



*City of Burien*

BURIEN PLANNING COMMISSION  
July 27, 2016  
7:00 p.m.  
Multipurpose Room/Council Chambers  
MINUTES

To hear the Planning Commission's full discussion of a specific topic or the complete meeting, the following resources are available:

- Watch the video-stream available on the City website, [www.burienwa.gov](http://www.burienwa.gov)
- Check out a DVD of the Council Meeting from the Burien Library
- Order a DVD of the meeting from the City Clerk, (206) 241-4647

**CALL TO ORDER**

Chair Curtis Olsen called the July 27, 2016, meeting of the Burien Planning Commission to order at 7:05 p.m.

**ROLL CALL**

Present: Kim Davis, Butch Henderson, Anna Markee, Kaelene Nobis, Curtis Olsen, and Douglas Weber

Absent: Amy Rosenfield, excused

Administrative staff present: David Johanson, senior planner; Brandi Eyerly, planner

**AGENDA CONFIRMATION**

Direction/Action

**Motion** was made by Commissioner Henderson and seconded by Commissioner Davis to confirm the agenda. Motion passed 6-0.

**APPROVAL OF MINUTES**

Direction/Action

**Motion** was made by Commissioner Henderson, seconded by Commissioner Nobis, and passed 6-0 to approve the minutes of the July 13, 2016, meeting.

**PUBLIC COMMENT**

None.

**PUBLIC HEARING**

A. Highline School District Impact Fee Zoning Code Amendments

Chair Olsen opened the public hearing at 7:02 p.m.

Scott Hodgins, executive director for capital planning and construction for the Highline School District, gave a brief summary of the district's capacity needs and its capital facilities plan. Denise Strongarm, partner with the Pacifica Law Group, reviewed the proposed impact fee. She said the proposed School Impact Fee ordinance is modeled after the King County School Impact Fee ordinance; King County was the first jurisdiction after the Growth Management Act was passed to enact a school impact fee ordinance, so most jurisdictions model their ordinance after it. She noted that the school district calculates the impact fee as a part of its capital facilities plan, taking into consideration only the new capacity projects that will contribute to growth at the elementary and middle school level. That formula, subject to a SEPA review, is reviewed by school district staff and then reviewed and adopted

by the school board before being sent to the individual jurisdictions (Burien, SeaTac, Normandy Park, Des Moines, King County and Tukwila) for review and adoption. She said the formula for the proposed fee was developed in 1991 by a group of stakeholders including developers and has stayed consistent with the Growth Management Act. She pointed out that at the very end of the calculation, the amount is cut in half, an action that came directly from the stakeholders group back in 1991.

There being no testimony, Chair Olsen closed the hearing at 7:21 p.m.

Commissioner Nobis moved that the Planning Commission recommend to the City Council approval of amendments to BMC 19.37 School Impact Fees, establishing an impact fee program for the Highline School District No. 401, consistent with the Burien Comprehensive Plan and the school district's Facilities Plan, as set forth in the July 27, 2016, staff memo and associated attachments. Commissioner Henderson seconded the motion. Motion carried 6-0.

## **NEW BUSINESS**

### **A. Burien Strategic Plan – Presentation**

City Manager Kamuron Gurol and management fellow Laura Crandall introduced Burien's new four-year strategic plan. Mr. Gurol explained that the plan covers two two-year budget cycles and provides guidance on what should be prioritized in the budget in order to meet the goals stated in the plan. He added that formulation of the plan included a great deal of public input. Mr. Gurol presented some of the results of the bi-annual Community Survey, which provided input in the development of the strategic plan, as did a "dot exercise" used by the City Council to narrow down its focus to what were the greatest priorities.

The plan is broken down into four major goals: safe community, dynamic community, healthy community and strong city organization. Each goal is broken down into initiatives and there are a number of strategies for each initiative.

