No action was taken on this item.

IV. Items Referred to Committee

Motion by Kay to remove the *Fayette County Broadband Report* from the list of committee referral items. Seconded by McCurn. Motion passed without dissent.

Motion by LeGris to remove the *Evaluation of the Vacuum Leaf Collection Program* from the list of committee referral items. Seconded by Bledsoe. Motion passed without dissent.

Motion by LeGris to remove the *Urban Tree Canopy Change Analysis and Planting Plan* from the list of committee referral items. Seconded by Kay. Motion passed without dissent.

Motion by Bledsoe to remove the *Annual Vacuum Leaf Collection Program Update* from the list of committee referral items. Seconded by Kay. Motion passed without dissent.

Motion by McCurn to adjourn at 1:44 p.m. Seconded by Kay. Motion passed without dissent.

Sanitary Sewer Capacity Assurance Program (CAP) Audit Results

Environmental Quality & Public Works
Committee

February 7, 2022



LEXINGTON

AGENDA

Christopher Dent, PE

DWQ – Engineering Section Manager Sanitary Sewers

- What is CAP?
- CAP Task Force History
- CAP Audit Requirements and Findings
- Questions

What is CAP?

Sanitary Sewer Capacity Assurance Program

- Consent Decree (CD) Requirement:
 - Resolution #722-2012
 - Go live date - July 1, 2013
 - Received EPA approval - July 3, 2014
- Accounting System of:
 - Deposits – system repairs and/or capacity expansions.
 - Withdraws – new or expanded service connections.

Capacity Assurance Program

Lexington's Capacity Assurance Program has been in effect since July 3, 2013.

For more information, please visit the links below.

[Frequently Asked Questions](#)

[Informational brochure](#)

[Informational flier](#)

[Sewer Capacity Application](#)

[Capacity Tracking Map \(CTIMS\)](#)

Capacity Assurance Program Task Force Information

- [Capacity Assurance Program Council Resolution](#)
- [System Capacity Assurance Program](#)
- [CAP Task Force Report – Nov. 28, 2012](#)
 - [CAP Task Force Report – Appendices](#)

Contact

Water Quality

125 Lisle Industrial
Lexington, KY 40511

Hours:

Monday – Friday: 7:30 a.m. – 4 p.m.

 (859) 425-2400

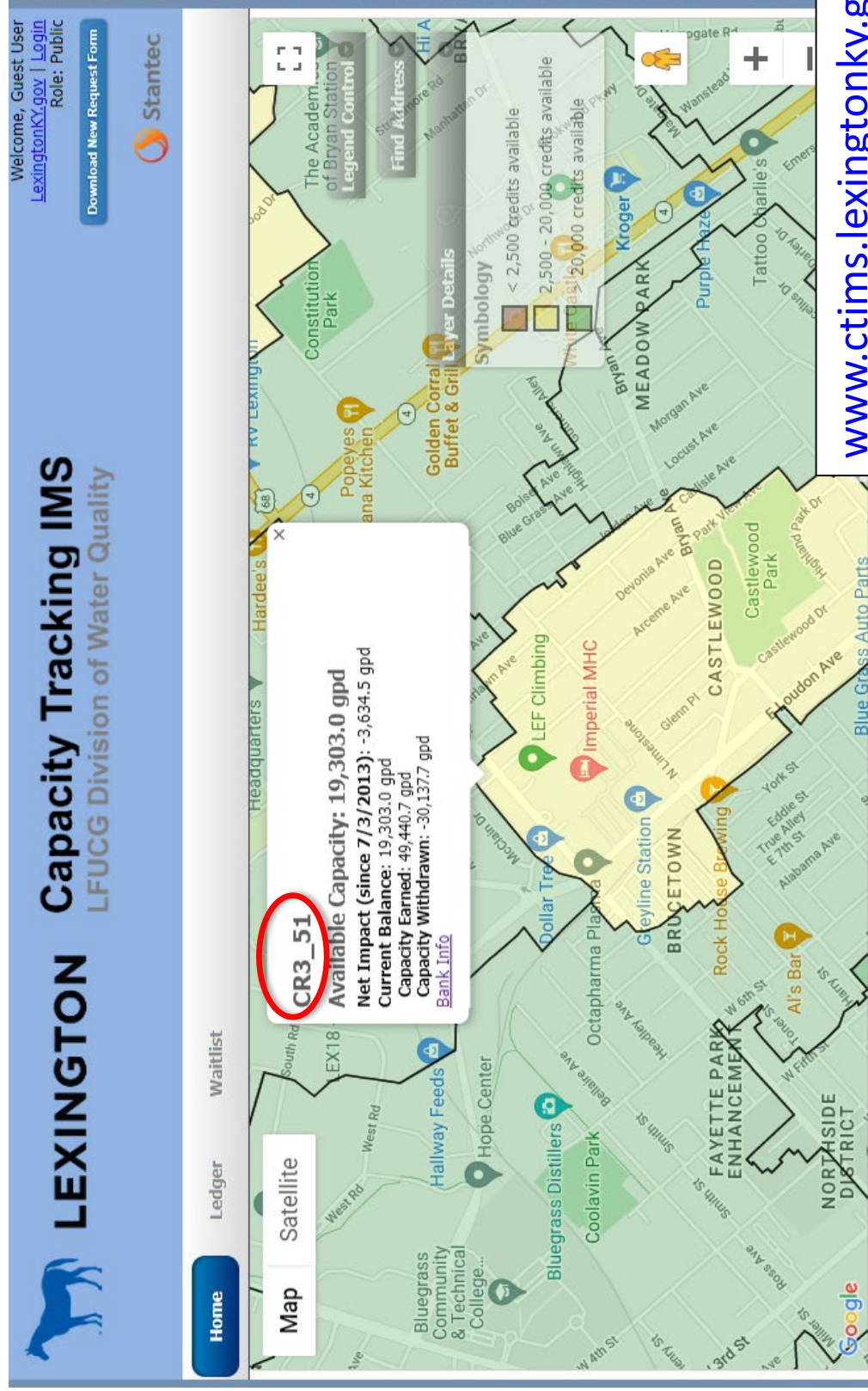
Fax: (859) 254-7787

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EXAMPLE CAP BANK – CASTLEWOOD AREA (CR3_51)



 LEXINGTON
Capacity Tracking IMS
LFUCG Division of Water Quality[Home](#) [Ledger](#) [Waitlist](#)

Ledger Table

[Ledger Key](#)

CAP Banks

Show 50 entries

Showing 1 to 27 of 27 entries

Search:

[First](#) [Previous](#) [1](#) [Next](#) [Last](#)

	Bank	Harvested Capacity	New Earned Capacity	Category 1 Grandfathered ¹	Category 2 Grandfathered ²	Allocated Capacity	Current Balance	Net Credit Impact	Available Capacity
Details	1736 Hawthorne Lane	9333.3	5334.7	0.0	0.0	-180.0	14488.0	5154.7	14488.0
Details	CR3_51	22937.5	26503.2	0.0	0.0	-30137.7	19303.0	-3634.5	19303.0
Details	CR5_201	32960.5	74642.9	-556.0	-1670.8	-23583.6	81792.9	51059.3	81792.9
Details	Lower Cane Run PS	24490.7	5334.3	0.0	0.0	-76.8	29748.1	5257.5	29748.1
Details	Armstrong Mill PS	368294.9	13910009.1	-418617.0	-51888.0	-262975.6	13544823.4	13647033.5	13647033.5
Details	East Hickman PS	4775.8	19870.3	0.0	0.0	-23972.0	674.1	-4101.7	674.1
Details	Hardland 2 PS	84806.3	6595401.1	-797012.8	-47529.0	-340274.3	5495391.3	6255126.8	6255126.8
Details	Hardland 1 PS	1333.3	0.0	0.0	0.0	0.0	1333.3	0.0	1333.3
Details		1513.4	1.0	0.0	0.0	0.0	1514.4	1.0	1514.4

 LEXINGTON

Capacity Tracking IMS
LFUCG Division of Water Quality

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Role: Public

Download New Request Form



Home

Ledger

Waitlist

Ledger Table
[Ledger Key](#)

+ CAP Banks

- Bank Ledger

Current Balance: 19303.0

Net Credit Impact: -3634.5

Available Capacity: 19303.0

CR3_51

Harvested Capacity: 22937.5
New Earned Capacity: 26503.2
Category 1 Grandfathered¹: 0.0
Category 2 Grandfathered²: 0.0
Allocated Capacity: -30137.7

¹ Category 1 Grandfather Credits refer to those that were accounted for and flows calculated prior to July 3, 2013.

² Category 2 Grandfather Credits refer to those that were unaccounted for on July 3, 2013, such as those from qualifying plans approved prior to 2008 or isolated lots with a plat of record.

Show 25 entries

Showing 1 to 25 of 371 entries (filtered from 11,213 total entries)

	Date	Type	Bank	Credits	Total
Details	9/18/2008	CIPP	CR3_51	5.5	5.5
Details	1/14/2009	Sump Pump Redirection	CR3_51	1333.3	1338.8
Details	3/20/2009	Sump Pump Redirection	CR3_51	1333.3	2672.2
Details	4/9/2009	Point Repair Main Line	CR3_51	0.2	2672.4
Details	4/14/2009	Point Repair Main Line	CR3_51	0.2	2672.6
Details	5/18/2009	Sump Pump Redirection	CR3_51	1333.3	4006.0
Details	6/29/2009	CIPP	CR3_51		

Map and Ledger Information Source

www.ctims.lexingtonky.gov

CAP Task Force

- Formed to define a Consent Decree required program that was of significant concern to the community.
- Task Force began work in May 2012.
- Chaired by former CM Tom Blues, voting members comprised of five (5) other councilmembers and former Commissioner of Planning Derek Paulsen.

CAP Task Force (cont.)

- Stantec, under contract with LFUCG, facilitated the Task Force meetings, assisted in internal and external stakeholders engagement, and drafted a final report along with the required submittals to EPA.
- Task Force work completed in September 2012 with nineteen (19) recommendations that became framework of program moving forward.

CAP Task Force (cont.)

CAP Task Force Recommendation #19

The Task Force approved the following recommendation for **Program Auditing**: *Collected fees and program expenses associated with DWQ's Sanitary Sewer Program are to include an initial, independent audit after two (2) years from CAP implementation and followed by an independent audit every second year thereafter. Quarterly Reports submitted to the EPA (and publicly available on LFUCG's website) document credit ledger transactions and are subsequently subject to regulatory reviews and public scrutiny.*

CAP Audit Requirement

Requirement – Article XIII: Code of Ordinances

Sec. 16-307. - Review; audit.

An independent formal review and audit of the **Capacity Assurance Program** and collected fees shall be performed on or before July 3, 2015 and every two (2) years thereafter and the audit reports shall be sent to the urban county council.