## **OLD BUSINESS**

### **A. Significant Tree Retention Zoning Code Amendments – Discussion and Recommendation**

Brandi Eyerly, planner, asked for some clarification from the commissioners on their recommendations for minor tree removal activities on residential properties, drawing their attention to the table on page 7 of Attachment 1. She said she adapted the table from the City of Renton's code, but the numbers are arbitrary; she asked the commissioners to discuss and adjust or confirm the figures. The commissioners said they like the idea of requiring planting of a replacement tree when the last tree on a property is removed. They also discussed community engagement and establishment of some kind of incentive program to preserve the tree canopy within the city.

A member of the audience, John Paulus, 2145 SW 167<sup>th</sup> St., commented that the proposed amendments are very broad and confusing. He lives on a half-acre lot with some very large trees and said he wondered if he would need an arborist report and city permit to remove hazardous trees.

## **ELECTION OF OFFICERS**

Commissioner Nobis nominated Curtis Olsen as chair; Commissioner Markee seconded the motion. Motion carried 6-0.

Commissioner Henderson nominated Commissioner Rosenfield as vice chair; Commissioner Nobis seconded the motion. Motion carried 6-0.

## **PLANNING COMMISSION COMMUNICATIONS**

None.

**DIRECTOR'S REPORT**

None.

**ADJOURNMENT**

**Direction/Action**

Commissioner Henderson moved for adjournment; Commissioner Markee seconded. Motion carried unanimously. The meeting adjourned at 8:51 p.m.

**APPROVED:** \_\_\_\_\_

\_\_\_\_\_  
Curtis Olsen, chair  
Planning Commission

DRAFT

# CITY OF BURIEN, WASHINGTON

## MEMORANDUM

**DATE:** August 10, 2016

**TO:** Planning Commission

**FROM:** Niomi Zinn, Planner & Brandi Eyerly, AICP, Planner

**SUBJECT:** Proposed Significant Tree Retention amendments to BMC 19.10 Definitions, 19.25 Tree Retention and Landscaping, and 19.85 Protection and Preservation of Landmarks.

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### **PURPOSE/REQUIRED ACTION:**

At this meeting the Commission continues its discussion on proposed amendments to BMC 19.10 Definitions, 19.25 Tree Retention and Landscaping, and 19.85 Protection and Preservation of Landmarks. If adopted these amendments will extend tree retention and replacement to single-family properties, allow off-site tree replacement, create a city tree account, and establish a Heritage tree program. Following discussion if the Planning Commission is ready a recommendation to the Burien City Council can be made. City Council's introduction to the Planning Commission's recommendation is scheduled for the City Council's September 19, 2016 meeting.

### **BACKGROUND:**

#### **Fees in Lieu of Tree Planting, Off Site Planting, Enforcement Regulations and Heritage Tree Definition**

(The complete set of code amendments can be found on Attachment 1 with Planning Commission recommendations and staff comments.)

#### **Significant Tree Replacement Options**

Per the Planning Commission's request staff has brought back alternative language to the existing tree replacement requirements (see Attachment 1, Section 19.25.180 Off-site mitigation and fees paid in lieu). Presently the BMC 19.25.160 "Significant trees – Replacement" provides a replacement ratio for applicants who have removed trees without a permit in a critical area, or on new development where all the existing trees on a project site have been removed. Off-site and payment in lieu are not offered by the City. Many times it is found that a site is too small to plant the number of replacement trees required but they are planted and soon become crowded. In these cases an off-site planting and/or fees in lieu of planting offers an alternative option. For the Planning Commission's information and discussion Attachment 2 shows other options such as fees in lieu of tree planting on-site and off-site planting locations from neighboring jurisdictions Federal Way, Olympia, Seattle, Beau Arts Village, Lake Forest Park, and Renton.

The tree fund can also be used exclusively for depositing tree pruning/removal permit fees and fines to fund City planting projects. Beau Arts Village tree mitigation account is funded this way and is used for acquiring, maintaining, and preserving trees within the town. A new addition to this amendment since the July 27<sup>th</sup> meeting is the tree replacement fee calculation would be based on the tree ratios in 19.25.160, not on a one (1) tree for one (1) tree.