(Ord. No. 63-2013, § 1, 6-6-13)

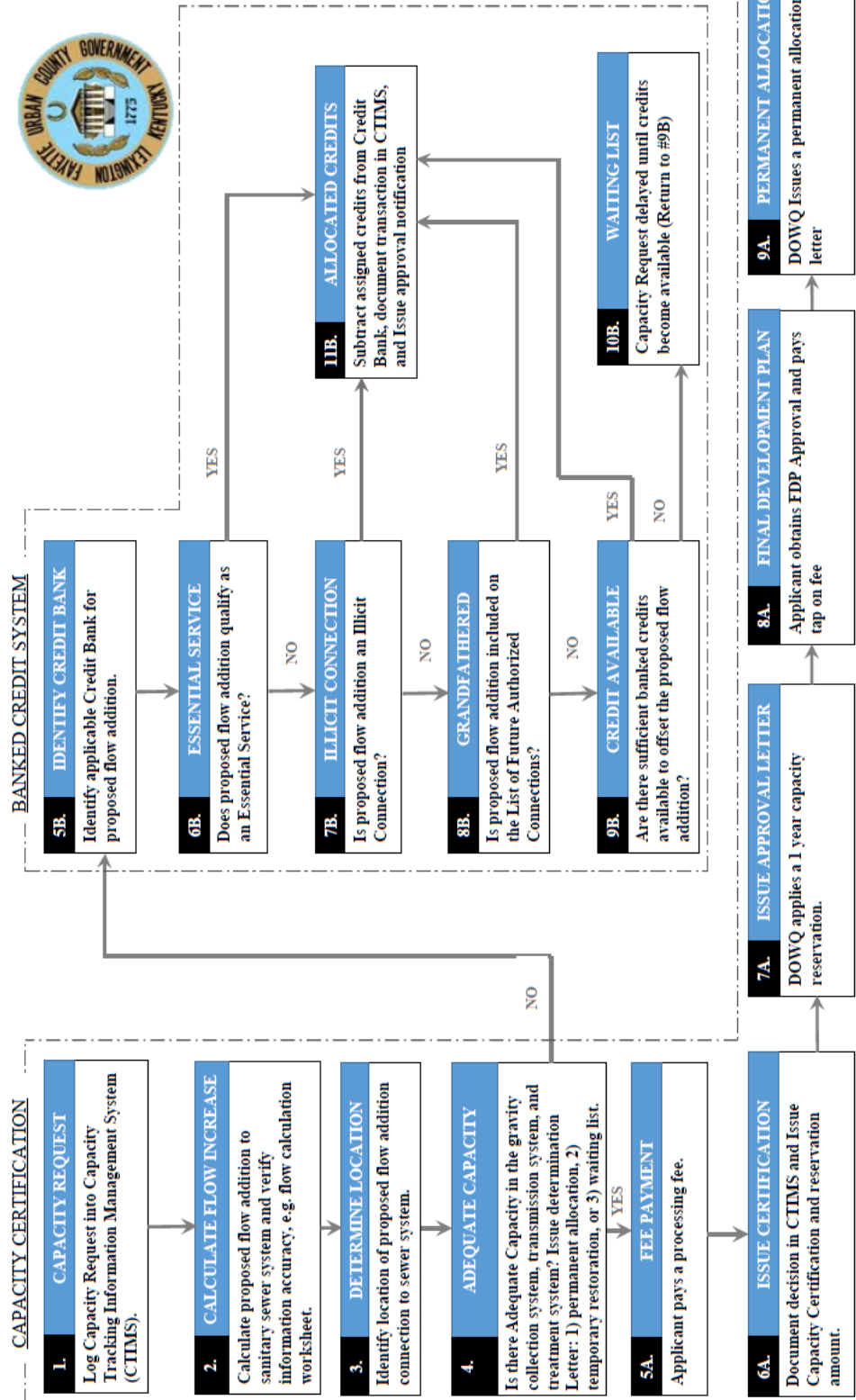
CAP Audit Process

- Records audited: July 2019 through June 2021.
- Procured independent auditor – Bell Engineers.
- 18 randomly selected applications reviewed (10% from a total of 171 applications).
- Final audit report submitted in November 2022.



CAP Audit Content

CAPACITY CERTIFICATION AND BANKED CREDIT PROCESS FLOWCHART



CAP Audit Findings

Bell Engineering

November 2022 Report, Page 9

"It is our opinion, based on information obtained through record research of 18 randomly selected applications, interviews with personnel, and examination of the CTIMS website, that the process for assuring sewer capacity is in compliance with the intent of the ordinance."

In Closing – Quick CAP Facts

- Number of CAP applications continues to drop.
 - 171 applications: 2019 - 2021
 - 270 applications: 2017 - 2019
 - 350 applications: 2015 - 2017
 - 650 applications: 2013 - 2015
- Number of banks has been reduced.
 - 53 banks at launch
 - 27 banks currently
- Essential services facilities using alternative pathway for capacity allocations – zero.

In Closing – Quick CAP Facts

- 4 Audits
 - 2016 (for 2013-2015) – “... in compliance ...”
 - 2018 (for 2015-2017) – “... in compliance ...”
 - 2020 (for 2017-2019) – “... in compliance ...”
 - 2022 (for 2019-2021) – “... in compliance ...”
- Staff for this audit period:
 - CAP Manager – Chris Begley
 - Former CAP Manager – Craig Prater
 - Tap On Desk – Staff
 - CAP Consultant – Stantec

Questions

PROPOSED UPDATES TO CHAPTER 17B - STREET TREES AND HAZARD STREET TREE (COST-SHARE) PROGRAM GUIDELINES

Environmental Quality & Public Works Committee

February 7, 2023



LEXINGTON

Background

- Chapter 17B of the Code of Ordinances pertains to Street Trees
 - Provides a definition
 - Requirements to plant
 - Requirements to remove
 - Requirements to maintain and protect
 - Prohibited actions / resulting enforcement and appeals process
 - Tree Board
 - Membership
 - Duties
- Last update to Chapter 17B was in May 1994.
- Tree Board supports these changes.

Updating Chapter 17B

- Height designations for small and medium trees have shifted so that small trees planted in overhead utility easements should not interfere with the lines
- The Urban Forester position has moved divisions
- Divisions and Departments have been created and reorganized since the last update

Updating Chapter 17B

- Tree Board Membership
 - Decrease the ex officio members to 7 (currently 8)
 - Increase the appointed members to 8 (currently 7)
 - Broaden the potential pool of appointed members by removing the requirement for one member to be a Landscape Architect and one member to be actively engaged in horticulture
 - Set term limits for appointed members
- Tree Board Meetings – decrease minimum # of meetings per year to 10 (currently 11)

Updating Chapter 17B

- Clarifying the two types of appeals
 - Appeals of a decision made by the division of environmental services are heard by the Tree Board
 - denial of a street tree planting permit
 - denial of a street tree removal permit,
 - Appeals of a civil citation for violations of Chapter 17B are heard by the Infrastructure Hearing Board
- Ordinances governing the operation of the hearing boards have changed over time
- Note that Section 13 of the proposed ordinance includes a change to Chapter 16, Section 16-76 to reflect creation and reorganization of divisions



Background

- Hazard Street Tree (Cost-Share) Program Guidelines provide a framework for:
 - Intent
 - Program eligibility
 - Participation guidelines
 - Step-by-step process
 - Qualifications for 100% grants
- Guidelines adopted in October 2003; last revised 2014.
- The Tree Canopy Ad Hoc Committee requested a review of the guidelines in terms of making the program more equitable in April 2022.
- CM Plomin requested a review of the guidelines in terms of eligible properties in June 2022.



Updating Hazard Street Tree (Cost-Share) Program Guidelines

- Eligible properties definition expanded to include properties in the Urban Service Area and other rural residential areas.
 - Mirrors definition of “Urban Areas” in the city’s stormwater discharge permit.
 - “Urban Areas,” as defined, include rural subdivisions with associated roadway and drainage improvements that are similar to subdivisions within the USA.



Updating Hazard Street Tree (Cost-Share) Program Guidelines

- Change in income guidelines to determine eligibility qualifications for 100% grants.
 - Current guidelines use annual income at or below 125% of the poverty guidelines chart and an assets test.
 - Proposed guidelines use annual income at or below the 80% area median income (AMI) and eliminates the assets test.
- Inclusion of a 50% grant for those who do not qualify for the 100% grant by offering a Reimbursement Agreement for issuance of a two-party check to avoid an outlay of 100% of the cost while waiting to receive the 50% reimbursement from LFUCG.



In Conclusion:

- The draft ordinance provides updates to:
 - Align with current practice and organization
 - Provide larger potential pool for Tree Board membership
- The draft guidelines provide updates to:
 - Expand program eligibility
 - Increase grant eligibility for low- to moderate-income homeowners
- DES requests that the EQPW Committee:
 - Review and comment on the proposed draft ordinance and guidelines updates
 - Consider approving the drafted ordinance and guidelines updates
 - Support the ordinance and guidelines updates once they are brought to the full Council

Questions?



ORDINANCE NO. _____ - 2023

AN ORDINANCE AMENDING CHAPTER 17B OF THE CODE OF ORDINANCES OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, RELATING TO STREET TREES, AS FOLLOWS: AMENDING SUBSECTIONS 17B-1(2), (3), (4), AND (6) TO AMEND THE DEFINITIONS OF LARGE TREE, MEDIUM TREE, SMALL TREE, AND TREE PLANTING EASEMENT; AMENDING SECTION 17B-2 TO DESIGNATE THE DIVISION OF ENVIRONMENTAL SERVICES AS THE AUTHORITY RESPONSIBLE FOR ISSUING TREE PLANTING PERMITS AND TO PROVIDE REQUIREMENTS FOR TREE PLANTINGS RELATIVE TO REGULATORY SIGNS AND OVERHEAD UTILITIES; AMENDING SECTION 17B-3 TO DESIGNATE THE DIVISION OF ENVIRONMENTAL SERVICES AS THE AUTHORITY RESPONSIBLE FOR ISSUING TREE REMOVAL PERMITS; AMENDING SECTION 17B-4 TO PROHIBIT THE ATTACHMENT OF WIRE OR NAILS TO STREET TREES; AMENDING SECTION 17B-5 TO DESCRIBE JURISDICTION FOR APPEALS TO THE TREE BOARD AND TO THE INFRASTRUCTURE HEARING BOARD; AMENDING SECTION 17B-6 RELATING TO THE COMPOSITION, MEMBERSHIP TERM, MEETINGS, AND DUTIES OF THE TREE BOARD; AMENDING SECTION 17B-7 TO PROVIDE THAT TREE TOPPING SHALL ONLY BE PERMITTED BY WRITTEN APPROVAL OF THE URBAN FORESTER OR THEIR DESIGNEE; AMENDING SECTION 17B-9 TO REQUIRE REPLACEMENT TREES TO MEET STREET TREE REQUIREMENTS; REPEALING SECTION 17B-11 AND AMENDING SECTION 17B-10 TO DESCRIBE SUGGESTED TREE SPECIES AND UNACCEPTABLE TREE SPECIES; RENUMBERING SECTION 17B-12 AS SECTION 17B-11; RENUMBERING SECTION 17B-13 AS SECTION 17B-12 AND AMENDING SECTION 17B-12 TO PROVIDE THAT APPEALS FROM CITATIONS FOR VIOLATIONS OF CHAPTER 17B OF THE CODE SHALL BE TAKEN TO THE INFRASTRUCTURE HEARING BOARD, WITH ENFORCEMENT PROCEDURES TO CONFORM TO CHAPTER 2B OF THE CODE; AND AMENDING SECTION 16-76 OF THE CODE TO DESIGNATE THE INFRASTRUCTURE HEARING BOARD AS THE CODE ENFORCEMENT BOARD HEARING MATTERS RELATING TO ENFORCEMENT OF ORDINANCES BY THE DIVISION OF ENVIRONMENTAL SERVICES.

BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That Section 17B-1 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 17B-1. - Definitions.

The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section:

- (1) Street tree shall mean any tree within the urban county government right-of-way or designated tree planting easement, excepting those trees regulated pursuant to Article 18 of the Zoning Ordinance or the Downtown Street Tree Ordinance.
- (2) Large tree shall mean any tree species which normally attains a ~~full-grown~~ height in excess of fifty (50) feet at maturity.

- (3) Medium tree shall mean any tree species which normally attains a ~~full-grown~~ height between ~~twenty-six (26)~~ fifteen (15) feet and fifty (50) feet at maturity.
- (4) Small tree shall mean any tree species which normally attains a ~~full-grown~~ height between ~~of under twenty-six (26)~~ ten (10) feet and fifteen (15) feet at maturity.
- (5) Person shall mean any person, corporation, partnership, company, contracting firm or other entity, including those employed under a contract with the urban county government.
- (6) Tree planting easement shall mean a planting area with a minimum width of ~~five (5)~~ ten (10) feet located immediately adjacent and parallel to the street right-of-way or directly adjacent to the sidewalk, if applicable.
- (7) Hazardous tree shall mean any street tree that is dead, diseased, or insect infested such that it poses a health threat to neighboring trees or creates a threat to the public safety or to property.

Section 2 – That Section 17B-2 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 17B-2. - Tree planting.

- (a) Any person may plant a tree within the urban county government right-of-way immediately adjacent to ~~his~~ their property upon obtaining a permit from ~~the urban forester or his designated arborist~~ division of environmental services.
- (b) The permit shall be granted providing the following conditions are met:
 - (1) The tree to be planted is not an ~~undesirable~~ unacceptable tree species, as provided in section 17B-10 of this chapter.
 - (2) The ~~minimum~~ recommended spacing between this and other trees is forty-five (45) feet (large tree), thirty-five (35) feet (medium tree), and twenty-five (25) feet (small tree).
 - (3) The minimum size of the planting area complies with the requirements of ~~section~~ Article 6-10 of the Land Subdivision Regulations.

- (4) ~~If installed between the sidewalk and the street, the tree location is to be at least fifty (50)–seventy-five (75) feet in advance of stop or yield signs, twenty-five (25) feet in advance of any other standard regulatory or warning signs, and ten (10) feet from fire hydrants or utility poles, and fifteen (15) feet from driveway entrances if installed between the sidewalk and the street.~~
- (5) ~~A-Only small trees shall be permitted for planting is to be used when planting within ten (10) lateral feet of in areas where overhead utility wires are located or where utility easements for overhead utility wires have been dedicated. A small or medium tree is to be used when planting within ten (10) to twenty (20) lateral feet of overhead utility wires.~~
- (6) The property owner shall call Kentucky 811 to locate utilities and check proposed planting sites for compliance with requirements relating to utilities, obstructions and potential interference with future construction, including but not limited to compliance with KRS 367.4901 et seq.
- (7) The property owner shall maintain the tree after the tree is planted. Maintenance shall include ~~as necessary,~~ watering, pruning, removal of dead or diseased limbs and insect control, as necessary. The property owner also shall be responsible for any damage to existing utilities caused by the tree installation.
- (c) ~~The urban forester or his designated arborist~~ division of environmental services may waive any of the conditions in granting a permit where such action would promote the preservation of the health, integrity or appearance of an area's tree population. Further, where such action would promote the public welfare, the urban forester or his designee may condition the granting of a permit upon the applicant's agreement to plant only a certain species of tree.
- (d) ~~The urban forester or his designated arborist~~ division of environmental services may deny a permit although all conditions have been met, but only

for just cause based on circumstances unique to the property affected which would create a threat to public welfare and/or safety if the proposed planting were permitted.

- (e) The decision of the ~~urban forester or his designee~~ division of environmental services shall be made within fourteen (14) days after an application is filed. Failure to issue such decision within said time period shall have the same effect as approval of the application.

Section 3 – That Section 17B-3 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 17B-3. - Tree removal.

- (a) No person may remove a tree larger than three (3) inches in diameter, measured at a point four and one-half (4½) feet above the ground within the urban county government right-of-way without obtaining a permit from the ~~urban forester or his designated arborist~~ division of environmental services.
- (b) The permit shall be granted provided the tree to be removed is dead or dying.
- (c) The ~~urban forester or his designee~~ division of environmental services may issue permits for the removal of live trees only in special circumstances. Instances where a permit for the removal of a live tree may be issued include, but are not limited to, the following:
 - (1) The tree is a threat to the public safety;
 - (2) The tree is a threat to the health of other trees in the community; or
 - (3) The tree is to be replaced by a more desirable tree.
- (d) If the ~~urban forester or his designated arborist~~ division of environmental services determines that a street tree is a hazardous tree, he can order the property owner to remove the hazardous tree in a timely manner, as determined by the ~~urban forester or his designated arborist~~ division of environmental services at the property owner's expense.
- (e) The ~~urban forester or his designated arborist~~ division of environmental services can order the property owner to remove any street tree planted without a permit, or in violation of permit conditions.

- (f) Nothing contained in this chapter is intended to infringe on the authority of the urban county engineer, pursuant to KRS-~~179.090~~ 179.070, to remove trees from the right-of-way of any publicly dedicated road when the trees become a hazard to traffic.
- (g) Except as provided in subsection (e) above, any person who removes a tree within the urban county government right-of-way shall replace the removed tree in accordance with the requirements set forth in section 17B-2(b). This requirement may be waived by the ~~urban forester or his designated arborist~~ division of environmental services where replacement would be inappropriate under the standards set forth in section 17B-2(b).

Section 4 – That Section 17B-4 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 17B-4. - Abuse or damage of street trees.

No person shall intentionally damage, cut, poison, carve, transplant or remove any tree without a permit as required by section 17B-3 of this chapter; nor shall any person attach any rope, wire, nails, advertising posters or other contrivance to any street tree; allow any gaseous liquid, herbicide or solid substance which is harmful to trees to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree.

Section 5 – That Section 17B-5 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 17B-5. - Appeals from the denial or permit.

Except as otherwise provided herein, Any person adversely affected by any decision of the ~~urban forester or his designated arborist~~ division of environmental services in the application or interpretation of any of the provisions of this chapter may appeal the decision of the ~~urban forester or his designee~~ division of environmental services to the tree board established by this chapter.

(a) The appeal provided herein shall be taken by filing written notice thereof with the clerk of the urban county council, with a copy thereof to be filed with the urban forester within ten (10) days from notification of the decision. The written notice provided for herein shall recite the reasons why the appeal is being taken.

(b) The appeal provided herein shall be heard at the first tree board meeting following the filing of this appeal. The urban forester ~~or his representative~~, as a member of the tree board, shall abstain from voting on the appeal.

(c) Notwithstanding the foregoing, all appeals from civil citations issued pursuant to Section 17B-12 of the Code of Ordinances shall be taken by filing an appeal with the infrastructure hearing board, with the citations and civil process to conform to Section 17B-12 and Chapter 2B of the Code of Ordinances.

Section 6 – That Section 17B-6 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 17B-6. - Tree board.

(a) A tree board, appointed by the mayor, shall be established. The tree board shall consist of fifteen (15) members including the following:

(1) ~~Five (5)~~ Eight (8) concerned and interested ~~citizens~~ residents of Lexington, Fayette County, two (2) of whom shall be professionals in arboriculture;

~~(2) Two (2) members shall be professionals in a tree field, one (1) of whom shall be a landscape architect and the other shall be actively engaged in horticulture;~~

~~(3)~~(2) The commissioner of environmental quality and public works, or ~~his~~ their representative;

~~(4)~~(3) The director of parks and recreation, or ~~his~~ their representative;

~~(5) The director of building inspection, or his representative;~~

~~(6)~~(4) The director of engineering, or ~~his~~ their representative;

~~(7)~~(5) A member of the urban county council, or ~~his~~ their representative;

~~(8)~~(6) ~~The environmental planner of the division~~ director of planning ~~or their representative~~;

~~(9)~~(7) The urban forester ~~or his representative~~; and

~~(10)~~(8) ~~An urban county government arborist designated by t~~The director of streets, and roads and forestry ~~or their representative~~.

(b) The membership of the commissioner of environmental quality and public works, the director of parks and recreation, ~~the director of building~~

~~inspection, the director of engineering, the director of planning, and the urban forester, and the director of streets and roads, or their respective representatives, the environmental planner, and the designated urban county government arborist shall be serve~~ ex officio. The urban county council member or ~~his~~ their representative shall serve for the duration of ~~his~~ their term in office. All other tree board members shall serve terms of four (4) years. All tree board members may only serve two (2) consecutive full terms. Members who have served two (2) consecutive full terms shall not be eligible for re-appointment to the tree board until the lapse of twelve (12) months from the end of their second consecutive full term.

- (c) In the event a vacancy shall occur during the term of any appointed member, a successor shall be appointed for the unexpired portion of the term. All members of the tree board shall serve without pay.
- (d) The tree board shall establish the board's rules, regulations and procedures and arrange for the holding of meetings on a regular basis, with not less than ~~eleven (11)~~ ten (10) meetings per calendar year.
- (e) The duties of the tree board shall be as follows:
 - (1) To promote urban forestry and advise appropriate municipal agencies on arboricultural matters.
 - (1)(2) To hear all appeals from any decision of the ~~urban forester or his designated arborist~~ division of environmental services in the application or interpretation of any of the provisions of this chapter as authorized herein and to adopt rules for the conduct of such hearings, which rules shall uniformly apply to all such appeals and shall provide that both the appellant and the appellee shall have the right to:
 - (i) Offer and examine witnesses and present evidence in support of their cases;
 - (ii) Cross-examine witnesses and offer evidence to refute evidence offered in opposition; and

- (iii) Following the hearing of such appeals, receive the board's decision reduced to writing, such decision to contain the findings of fact based upon evidence produced at the hearing.

~~(2) To advise appropriate municipal agencies on matters of care, preservation, planting, removal, replacement or disposition of trees in parks, along streets and in public areas as needed.~~

~~(3) To promote urban forestry.~~

Section 7 – That Section 17B-7 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 17B-7. - Tree topping.