#### **Enforcing Tree Regulations**

Enforcement information was also requested by the Planning Commission and Planning staff has included this information in Attachment 2 as well. Currently the Burien Planning staff works with the violator to bring the

project or property into compliance with specific code mitigation requirements. If the violator does not perform the mitigation the violation is then turned over to the City's Code Enforcement officer who can issue citations and fines.

### **Heritage Tree Program**

At the June 22, 2016 meeting the Planning Commission discussed creating a heritage tree program. Planning staff has added language to BMC 19.10 Definitions which defines and sets out required designation criteria for a heritage tree. "Tree" has been added as landmark eligible to 19.85 Protection and Preservation of Landmarks. Exceptions for Heritage trees are added in BMC 19.25.1301.C Significant trees – Retention Plan and 19.25.160 Minor Tree Removal Activities. (See Attachment 1.)

### **Minor Tree Removal on Private Property**

Also added to the code per Planning Commission discussion is a new section BMC 19.25.160 Minor Tree Removal Activities which allows for a minimum number of trees removed each year on private property based on lot size (see Attachment 1). Commission direction after the July 27<sup>th</sup> meeting has been incorporated into the amendments i.e. no permit required but a notice form will be required to keep record of tree removal on individual lots.

### **Purpose Statement**

The Planning Commission mentioned that a "purpose" statement was needed for the tree code. Planning staff has compiled municipal code "purpose" statements from Olympia, Lake Forest Park, and Renton (Attachment 3) to create Burien's own tree preservation statement.

### **Proposed Code Amendments**

- BMC 19.10.xxx Prohibited tree definition (new)
- BMC 19.10.493 revised definition of Significant Tree (amendment)
- BMC 19.10xxx Heritage tree definition (new)
- BMC 19.25.080.7 addition of Certified Arborist recommendation for exception to prohibited tree planting (amendment)
- BMC 19.85.010 addition of "tree" to the historic resource list (amendment)
- BMC 19.85.020.1.C addition of "tree" to historic resource definition (amendment)
- BMC 19.25.120 Clearly defines this section for new development permits (amendment)
- BMC 19.25.120.1 additional statement prohibiting clearing of property in preparation of future land development (amendment)
- BMC 19.25.120.7 addition of written evaluation by a Certified Arborist (amendment)
- BMC 19.25.130.1.C addition to protect Heritage Tree removal (new)
- BMC 19.25.160 adds new section "Minor Tree Removal Activities" section (new)
- BMC 19.25.170.2 & 3 identifies the "largest caliper" tree to use when calculating number of replacement trees (amendment)
- BMC 19.25.170.4 adds prohibited tree shall not be planted (amendment)
- BMC 19.25.180 adds new section "Off-site mitigation and fees paid in lieu"(new)
- BMC 19.25.200 adds new section "Enforcement" but no language has been provided (new, incomplete)

## **Future Recommendations**

Once the Planning Commission's recommendations are considered and adopted by the City Council, Planning Staff will bring back the tree retention incentives directive to the Commission for review. This will also be the time to evaluate the existing program and make any necessary changes to improve the process.

## **PLANNING COMMISSION ACTION**

Staff is requesting that the Planning Commission discuss and provide a recommendation to the Burien City Council on the proposed amendments to BMC 19.10 Definitions, 19.25 Tree Retention and Landscaping, and 19.85 Protection and Preservation of Landmarks.

If the Commission wishes to make a recommendation staff suggests the following motion language:

**Motion to Approve:** *I move the Planning Commission recommend to the City Council approval of Amendments to BMC 19.10 Definitions, 19.25 Tree Retention and Landscaping, and 19.85 Protection and Preservation of Landmarks as set forth in the July 27, 2016 staff memo and associated attachments.*

**Motion to Deny:** *I move the Planning Commission not recommend to the City Council approval of Amendments to BMC 19.10 Definitions, 19.25 Tree Retention and Landscaping, and 19.85 Protection and Preservation of Landmarks as set forth in the July 27, 2016 staff memo and associated attachments.*

If you have any questions before the meeting, please contact Niomi Zinn at (206) 439-3152 or by email at [niomiz@burienwa.gov](mailto:niomiz@burienwa.gov) and Brandi Eyerly at (206) 248-5519, [BrandiE@burienwa.gov](mailto:BrandiE@burienwa.gov).