- (a) It shall be unlawful as a normal practice for any person to top any tree within the urban county right-of-way or designated tree planting easement. "Topping" is defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or trees under utility wires or other obstruction where other pruning practices are impractical, can be exempted from this section only by written approval of the urban forester or ~~his designated arborist~~ their designee.
- (b) It shall be unlawful to prune any tree within the urban county right-of-way or designated tree planting easement in such a way as to remove the normal canopy or twenty-five (25) percent or more of the crown for the purpose of increasing visibility of outdoor signs or building facades.

Section 8 – That Section 17B-9 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 17B-9. - Tree protection.

All street trees within ten (10) feet of any excavation or construction of any building, structure, street work, or sidewalk, shall be guarded with a protective barrier of at least eight (8) feet square. All building materials, dirt or other debris shall be kept outside the barrier. Any trees damaged or removed due to excavation or

construction shall be replaced in the original location or as close to the original location as possible by the person doing the excavation or construction.

Replacement trees shall at a minimum meet original street tree requirements.

Section 9 – That Section 17B-10 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 17B-10. – Suggested and unacceptable~~Undesirable~~ tree species.

Trees with characteristics that make them appropriate for use in the public right-of-way and which are recommended as suggested street trees can be found in the Planting Manual for the Lexington-Fayette Urban County Government. ~~Some trees have~~ Characteristics which ~~that~~ make them ~~trees~~ unacceptable for use in public rights-of-way and are not ~~recommended~~ permitted for street trees include, but are not limited to: ~~(See plant manual for specific information. Plant manuals are available from the division of planning.)~~

~~Undesirable traits for street tree plantings include:~~

- (1) Disease or insect problems;
- (2) Dirty, drooping branches, objectionable fruit or bark;
- (3) Weak-wooded, apt to lose large branches in wind or with age;
- (4) Unpredictable or irregular habits that may develop;
- (5) Root problems, shallow and destructive roots; or
- (6) Unsafe, dangerously thorny or poisonous.

Section 10 – That Section 17B-11 of the Code of Ordinances be and hereby is repealed.

Section 11 – That Section 17B-12 of the Code of Ordinances be and hereby is renumbered as Section 17B-11 of the Code of Ordinances.

Section 12 – That Section 17B-13 of the Code of Ordinances be and hereby is renumbered as Section 17B-12, and be and hereby is amended to read as follows:

Sec. 17B-12. - Violation.

Any violation of this chapter may be enforced through the issuance of a civil citation. Such civil citations shall be construed to provide an additional or supplemental means of obtaining compliance with this chapter. All citations issued

pursuant to this chapter shall be issued by the citation officers authorized to issue such citations by section 14-10 of the Code of Ordinances and shall be referred to the infrastructure hearing board with the citations and the civil process to conform to ~~sections 16-76 through 16-83~~ Chapter 2B of the Code of Ordinances.

- (a) Prior to the issuance of the first civil citation for a violation of a section of this chapter, the urban county government shall issue a notice of violation, which shall specify a time period of at least twenty-four (24) hours for the correction of the violation. The time period specified shall not impose unrealistic requirements under prevailing weather and site conditions. If the violation is not corrected as specified in the written notice, the urban county government may issue a civil citation. A notice of violation shall precede the issuance of the first civil citation for such offense unless the violation is deemed to be a serious threat to the public health, safety and welfare; or, if in the absence of immediate action, the effects of the continuation of the violation would be irreparable or irreversible. No notice of violation shall be required prior to the issuance of a citation for any offense which occurs after the first citation is issued to a person or entity.
- (b) Appeal of the civil citation may be made to the infrastructure hearing board, as provided in sections 17B-5 and 16-~~76~~79 of the Code of Ordinances.
- (c) For violations of this chapter, the civil fines associated with the issuance of a civil citation are as follows:
 - (1) Upon issuance of the first citation within any 12-month period the civil fine shall be a maximum of two hundred dollars (\$200.00).
 - (2) The civil fine imposed upon the issuance of the second citation for violation of the same section of this chapter within any 12-month period shall be a maximum of three hundred dollars (\$300.00).
 - (3) The civil fine imposed upon issuance of the third citation for violation of the same section of this chapter within any 12-month period shall be a maximum of four hundred fifty dollars (\$450.00).

- (4) The civil fine imposed upon issuance of the fourth or more citation for violation of the same section of this chapter within any 12-month period shall be a maximum fine of five hundred dollars (\$500.00).
- (d) When there is reason to believe that the violation poses a serious threat to the public health, safety or welfare; or in situations where continuation of the violation would be irreparable or irreversible, the government may, without further notice, proceed to abate the conditions. In such cases, the government may, in addition to any fine imposed herein, charge the responsible person, persons or entities with the cost of the abatement, including equipment expense, disposal fee, if any, and an administrative fee of seventy-five dollars (\$75.00). The urban county government may file a lien for such abatement, in accordance with section ~~16-81~~ 2B-9 of the Code of Ordinances and KRS 65.8835. Citations, if issued, shall not preclude the government from abating the conditions and billing the responsible person, persons or entities for the cost of abatement.
- (e) Nothing contained herein shall prohibit the urban county government from enforcement of this chapter by any means authorized by law.

Section 13 – That Section 16-76 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 16-76. - Hearing boards; establishment; powers.

Two (2) hearing boards are hereby created pursuant to KRS 65.8801 through 65.8840~~39~~, one (1) to be known and referred to as the infrastructure hearing board and one (1) to be known and referred to as the environmental hearing board. The infrastructure hearing board shall hear matters regarding enforcement of ordinances by the divisions of engineering, water quality, planning, traffic engineering, environmental services, and streets, and roads ~~and forestry~~, as specified in applicable code sections, and those portions of the zoning ordinance and subdivision regulations subject to enforcement through civil citations. The environmental hearing board shall hear matters regarding enforcement of ordinances by the division of solid waste and shall also hear matters relating to the enforcement of section 14-105 of the Code which classifies littering

as a civil offense. The boards shall operate under and be subject to the provisions of chapter 2B of the Code.

Section 14 – That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL
PUBLISHED:
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ORDINANCE NO. _____ - 2023

AN ORDINANCE AMENDING CHAPTER 17B OF THE CODE OF ORDINANCES OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, RELATING TO STREET TREES, AS FOLLOWS: AMENDING SUBSECTIONS 17B-1(2), (3), (4), AND (6) TO AMEND THE DEFINITIONS OF LARGE TREE, MEDIUM TREE, SMALL TREE, AND TREE PLANTING EASEMENT; AMENDING SECTION 17B-2 TO DESIGNATE THE DIVISION OF ENVIRONMENTAL SERVICES AS THE AUTHORITY RESPONSIBLE FOR ISSUING TREE PLANTING PERMITS AND TO PROVIDE REQUIREMENTS FOR TREE PLANTINGS RELATIVE TO REGULATORY SIGNS AND OVERHEAD UTILITIES; AMENDING SECTION 17B-3 TO DESIGNATE THE DIVISION OF ENVIRONMENTAL SERVICES AS THE AUTHORITY RESPONSIBLE FOR ISSUING TREE REMOVAL PERMITS; AMENDING SECTION 17B-4 TO PROHIBIT THE ATTACHMENT OF WIRE OR NAILS TO STREET TREES; AMENDING SECTION 17B-5 TO DESCRIBE JURISDICTION FOR APPEALS TO THE TREE BOARD AND TO THE INFRASTRUCTURE HEARING BOARD; AMENDING SECTION 17B-6 RELATING TO THE COMPOSITION, MEMBERSHIP TERM, MEETINGS, AND DUTIES OF THE TREE BOARD; AMENDING SECTION 17B-7 TO PROVIDE THAT TREE TOPPING SHALL ONLY BE PERMITTED BY WRITTEN APPROVAL OF THE URBAN FORESTER OR THEIR DESIGNEE; AMENDING SECTION 17B-9 TO REQUIRE REPLACEMENT TREES TO MEET STREET TREE REQUIREMENTS; REPEALING SECTION 17B-11 AND AMENDING SECTION 17B-10 TO DESCRIBE SUGGESTED TREE SPECIES AND UNACCEPTABLE TREE SPECIES; RENUMBERING SECTION 17B-12 AS SECTION 17B-11; RENUMBERING SECTION 17B-13 AS SECTION 17B-12 AND AMENDING SECTION 17B-12 TO PROVIDE THAT APPEALS FROM CITATIONS FOR VIOLATIONS OF CHAPTER 17B OF THE CODE SHALL BE TAKEN TO THE INFRASTRUCTURE HEARING BOARD, WITH ENFORCEMENT PROCEDURES TO CONFORM TO CHAPTER 2B OF THE CODE; AND AMENDING SECTION 16-76 OF THE CODE TO DESIGNATE THE INFRASTRUCTURE HEARING BOARD AS THE CODE ENFORCEMENT BOARD HEARING MATTERS RELATING TO ENFORCEMENT OF ORDINANCES BY THE DIVISION OF ENVIRONMENTAL SERVICES.

BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That Section 17B-1 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 17B-1. - Definitions.

The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section:

- (1) Street tree shall mean any tree within the urban county government right-of-way or designated tree planting easement, excepting those trees regulated pursuant to Article 18 of the Zoning Ordinance or the Downtown Street Tree Ordinance.
- (2) Large tree shall mean any tree species which normally attains a ~~full-grown~~ height in excess of fifty (50) feet at maturity.
- (3) Medium tree shall mean any tree species which normally attains a height between fifteen (15) feet and fifty (50) feet at maturity.

- (4) Small tree shall mean any tree species which normally attains a height between ten (10) feet and fifteen (15) feet at maturity.
- (5) Person shall mean any person, corporation, partnership, company, contracting firm or other entity, including those employed under a contract with the urban county government.
- (6) Tree planting easement shall mean a planting area with a minimum width of ten (10) feet located immediately adjacent and parallel to the street right-of-way or directly adjacent to the sidewalk, if applicable.
- (7) Hazardous tree shall mean any street tree that is dead, diseased, or insect infested such that it poses a health threat to neighboring trees or creates a threat to the public safety or to property.

Section 2 – That Section 17B-2 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 17B-2. - Tree planting.

- (a) Any person may plant a tree within the urban county government right-of-way immediately adjacent to their property upon obtaining a permit from the division of environmental services.
- (b) The permit shall be granted providing the following conditions are met:
 - (1) The tree to be planted is not an unacceptable tree species, as provided in section 17B-10 of this chapter.
 - (2) The recommended spacing between this and other trees is forty-five (45) feet (large tree), thirty-five (35) feet (medium tree), and twenty-five (25) feet (small tree).
 - (3) The minimum size of the planting area complies with the requirements of Article 6-10 of the Land Subdivision Regulations.
 - (4) If installed between the sidewalk and the street, the tree location is to be at least seventy-five (75) feet in advance of stop or yield signs, twenty-five (25) feet in advance of any other standard regulatory or warning signs, and ten (10) feet from fire hydrants or utility poles.