## **ATTACHMENTS:**

1. Draft Amendments to BMC 19.10 Definitions, 19.25.080 Landscaping, 19.25.120 Significant trees – Retention required, and 19.85 Protection and Preservation of Landmarks
2. Other Jurisdictions' Fee in Lieu Programs, Off-site Planting, and Enforcement Regulations
3. "Purpose" of Tree Retention & Protection, Other Jurisdictions

<p>Draft Amendments to BMC 19.10 Definitions, 19.25.080 Landscaping, 19.25.120 Significant trees – Retention required, and 19.85 Protection and Preservation of Landmarks</p>	<p><b>Planning Commission Recommendations (<i>Staff comments in italics</i>)</b></p>
<p><b>DEFINITIONS</b></p> <p><b>19.10.xxx Prohibited tree<sup>1</sup></b></p> <p><i>- Black locust, cottonwood, native alder, native willow, Lombardy poplar, and European ash are prohibited in new land development landscaping or planted as a required replacement tree on private and public property. However, these prohibited trees when existing on a lot shall be included on tree retention plans and counted as a significant tree if meeting the definition in BMC 19.10.493.</i></p> <p><b>19.10.493 Significant tree</b></p> <p>– An existing healthy tree which, when measured four feet above grade, has a minimum diameter of <i>six (6) inches<sup>2</sup>. Exceptional and Heritage trees are significant trees.</i></p> <p style="padding-left: 40px;">1. <i>Eight inches for evergreen trees, or</i></p> <p style="padding-left: 40px;">2. <i>Twelve inches for deciduous trees.</i> [Ord. 293 § 1, 2000]</p> <p><b>19.10.267 Heritage tree<sup>2a</sup></b></p> <p><i>A tree that has been designated a City of Burien Community landmark and is protected and preserved pursuant to BMC 19.85 Protection and Preservation of Landmarks. Any person, group or the City may nominate a tree, but it is required the property owner consent in writing before the nomination may be considered. To be eligible for heritage designation the tree must be more than 40 years old, have State or local cultural/historic importance and be rare or exceptional by virtue of its size, species, condition, and or contribution as part of a grove of trees which is determined to be of historical value.</i></p> <p><b>19.25.080 Landscaping – General requirements.</b></p>	<p><sup>1</sup>Prohibit the planting of black locust, cottonwood, native alder, native willow, Lombardy poplar, and European ash; existing will be considered the same as other trees and will count towards significant tree total.</p> <p><sup>2</sup>Refine definition of significant tree as 6 inch caliper for both deciduous and evergreen trees.</p> <p><sup>2a</sup> Defines a heritage tree, requires property owner signature, and sets out designation criteria.</p>

**7. Unless recommended by a Certified Arborist, no tree defined as a prohibited tree in BMC 19.10.142 shall be planted<sup>3</sup>.**

**19.85 Protection and Preservation of Landmarks<sup>3a</sup>**

**19.85.010 Purpose.**

The purposes of this chapter are to:

1. Designate, preserve, protect, enhance and perpetuate those sites, buildings, districts, structures, **trees**, and objects which reflect significant elements of the city of Burien's, the county's, the state's, and the nation's cultural, aesthetic, social, economic, political, architectural, ethnic, archaeological, engineering, historic, and other heritage;
2. Foster civic pride in the beauty and accomplishments of the past;
3. Stabilize and improve the economic values and vitality of landmarks;
4. Encourage, protect and enhance the city of Burien's tourist industry by promoting heritage-related tourism;
5. Promote the continued use, exhibition and interpretation of significant sites, districts, buildings, structures, **trees**, and objects for the education, inspiration, and welfare of the people of the city of Burien;
6. Promote and continue incentives for ownership and utilization of landmarks;
7. Assist, encourage and provide incentives to public and private owners for preservation, restoration, rehabilitation, and use of landmark buildings, sites, districts, structures, **trees**, and objects;
8. Work cooperatively with other jurisdictions to identify, evaluate, and protect historic resources in furtherance of the purposes of this chapter. [Ord. 567 § 1 (Exh. A), 2012, Ord. 545 § 1, 2010, Ord. 130 § 1, 1995]

**19.85.020 King County Code Chapter 20.62 Adopted.<sup>4a</sup>**

The following sections of Chapter 20.62 King County Code (KCC) are incorporated by reference herein and made a part of this chapter:

1. KCC 20.62.020 – Definitions, except as follows:
  - A. Paragraph H. is changed to read: ““Director” is the director of the city of Burien department of community development or his/her designee.”
  - B. Add paragraph Z: ““Council” is the city of Burien city council.”

**C. Paragraph L. is changed to read “...district, site, building, district, structure, tree, and objects...”**

*<sup>3</sup>Prohibited trees cannot be planted. In response to Ms. Hart's comments the recommendation by a certified arborist was added.*

*<sup>3a</sup>Tree has been added as a historic resource. Nomination of a tree to the Community Landmark list will follow the criteria that any historic resource nomination would be required. Once designated it will be a “heritage tree” protected in BMC 19.25 Tree Retention and Landscaping.*

*<sup>4a</sup>Burien adopted King County Landmark Code by reference. This section is a list of additions to the code to better suit Burien. C has been added for heritage trees.*

**19.25.120 Significant trees – Retention required.**

For land use review application, clear and grading permit application, building permit application, preliminary subdivision application or short subdivision application, whichever is reviewed and approved first, significant trees shall be retained as follows:<sup>4b</sup>

1. All significant trees on an undeveloped lot shall be retained. There shall be no tree removal or land clearing on any site for preparing that site for future development unless a Land Use Permit has been approved by the City<sup>4c</sup>.

2. Landscape category A: Thirty percent (30%) of the significant trees located on the site, excluding critical areas or their buffers.

3. Landscape category B: Ten percent of the significant trees located on the site, excluding critical areas or their buffers.

4. Landscape categories C, D and F: Five percent of the significant trees located on the site, excluding critical areas or their buffers.

5. If significant trees were previously located in a closed, forested situation, an adequate area of smaller trees shall be retained or replaced on the fringe of such significant trees;

6. A grouping of three or more existing trees with canopies that touch or overlap, may be substituted for each required significant tree, provided each tree has a diameter of at least three inches when measured four feet above grade;

7. Except as provided in BMC 19.25.120.8, significant trees to be retained shall not include significant trees that, according to a written evaluation prepared by a Certified Arborist<sup>5</sup>, are:

A. Damaged or diseased; or

*<sup>4b</sup>Clearly defines this section for new development permits.*

*<sup>4c</sup>New language added by Planning staff prohibiting clearing in preparation of development before land use permit approved.*

*<sup>5</sup>Determination by professional added by Planning staff to verify condition of tree and appropriate action (for new development).*

B. Safety hazards due to potential root, trunk or primary limb failure, or exposure of mature trees which have grown in a closed, forested situation.

8. At the discretion of the Director, damaged or diseased or standing dead trees may be retained and counted toward the significant tree requirement if demonstrated that such trees will provide important wildlife habitat and is not classified as a dangerous tree. [Ord. 293 § 1, 2000]

9. If the formula for determining the number of significant trees to be retained results in a fraction, the number of significant trees to be retained shall be rounded up to the nearest whole number. [Ord. 620 § 1, 2016; Ord. 484 § 1, 2008]

**19.25.130 Significant trees – Retention plan.**

The applicant shall submit a tree retention plan concurrent with a land use review application, grading permit application, building permit application, preliminary subdivision application or short subdivision application, whichever is reviewed and approved first. The Director shall compile and maintain a database of significant trees based upon the submitted and approved tree retention plans. The tree retention plan shall consist of:

1. A tree survey that identifies the location, size and species of all significant trees on a site. The tree survey may be conducted by a method that locates individual significant trees or by using standard timber cruising methods to reflect general locations, numbers and grouping of significant trees provided that, when using either method, the survey:

A. Shall also show the location and species of each significant tree that is intended to qualify for additional credit pursuant to BMC 19.25.140; and

B. Any tree 18 inches or greater diameter for the purpose of establishing wildlife habitat value; and

<sup>6</sup>added "Heritage Tree".