- (5) Only small trees shall be permitted for planting in areas where overhead utility wires are located or where utility easements for overhead utility wires have been dedicated.
- (6) The property owner shall call Kentucky 811 to locate utilities and check proposed planting sites for compliance with requirements relating to utilities, obstructions and potential interference with future construction, including but not limited to compliance with KRS 367.4901 et seq.
- (7) The property owner shall maintain the tree after the tree is planted. Maintenance shall include watering, pruning, removal of dead or diseased limbs and insect control, as necessary. The property owner also shall be responsible for any damage to existing utilities caused by the tree installation.
- (c) The division of environmental services may waive any of the conditions in granting a permit where such action would promote the preservation of the health, integrity or appearance of an area's tree population. Further, where such action would promote the public welfare, the urban forester or his designee may condition the granting of a permit upon the applicant's agreement to plant only a certain species of tree.
- (d) The division of environmental services may deny a permit although all conditions have been met, but only for just cause based on circumstances unique to the property affected which would create a threat to public welfare and/or safety if the proposed planting were permitted.
- (e) The decision of the division of environmental services shall be made within fourteen (14) days after an application is filed. Failure to issue such decision within said time period shall have the same effect as approval of the application.

Section 3 – That Section 17B-3 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 17B-3. - Tree removal.

- (a) No person may remove a tree larger than three (3) inches in diameter, measured at a point four and one-half (4½) feet above the ground within the urban county government right-of-way without obtaining a permit from the division of environmental services.
- (b) The permit shall be granted provided the tree to be removed is dead or dying.
- (c) The division of environmental services may issue permits for the removal of live trees only in special circumstances. Instances where a permit for the removal of a live tree may be issued include, but are not limited to, the following:
 - (1) The tree is a threat to the public safety;
 - (2) The tree is a threat to the health of other trees in the community; or
 - (3) The tree is to be replaced by a more desirable tree.
- (d) If the division of environmental services determines that a street tree is a hazardous tree, he can order the property owner to remove the hazardous tree in a timely manner, as determined by the division of environmental services at the property owner's expense.
- (e) The division of environmental services can order the property owner to remove any street tree planted without a permit, or in violation of permit conditions.
- (f) Nothing contained in this chapter is intended to infringe on the authority of the urban county engineer, pursuant to KRS 179.070, to remove trees from the right-of-way of any publicly dedicated road when the trees become a hazard to traffic.
- (g) Except as provided in subsection (e) above, any person who removes a tree within the urban county government right-of-way shall replace the removed tree in accordance with the requirements set forth in section 17B-2(b). This requirement may be waived by the division of environmental services where replacement would be inappropriate under the standards set forth in section 17B-2(b).

Section 4 – That Section 17B-4 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 17B-4. - Abuse or damage of street trees.

No person shall intentionally damage, cut, poison, carve, transplant or remove any tree without a permit as required by section 17B-3 of this chapter; nor shall any person attach any rope, wire, nails, advertising posters or other contrivance to any street tree; allow any gaseous liquid, herbicide or solid substance which is harmful to trees to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree.

Section 5 – That Section 17B-5 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 17B-5. - Appeals.

Except as otherwise provided herein, any person adversely affected by any decision of the division of environmental services in the application or interpretation of any of the provisions of this chapter may appeal the decision of the division of environmental services to the tree board established by this chapter.

(a) The appeal provided herein shall be taken by filing written notice thereof with the clerk of the urban county council, with a copy thereof to be filed with the urban forester within ten (10) days from notification of the decision. The written notice provided for herein shall recite the reasons why the appeal is being taken.

(b) The appeal provided herein shall be heard at the first tree board meeting following the filing of this appeal. The urban forester, as a member of the tree board, shall abstain from voting on the appeal.

(c) Notwithstanding the foregoing, all appeals from civil citations issued pursuant to Section 17B-12 of the Code of Ordinances shall be taken by filing an appeal with the infrastructure hearing board, with the citations and civil process to conform to Section 17B-12 and Chapter 2B of the Code of Ordinances.

Section 6 – That Section 17B-6 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 17B-6. - Tree board.

- (a) A tree board, appointed by the mayor, shall be established. The tree board shall consist of fifteen (15) members including the following:
 - (1) Eight (8) concerned and interested residents of Lexington, Fayette County, two (2) of whom shall be professionals in arboriculture;
 - (2) The commissioner of environmental quality and public works, or their representative;
 - (3) The director of parks and recreation, or their representative;
 - (4) The director of engineering, or their representative;
 - (5) A member of the urban county council, or their representative;
 - (6) The director of planning or their representative;
 - (7) The urban forester; and
 - (8) The director of streets and roads or their representative.
- (b) The membership of the commissioner of environmental quality and public works, the director of parks and recreation, the director of engineering, the director of planning, the urban forester, and the director of streets and roads, or their respective representatives shall serve ex officio. The urban county council member or their representative shall serve for the duration of their term in office. All other tree board members shall serve terms of four (4) years. All tree board members may only serve two (2) consecutive full terms. Members who have served two (2) consecutive full terms shall not be eligible for re-appointment to the tree board until the lapse of twelve (12) months from the end of their second consecutive full term.
- (c) In the event a vacancy shall occur during the term of any appointed member, a successor shall be appointed for the unexpired portion of the term. All members of the tree board shall serve without pay.
- (d) The tree board shall establish the board's rules, regulations and procedures and arrange for the holding of meetings on a regular basis, with not less than ten (10) meetings per calendar year.
- (e) The duties of the tree board shall be as follows:
 - (1) To promote urban forestry and advise appropriate municipal agencies on arboricultural matters.

- (2) To hear all appeals from any decision of the division of environmental services in the application or interpretation of any of the provisions of this chapter as authorized herein and to adopt rules for the conduct of such hearings, which rules shall uniformly apply to all such appeals and shall provide that both the appellant and the appellee shall have the right to:
- (i) Offer and examine witnesses and present evidence in support of their cases;
 - (ii) Cross-examine witnesses and offer evidence to refute evidence offered in opposition; and
 - (iii) Following the hearing of such appeals, receive the board's decision reduced to writing, such decision to contain the findings of fact based upon evidence produced at the hearing.

Section 7 – That Section 17B-7 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 17B-7. - Tree topping.

- (a) It shall be unlawful as a normal practice for any person to top any tree within the urban county right-of-way or designated tree planting easement. "Topping" is defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or trees under utility wires or other obstruction where other pruning practices are impractical, can be exempted from this section only by written approval of the urban forester or their designee.
- (b) It shall be unlawful to prune any tree within the urban county right-of-way or designated tree planting easement in such a way as to remove the normal canopy or twenty-five (25) percent or more of the crown for the purpose of increasing visibility of outdoor signs or building facades.

Section 8 – That Section 17B-9 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 17B-9. - Tree protection.

All street trees within ten (10) feet of any excavation or construction of any building, structure, street work, or sidewalk, shall be guarded with a protective barrier of at least eight (8) feet square. All building materials, dirt or other debris shall be kept outside the barrier. Any trees damaged or removed due to excavation or construction shall be replaced in the original location or as close to the original location as possible by the person doing the excavation or construction. Replacement trees shall at a minimum meet original street tree requirements.

Section 9 – That Section 17B-10 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 17B-10. – Suggested and unacceptable tree species.

Trees with characteristics that make them appropriate for use in the public right-of-way and which are recommended as suggested street trees can be found in the Planting Manual for the Lexington-Fayette Urban County Government. Characteristics that make trees unacceptable for use in public rights-of-way and are not permitted for street trees include, but are not limited to:

- (1) Disease or insect problems;
- (2) Dirty, drooping branches, objectionable fruit or bark;
- (3) Weak-wooded, apt to lose large branches in wind or with age;
- (4) Unpredictable or irregular habits that may develop;
- (5) Root problems, shallow and destructive roots; or
- (6) Unsafe, dangerously thorny or poisonous.

Section 10 – That Section 17B-11 of the Code of Ordinances be and hereby is repealed.

Section 11 – That Section 17B-12 of the Code of Ordinances be and hereby is renumbered as Section 17B-11 of the Code of Ordinances.

Section 12 – That Section 17B-13 of the Code of Ordinances be and hereby is renumbered as Section 17B-12, and be and hereby is amended to read as follows:

Sec. 17B-12. - Violation.

Any violation of this chapter may be enforced through the issuance of a civil citation. Such civil citations shall be construed to provide an additional or supplemental means of obtaining compliance with this chapter. All citations issued pursuant to this chapter shall be issued by the citation officers authorized to issue such citations by section 14-10 of the Code of Ordinances and shall be referred to the infrastructure hearing board with the citations and the civil process to conform to Chapter 2B of the Code of Ordinances.

- (a) Prior to the issuance of the first civil citation for a violation of a section of this chapter, the urban county government shall issue a notice of violation, which shall specify a time period of at least twenty-four (24) hours for the correction of the violation. The time period specified shall not impose unrealistic requirements under prevailing weather and site conditions. If the violation is not corrected as specified in the written notice, the urban county government may issue a civil citation. A notice of violation shall precede the issuance of the first civil citation for such offense unless the violation is deemed to be a serious threat to the public health, safety and welfare; or, if in the absence of immediate action, the effects of the continuation of the violation would be irreparable or irreversible. No notice of violation shall be required prior to the issuance of a citation for any offense which occurs after the first citation is issued to a person or entity.
- (b) Appeal of the civil citation may be made to the infrastructure hearing board, as provided in sections 17B-5 and 16-76 of the Code of Ordinances.
- (c) For violations of this chapter, the civil fines associated with the issuance of a civil citation are as follows:
 - (1) Upon issuance of the first citation within any 12-month period the civil fine shall be a maximum of two hundred dollars (\$200.00).
 - (2) The civil fine imposed upon the issuance of the second citation for violation of the same section of this chapter within any 12-month period shall be a maximum of three hundred dollars (\$300.00).

- (3) The civil fine imposed upon issuance of the third citation for violation of the same section of this chapter within any 12-month period shall be a maximum of four hundred fifty dollars (\$450.00).
- (4) The civil fine imposed upon issuance of the fourth or more citation for violation of the same section of this chapter within any 12-month period shall be a maximum fine of five hundred dollars (\$500.00).
- (d) When there is reason to believe that the violation poses a serious threat to the public health, safety or welfare; or in situations where continuation of the violation would be irreparable or irreversible, the government may, without further notice, proceed to abate the conditions. In such cases, the government may, in addition to any fine imposed herein, charge the responsible person, persons or entities with the cost of the abatement, including equipment expense, disposal fee, if any, and an administrative fee of seventy-five dollars (\$75.00). The urban county government may file a lien for such abatement, in accordance with section 2B-9 of the Code of Ordinances and KRS 65.8835. Citations, if issued, shall not preclude the government from abating the conditions and billing the responsible person, persons or entities for the cost of abatement.
- (e) Nothing contained herein shall prohibit the urban county government from enforcement of this chapter by any means authorized by law.

Section 13 – That Section 16-76 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 16-76. - Hearing boards; establishment; powers.

Two (2) hearing boards are hereby created pursuant to KRS 65.8801 through 65.8840, one (1) to be known and referred to as the infrastructure hearing board and one (1) to be known and referred to as the environmental hearing board. The infrastructure hearing board shall hear matters regarding enforcement of ordinances by the divisions of engineering, water quality, planning, traffic engineering, environmental services, and streets and roads, as specified in applicable code sections, and those portions of the zoning ordinance and subdivision regulations subject to enforcement through civil citations. The environmental hearing board shall hear matters regarding enforcement of

ordinances by the division of solid waste and shall also hear matters relating to the enforcement of section 14-105 of the Code which classifies littering as a civil offense. The boards shall operate under and be subject to the provisions of chapter 2B of the Code.

Section 14 – That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL
PUBLISHED:
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GUIDELINES FOR HAZARD STREET TREE (COST-SHARE) PROGRAM

**Lexington-Fayette Urban County Government
200 East Main Street
Lexington, Kentucky 40507**

**Originally Adopted
October 2003**

**Current Revision Adopted
Month Year**

Introduction

The Lexington-Fayette Urban County Government (LFUCG) has established a Hazard Street Tree Cost-Share and Grant Program for property owners throughout the Urban Service Area (USA) to remove and replace street trees that pose a threat to public safety. This is a voluntary program that provides financial assistance to residential property owners for street tree removal, including stump grinding, and new street tree installation, in accordance with Chapter 17B of the Code of Ordinances. The intent of these guidelines is to establish a fair and objective method to govern the award and use of funds budgeted for the Hazard Street Tree Cost-Share and Grant Program.

Eligible Properties

Only owner-occupied residential properties within the USA or within LFUCG's Urban Areas are eligible to participate in the program. For the purpose of determining eligibility, "Urban Areas" shall have the same meaning as that set forth in Lexington's Kentucky Pollutant Discharge Elimination System (KPDES) Municipal Separate Storm Sewer System (MS4) Permit currently in effect, which is defined as follows and depicted on the attached map:

"Urban Areas" are areas within the LFUCG Urban Service Boundary and the following rural residential areas and concentrated commercial areas outside the Urban Service Boundary: Westmorland Road area, Athens Community, Eastpoint Drive area, Riviera Road area, Donelwal Drive area, Wellesley Heights Way area, Avon/Bluegrass Station Industrial Park area, Blue Sky Industrial Park area, Horse Park/Spindletop area, and Bluegrass Airport.

Program Guidelines

1. This program provides matching monies to reimburse property owners fifty percent (50%) of the total cost of removal of hazardous street trees, stump grinding, and replacement of the street tree(s) being removed. Additional charges, such as maintenance plans and sales tax, are not eligible for reimbursement. In order to qualify for this program, the cost of the work being done cannot be subsidized by any other federal, state, or LFUCG grant program.
2. Reimbursement amounts are based upon the lower of two (2) estimates.
3. Eligible property owners must have at least one hazardous street tree, as determined by the Urban Forester or his designee, abutting their property. If funds are available, property owners may replace more than one street tree.

4. ~~Qualifying-Participating~~ vendors must submit written documentation to the Urban Forester and agree to adhere to the specifications for tree removal and planting as provided by the Urban Forester. Vendors must provide a one-year guarantee on any replacement tree. ~~The Urban Forester reserves the right to disqualify vendors based upon their prior non-compliance with the specifications of this program.~~
5. Property owner participation is strictly voluntary and funding is limited to a first-come, first-served basis.
6. Property owners must replant with a tree at least one and three-quarters ~~inches~~ (1-³/₄") ~~inches~~ in caliper, as required by ~~the program.~~ Chapter 17B. Property owners may replant a larger caliper tree, but reimbursement will be limited to a maximum of the cost of a two and a half ~~inch~~ (2-¹/₂") ~~inch~~ caliper tree.
7. The planting of a replacement tree in a location outside the area of the public right-of-way easement may be allowed, but only with prior approval by the Urban Forester or his designee.
8. Property owners who wish to perform the work themselves must submit two (2) complete sets of estimates from ~~participating qualified~~ vendors. The reimbursement will be based upon the lower of the two (2) estimates.

The Process

1. Any interested property owner should contact the Urban Forestry Program to receive program information, ~~and~~ an application, and to arrange for an on-site inspection. The Urban Forestry Program is located in the Division of Environmental Services, 200 ~~East~~ Main Street, Lexington, Kentucky 40507. ~~Office The phone number is (859) 258-3404.~~
2. An eligible property owner shall receive a written acknowledgement of eligibility and an application form from the Urban Forestry Program.
3. The property owner shall submit the signed ~~acknowledgement~~ application form and copies of two (2) written estimates, including the scope of work to be completed, from two (2) ~~participating separate~~ vendors.
4. Following receipt of the signed ~~acknowledgement~~ application and estimates, the Urban Forester or his designee shall provide the ~~home~~ property owner with a written approval to proceed. The written approval shall include a date by which the work must be completed and a date by which all paperwork, including copies of paid invoices, must be submitted. The property owner can then contact either of the participating vendors from whom they received estimates and arrange to have the work completed; however, reimbursement will be

based on the lower of the two (2) estimates. If the property owner fails to complete the work or submit the paperwork by the deadline date, ~~the funding may be deemed forfeited. reallocated to another property owner.~~

5. Upon completion of work by the vendor, the property owner shall submit a notice of work completed and a copy of the paid invoice (or unpaid invoice in the case of an income qualified property owner) to the Urban Forester, who shall then inspect the site for satisfactory performance as outlined in the vendor specifications.
6. Upon approval of the completed work by the Urban Forester, the request for reimbursement shall be processed. Processing of the reimbursement request can take ~~four (4) six~~ to ~~six (6) eight~~ weeks.
7. The property owner is solely responsible for managing the project, obtaining all necessary approvals and permits, and paying all vendors.

Income Eligibility Qualifications for One Hundred Percent Grants

1. ~~Any person having a beneficial interest in benefited property may qualify for the Hazard Street Tree Cost-Share and Grant Program. A qualified property owner who owns and occupies their house and whose household income, according to family size, does not exceed the 80 percent area median income (AMI), as defined by the U.S. Department of Housing and Urban Development (HUD), is eligible to apply for grant funds in an amount equal to one hundred percent (100%) of the reasonable cost of removal and replacement of their hazardous street tree(s). A qualified property owner means any person owning and occupying residential property who meets the assets test and has an annual income equal to or less than one hundred twenty-five percent (125%) of the poverty guidelines chart established by the Community Services Administration, annually published in the Federal Register, in effect at the time of application. However, income itself shall be measured by the definition contained in subsection (2) of this section. Any person having a beneficial interest in benefited property may qualify for the Hazard Street Tree Cost-Share and Grant Program.~~
2. Income means the total cash receipts to the residential property owner and spouse after taxes from all sources. These sources include money, wages and salaries after any deductions required by law, but not including food or rent in lieu of wages. They include receipts from self-employment or from one's own farm or business after deductions for business or farm expenses. They include regular payments from public assistance, social security, unemployment and workmen's compensation, strike benefits from union funds, veterans benefits, training stipends, alimony and military family allotments or other regular support from an absent family member or someone not living in the household; government employee pensions, private pensions and regular insurance or

annuity payments; and income from dividends, interest, rents, royalties or income from estates and trusts. For eligibility purposes, income does not refer to the following money receipts: any assets drawn down as withdrawals from a bank, sale of property, house or car, tax refunds, gifts, one-time insurance payments or compensation for injury; also to be disregarded is noncash income, such as the bonus value of food and fuel produced and consumed on farms and the imputed value of rent from owner occupied farm or nonfarm housing.

3. ~~Assets test means that any person having assets in excess of either:~~

~~a. Five thousand dollars (\$5,000.00) in liquid assets such as bank accounts, savings, certificates of deposits, stocks bonds, etc.; or~~

~~Five thousand dollars (\$5,000.00) in equity in assessed value of nonhomestead property.~~

~~Shall be ineligible to participate in the Hazard Street Tree Cost-Share and Grant Program for a one hundred percent (100%) grant, notwithstanding that he they meets the income level qualifications set forth in this section. However, motor vehicles for personal use, household furnishing and the benefited property itself, as well as buildings located thereon, shall not be included in computing assets.~~

4. Qualified property owners may receive a grant for one hundred percent (100%) of the reasonable cost of removal and replacement of hazardous street trees. Those who are not income qualified may receive a grant for fifty percent (50%) of the reasonable cost of removal and replacement, and if a grant is awarded, those who are not income qualified may request a Reimbursement Agreement for issuance of a two-party check to avoid an outlay of one hundred percent (100%) of the cost while waiting to receive the fifty percent (50%) reimbursement from LFUCG.

54. ~~At least T~~twenty-five percent (25%) of the funds appropriated for the Hazardous Street Tree Cost-Share and Grant Program shall be made available for grants to qualified property owners with the remainder of the appropriated funds available for ~~cost-share~~grants to all other property owners. If the funds for the grants to qualified property owners have not been encumbered by the end of January, that allocation will be made available as cost-share for all other property owners in an effort to exhaust the program's budget allocation by the end of the fiscal year. The commissioners of the departments of environmental quality and public works ~~streets and roads~~ and social services housing advocacy and community development shall be responsible for administration of the program consistent with all provisions of these Guidelines.

Program Information

| [Please Ssee the](#) attached.

| Revised: ~~2014~~ [2023](#)



GUIDELINES FOR HAZARD STREET TREE (COST-SHARE) PROGRAM

**Lexington-Fayette Urban County Government
200 East Main Street
Lexington, Kentucky 40507**

**Originally Adopted
October 2003**

**Current Revision Adopted
Month Year**

Introduction

The Lexington-Fayette Urban County Government (LFUCG) has established a Hazard Street Tree Cost-Share and Grant Program for property owners throughout the Urban Service Area (USA) to remove and replace street trees that pose a threat to public safety. This is a voluntary program that provides financial assistance to residential property owners for street tree removal, including stump grinding, and new street tree installation, in accordance with Chapter 17B of the Code of Ordinances. The intent of these guidelines is to establish a fair and objective method to govern the award and use of funds budgeted for the Hazard Street Tree Cost-Share and Grant Program.

Eligible Properties

Only owner-occupied residential properties within the USA or within LFUCG's Urban Areas are eligible to participate in the program. For the purpose of determining eligibility, "Urban Areas" shall have the same meaning as that set forth in Lexington's Kentucky Pollutant Discharge Elimination System (KPDES) Municipal Separate Storm Sewer System (MS4) Permit currently in effect, which is defined as follows and depicted on the attached map:

"Urban Areas" are areas within the LFUCG Urban Service Boundary and the following rural residential areas and concentrated commercial areas outside the Urban Service Boundary: Westmorland Road area, Athens Community, Eastpoint Drive area, Riviera Road area, Donelwal Drive area, Wellesley Heights Way area, Avon/Bluegrass Station Industrial Park area, Blue Sky Industrial Park area, Horse Park/Spindletop area, and Bluegrass Airport.

Program Guidelines

1. This program provides matching monies to reimburse property owners fifty percent (50%) of the total cost of removal of hazardous street trees, stump grinding, and replacement of the street tree(s) being removed. Additional charges, such as maintenance plans and sales tax, are not eligible for reimbursement. In order to qualify for this program, the cost of the work being done cannot be subsidized by any other federal, state, or LFUCG grant program.
2. Reimbursement amounts are based upon the lower of two (2) estimates.
3. Eligible property owners must have at least one hazardous street tree, as determined by the Urban Forester or his designee, abutting their property. If funds are available, property owners may replace more than one street tree.

4. Participating vendors must submit written documentation to the Urban Forester and agree to adhere to the specifications for tree removal and planting as provided by the Urban Forester. Vendors must provide a one-year guarantee on any replacement tree. The Urban Forester reserves the right to disqualify vendors based upon their prior non-compliance with the specifications of this program.
5. Property owner participation is strictly voluntary and funding is limited to a first-come, first-served basis.
6. Property owners must replant with a tree at least one and three-quarters inches (1¾") in caliper, as required by the program. Property owners may replant a larger caliper tree, but reimbursement will be limited to a maximum of the cost of a two and a half inch (2½") caliper tree.
7. The planting of a replacement tree in a location outside the area of the public right-of-way easement may be allowed, but only with prior approval by the Urban Forester or his designee.
8. Property owners who wish to perform the work themselves must submit two (2) complete sets of estimates from participating vendors. The reimbursement will be based upon the lower of the two (2) estimates.

The Process

1. Any interested property owner should contact the Urban Forestry Program to receive program information and an application, and to arrange for an on-site inspection. The Urban Forestry Program is located in the Division of Environmental Services, 200 East Main Street, Lexington, Kentucky 40507. Office phone (859) 258-3404.
2. An eligible property owner shall receive a written acknowledgement of eligibility and an application form from the Urban Forestry Program.
3. The property owner shall submit the signed application form and copies of two (2) written estimates, including the scope of work to be completed, from two (2) participating vendors.
4. Following receipt of the signed application and estimates, the Urban Forester or his designee shall provide the property owner with a written approval to proceed. The written approval shall include a date by which the work must be completed and a date by which all paperwork, including copies of paid invoices, must be submitted. The property owner can then contact either of the participating vendors from whom they received estimates and arrange to have the work completed; however, reimbursement will be based on the lower of the

two (2) estimates. If the property owner fails to complete the work or submit the paperwork by the deadline date, the funding may be deemed forfeited.

5. Upon completion of work by the vendor, the property owner shall submit a notice of work completed and a copy of the paid invoice (or unpaid invoice in the case of an income qualified property owner) to the Urban Forester, who shall then inspect the site for satisfactory performance as outlined in the vendor specifications.
6. Upon approval of the completed work by the Urban Forester, the request for reimbursement shall be processed. Processing of the reimbursement request can take four (4) to six (6) weeks.
7. The property owner is solely responsible for managing the project, obtaining all necessary approvals and permits, and paying all vendors.

Income Eligibility Qualifications for One Hundred Percent Grants

1. Any person having a beneficial interest in benefited property may qualify for the Hazard Street Tree Cost-Share and Grant Program. A qualified property owner who owns and occupies their house and whose household income, according to family size, does not exceed the 80 percent area median income (AMI), as defined by the U.S. Department of Housing and Urban Development (HUD), is eligible to apply for grant funds in an amount equal to one hundred percent (100%) of the reasonable cost of removal and replacement of their hazardous street tree(s). However, income itself shall be measured by the definition contained in subsection (2) of this section.
2. Income means the total cash receipts to the residential property owner and spouse after taxes from all sources. These sources include money, wages and salaries after any deductions required by law, but not including food or rent in lieu of wages. They include receipts from self-employment or from one's own farm or business after deductions for business or farm expenses. They include regular payments from public assistance, social security, unemployment and workmen's compensation, strike benefits from union funds, veterans benefits, training stipends, alimony and military family allotments or other regular support from an absent family member or someone not living in the household; government employee pensions, private pensions and regular insurance or annuity payments; and income from dividends, interest, rents, royalties or income from estates and trusts. For eligibility purposes, income does not refer to the following money receipts: any assets drawn down as withdrawals from a bank, sale of property, house or car, tax refunds, gifts, one-time insurance payments or compensation for injury; also to be disregarded is noncash income, such as the bonus value of food and fuel produced and consumed on farms and the imputed value of rent from owner occupied farm or nonfarm housing.

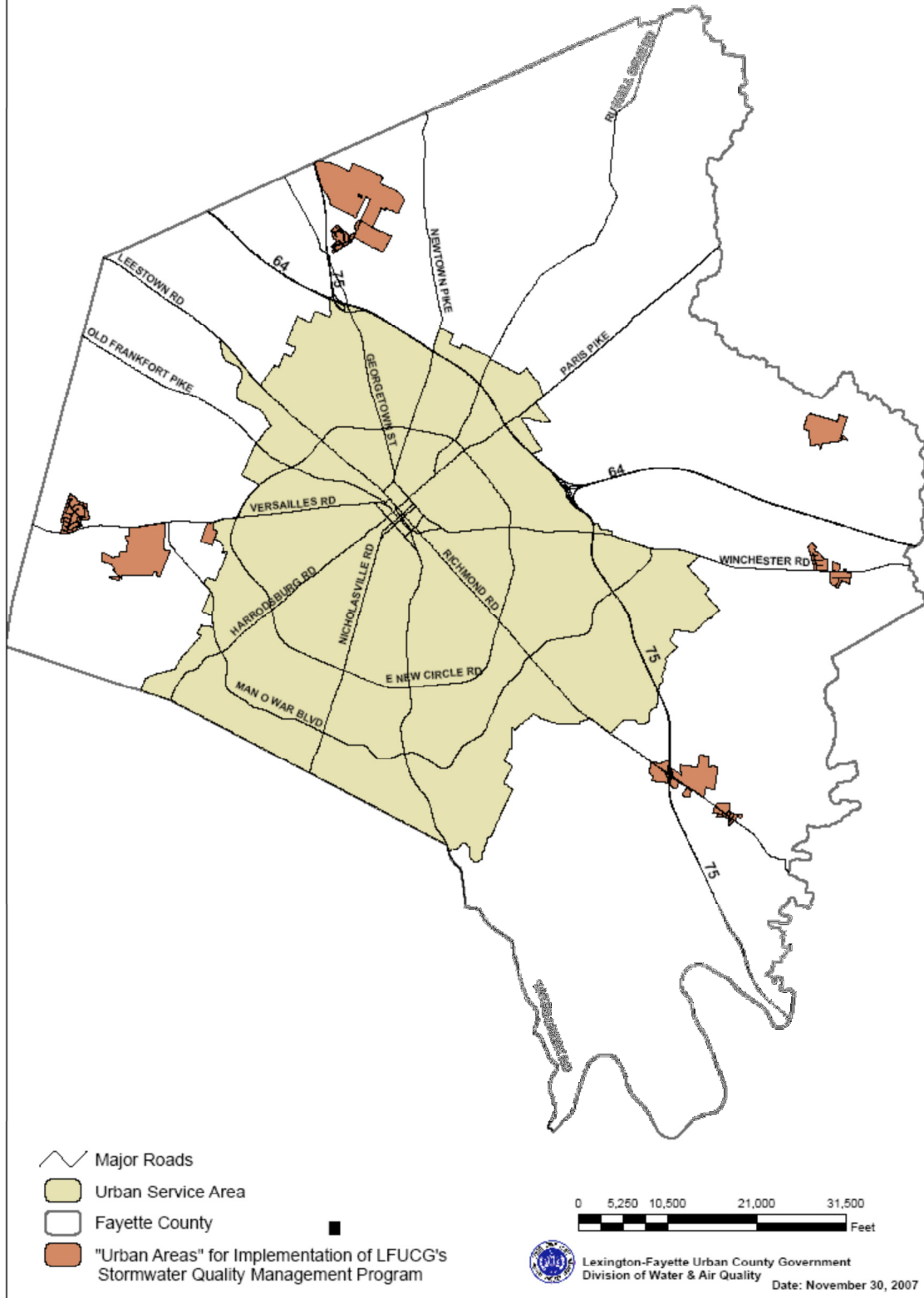
3. Qualified property owners may receive a grant for one hundred percent (100%) of the reasonable cost of removal and replacement of hazardous street trees. Those who are not income qualified may receive a grant for fifty percent (50%) of the reasonable cost of removal and replacement, and if a grant is awarded, those who are not income qualified may request a Reimbursement Agreement for issuance of a two-party check to avoid an outlay of one hundred percent (100%) of the cost while waiting to receive the fifty percent (50%) reimbursement from LFUCG.
4. At least twenty-five percent (25%) of the funds appropriated for the Hazardous Street Tree Cost-Share and Grant Program shall be made available for grants to qualified property owners with the remainder of the appropriated funds available for cost-share to all other property owners. If the funds for the grants to qualified property owners have not been encumbered by the end of January, that allocation will be made available as cost-share for all other property owners in an effort to exhaust the program's budget allocation by the end of the fiscal year. The commissioners of the departments of environmental quality and public works and housing advocacy and community development shall be responsible for administration of the program consistent with all provisions of these Guidelines.

Program Information

Please see the attached.

Revised: 2023

"Urban Areas" for Implementation of LFUCG's Stormwater Quality Management Program





**Reimbursement Agreement
Hazard Street Tree Cost-Share and Grant Program**

Name _____
Address _____
Lexington, KY 405##

Dear Property Owner:

As per our recent conversations regarding the Hazard Street Tree Cost-Share and Grant Program, this letter is to record our reimbursement agreement for hazardous street tree removal, stump grinding, and replacement of the street tree(s) being removed, associated with the work described in the attached estimate.

1. The Division of Environmental Services agrees to reimburse you fifty percent (50%) for completed work, based on a final invoice, marked as paid in full for the fifty percent (50%) to be covered by you. LFUCG's reimbursement is limited to (\$###) or fifty percent (50%) of the lesser amount shown on the actual invoice. You as the property owner are fully responsible for all contractual obligations with the selected vendor, including full payment for all services rendered. Once the work is completed, LFUCG will conduct a follow up inspection to verify the work.
2. At your request, payment for the fifty percent (50%) agreed to be paid by LFUCG to the vendor will be made as follows: A check payable to you as the property owner and the selected vendor will be issued by LFUCG after completion of the work. You will be required to endorse the check which will then be forwarded to the vendor for payment. This payment arrangement is being made to accommodate your request but you remain responsible for all contractual obligations with the selected vendor, as well as fifty percent (50%) of the total cost of the work, and one hundred percent (100%) of any additional costs, such as sales tax and on-going maintenance.
3. By its signature below the selected vendor, by its duly authorized representative, acknowledges and accepts the above-referenced payment procedure.
4. Your signature in the space provided below indicates your concurrence with the terms of this agreement. Completion and submittal of a fully executed Application Form – Hazard Street Tree (Cost-Share) Program, including required attachments, is also required to qualify for reimbursement.

Jennifer M. Carey, P.E.
Director – Division of Environmental Services
Date: _____

Property Owner(s)
Date: _____

Vendor's Authorized Representative
Vendor: _____
Date: _____





Environmental Quality & Public Works Committee 2023 Annual Status Review of Committee Referrals

1. Wrong Way Driving

- Current Sponsor: A. Bledsoe
- Referral Date: June 22, 2021
- Last Presentation: December 7, 2021
- Item Details: A presentation was provided on the factors that lead to wrong way driving. Recommendations were provided for technology advancements that would alert drivers that a wrong way driver is headed toward them and to also alert dispatch for a faster response. Committee agreed to implement a pilot program and have this return to committee with an update. *This item will need a new sponsor or it can be removed from committee.*

2. Process for Road Closures

- Current Sponsor: A. Bledsoe
- Referral Date: August 16, 2022
- Last Presentation: N/A
- Item Details: The item was placed in committee on August 16, 2022 shortly after the school year started. This item stems from a road closure on Clays Mill Road that impacted several schools in the area delaying traffic for long periods of time. The intent behind the item to look at how we communicate road closures and traffic impacts to ensure that this communication reaches schools and neighborhoods in the area. *This item will need a new sponsor or it can be removed from committee.*

3. Single Use Plastics/Energy Conservation

- Current Sponsor: S. Kay
- Referral Date: March 12, 2019
- Last Presentation: May 18, 2021
- Item Details: Blaine Early with the Environmental Commission (Empower Lexington) provided a presentation on Energy Conservation and Single Use Plastics to the committee on May 18, 2021. Single use plastics are disposable plastics intended to be used only once before being thrown away or recycled. The intent for this item is to look into what the city can do to reduce or eliminate single use plastics. *This item will be combined with item #9: Explore Lexington's Sustainability Options so this can be removed from committee.*

4. Waste Management Fines

- Current Sponsor: H. LeGris
- Referral Date: April 17, 2018
- Last Presentation: N/A
- Item Details: This item was placed in committee on April 17, 2018 and has been reviewed with staff to discuss roll-carts being left at the curb for long periods of time and appropriate fines for doing so.

5. 5G Small Cell Wireless Update

- Current Sponsor: J. McCurn
- Referral Date: February 12, 2019
- Last Presentation: August 24, 2021
- Item Details: CIO Valicenti provided a presentation to Planning and Public Safety Committee in conjunction with the 17C regulations and the Town Branch Commons project. *This item will need a new sponsor or it can be removed from committee.*

6. Sevierville Waste Digesters

- Current Sponsor: L. Sheehan
- Referral Date: March 29, 2022
- Last Presentation: May 3, 2022
- Item Details: This item was placed in committee after a Council trip to Sevierville's solid waste facility on March 24, 2022. The intent is to review options for purchasing a waste digester similar to what is used at the Sevierville Solid Waste facility.

7. Solid Waste Trash Compactors

- Current Sponsor: R. Moloney
- Referral Date: August 22, 2017
- Last Presentation: N/A
- Item details: This item was placed in committee on August 22, 2017 after *The Solid Waste 5-Year Plan* presentation - when the subject of recycling was discussed. Previously, it was requested for DWM to present a plan to provide and service trash compactors, especially for high-density residential and commercial infill development projects. *This item will need a new sponsor or it can be removed from committee.*

8. Hazardous Street Trees Program

- Current Sponsor: K. Plomin
- Referral Date: June 21, 2022
- Last Presentation: N/A
- Item details: This item was placed in committee on June 21, 2022 to evaluate properties eligible for participation in the Hazardous Street Trees Program. A presentation is scheduled for February 7, 2023.

9. Explore Lexington's Sustainability options

- Current Sponsor: L. Sheehan
- Referral Date: February 20, 2018
- Last Presentation: N/A
- Item Details: This item was placed in committee to look at ways we can make Lexington more sustainable. This item will be combined with item #3: Single Use Plastics/Energy Conservation. A presentation is scheduled for May 23, 2023.

Annual/Periodic Updates:

10. Recycling General Practices

- Current Sponsor: P. Worley
- Referral Date: March 9, 2021
- Last Presentation: N/A
- Item Details: On March 9, 2021, several committee recycling items were consolidated into *Recycling General Practices*. This includes glass recycling, review of recycling practices, and recycling updates.

11. Backyard Composting – Home Compost Pilot Program

- Current Sponsor: H. LeGris
- Referral Date: February 2, 2021
- Last Presentation: February 1, 2022
- Item Details: The results of the spring 2021 home compost pilot program were reported out at the February 1, 2022 committee meeting. An update is scheduled for May 23, 2023.

12. Urban Forestry / Street Trees Update

- Current Sponsor: H. Legris
- Referral Date: September 17, 2019
- Last Presentation: July 5, 2022
- Item Details: Street trees are defined as trees in the right of way or designated tree planting easement, except those that are regulated pursuant to our Ordinances. Benefits of street trees are beautification, traffic calming, and crime reduction. Committee staff will request a 2023 update.

13. Capacity Assurance Program (CAP) Audit Update

- Current Sponsor: L. Sheehan
- Referral Date: August 30, 2018
- Last Presentation: October 6, 2020
- Item Details: The Capacity Assurance Program (CAP) audit takes place every two years and this became a requirement under our code of ordinances. A presentation to discuss the audit results is scheduled for February 7, 2023.

14. Annual Energy Improvement Fund Update

- Current Sponsor: L. Sheehan
- Referral Date: January 10, 2017
- Last Presentation: June 7, 2022
- Item Details: Annual Update on the Energy Improvement Fund. Committee staff will request a 2023 update.

15. Annual Snow & Ice Removal Plan

- Current Sponsor: L. Sheehan
- Referral Date: February 15, 2014
- Last Presentation: October 11, 2022
- Item Details: Annual update on the Snow/Ice Removal Plan to review the snow plow schedule, staffing, and costs associated with the program. Committee staff will request a 2023 snow plan update.

16. Annual Pavement Management Plan Update/ Curbs Assessment

- Current Sponsor: L. Sheehan
- Referral Date: May 26, 2020
- Last Presentation: May 2022
- Item Details: Annual Update on the Pavement Management Plan. The FY24 Pavement Management Plan will be presented April 18, 2023.

17. Annual Stormwater Priority List Update

- Current Sponsor: L. Sheehan
- Referral Date: February 20, 2018
- Last Presentation: September 13, 2022
- Item Details: The last annual update on storm water quality projects in Fayette County was presented September 13, 2022. Committee staff will request a 2023 update.

18. Annual Municipal Separate Storm Sewer System (MS4) Program Update

- Current Sponsor: L. Sheehan
- Referral Date: February 20, 2018
- Last Presentation: November 1, 2022
- Item Details: The intent is to develop a Standard Operating Procedure to mitigate potential problems in the future and this program will keep the city in compliance. Committee staff will request a 2023 update.

19. Annual Consent Decree Remedial Measures Plan Update

- Current Sponsor: L. Sheehan
- Referral Date: January 22, 2019
- Last Presentation: March 1, 2022
- Item Details: Update to discuss the Remedial Measures Plan (RMP) and where we are with the Consent Decree and the EPA requirement. The 2022 presentation provided an expense comparison for contractual projections versus actual and explained how expenses have fallen below original estimates. Committee staff will request a 2023 update.

20. Annual Division & Program Reviews [Pilot Program]

- Current Sponsor: L. Sheehan
- Referral Date: November 30, 2021
- Last Presentation: November 1, 2022
- Item Details: The Division Reports for Division of Streets & Roads and Division of Traffic Engineering were provided in the November 1, 2022 packet as information only. These reports will be kept on file with the Council Core Staff.

Subcommittees:

21. Paving Management Plan Subcommittee

- Current Sponsor: F. Brown
- Referral Date: May 3, 2022
- Last Presentation: Not yet presented
- Item Details: The subcommittee was created May 3, 2022. Members of the subcommittee are McCurn (Chair), F. Brown, Ellinger, and LeGris. Subcommittee met 3 times to review the Pavement Management Plan and make updates. The updated plan is scheduled to be reported out April 18, 2023.

Environmental Quality & Public Works

Referral Item	Current Sponsor	Date Referred	Last Presentation	Status	Legistar File ID
1 Wrong-Way Driving	A. Bledsoe	June 22, 2021	December 7, 2021		1251-21
2 Process for Road Closures	A. Bledsoe	August 16, 2022			
3 Single Use Plastics / Energy Conservation	S. Kay	March 12, 2019	May 18, 2021		0499-21
4 Waste Management Fines	H. LeGris	April 17, 2018			
5 5G Small Cell Wireless Plan Update	J. McCurn	February 12, 2019	August 24, 2021		0846-21
6 Sevierville Waste Digesters	R. Moloney	March 29, 2022	May 3, 2022		0445-22
7 Solid Waste Trash Compactors	R. Moloney	August 22, 2017			
8 Hazardous Street Trees Program	K. Plomin	June 21, 2022		February 7, 2023	
9 Explore Lexington's Sustainability Options	L. Sheehan	February 20, 2018			
Annual / Periodic Updates					
Recycling General Practices					
10 * Note several recycling items were combined into this one item on March 9, 2021	P. Worley	March 9, 2021			
11 Backyard Composting - Home Compost Pilot Program	H. LeGris	February 2, 2021	February 1, 2022		
12 Urban Forestry / Street Trees Update	J. McCurn	September 17, 2019	July 5, 2022		0699-22
13 Capacity Assurance Program (CAP) Audit Update	L. Sheehan	August 30, 2018	October 6, 2020	February 7, 2023	0964-20
14 Annual Energy Improvement Fund Update	L. Sheehan	January 10, 2017	June 7, 2022		0572-22
15 Annual Snow/Ice Removal Plan	L. Sheehan	February 15, 2014	October 11, 2022		1034-22
16 Annual Pavement Management Plan / Curbs Assessment	L. Sheehan	May 26, 2020	May 3, 2022		0440-22
17 Annual Stormwater Priority List Update	L. Sheehan	February 20, 2018	September 13, 2022		0922-22
18 Annual Municipal Separate Storm Sewer System (MS4) Program Update	L. Sheehan	February 20, 2018	November 1, 2022		1122-22
19 Annual Consent Decree and Remedial Measures Plan Update	L. Sheehan	January 22, 2019	March 1, 2022		0222-22
20 Annual Division and Program Review (Pilot Program)	L. Sheehan	November 30, 2021	November 1, 2022		0127-22
Subcommittees					
21 Paving Management Plan Subcommittee	F. Brown	May 3, 2022		February 7, 2023	0924-22