**C. Any tree designated a Heritage Tree<sup>6</sup>.**

2. A development plan identifying the significant trees that are proposed to be retained, transplanted or restored. [Ord. 293 § 1, 2000]

**19.25.140 Significant trees – Incentives for retention<sup>6a</sup>.**

Each significant tree that is retained may be credited as two trees for complying with the retention requirements of BMC 19.25.120, provided it meets one or more of the following criteria:

1. The tree exceeds 60 feet in height, or 24 inches in diameter for evergreen trees or 30 inches for deciduous trees;
2. The tree is located in a grouping of at least five trees with canopies that touch or overlap;
3. The tree provides energy savings through winter wind protection or summer shading as a result of its location relative to buildings;
4. The tree belongs to a unique or unusual species;
5. The tree is located within 25 feet of any critical area or required critical area buffer; and
6. The tree is 18 inches or greater and is identified as providing valuable wildlife habitat. [Ord. 293 § 1, 2000]

**19.25.150 Significant trees – Protection.**

To provide the best protection for significant trees:

1. No clearing shall be allowed on a site until approval of tree retention and landscape plans;
2. An area of prohibited disturbance, generally corresponding to the dripline of the significant tree shall be protected during construction with a temporary five-

*<sup>6a</sup>Commission may want to add other incentives.*

foot-high chain link or plastic net fence. The fencing shall be installed prior to issuance of development permits for the site;

3. No impervious surfaces, fill, excavation, or storage of construction materials shall be permitted within the area defined by such fencing;

4. A rock well shall be constructed if the grade level around the tree is to be raised by more than one foot. The inside diameter of the well shall be equal to the diameter of the dripline of the tree;

5. The grade level shall not be lowered within the larger of the two areas defined as follows:

A. The dripline of the tree(s); or

B. An area around the tree equal to one foot diameter for each inch of tree trunk diameter measured four feet above the ground;  
and

6. Alternative protection methods may be used if determined by the Director to provide equal or greater tree protection. [Ord. 293 § 1, 2000]

**19.25.160 Minor Tree Removal Activities<sup>7</sup>.**

**1. Except as provided in BMC 19.40 Critical Areas, removal of trees and associated use of mechanical equipment is permitted on developed residential lots at the rates specified within the table below, provided subsections 1 through 3 of this Section are satisfied.**

A. **If the tree to be removed is the last tree on the residential lot a replanting plan pursuant to BMC 19.25.170 Significant Tree Replacement, must be submitted and reviewed for approval by the Planning Department on forms provided by the City<sup>7a</sup>:**

B. **There is not an active land development application for the site; and**

C. **The tree is not a Heritage tree.**

**2. No trees may be removed from a vacant lot.**

<sup>7</sup>“Stagger tree removal over time on private and public properties.”  
and  
“Create charts/tables showing requirements for minor tree removal.”

<sup>7a</sup>Removed reference to BMC 19.25.120 tree retention percentage & added language for last tree removal requirements.

<sup>8</sup>Added notification of tree removal to keep track of individual parcels.

**3. A tree removal notification, on a form provided by the City, must be submitted that**

**A. States the number of trees to be removed, the common name or Genus/species and the inches trunk diameter (dbh).**

**B. A site plan showing locations of all significant trees on the residential lot and identifies those trees to be removed.** <sup>8</sup>

<b>Lot Size</b>	<b>Maximum number of significant trees* allowed to be removed in any twelve (12) month period</b>	<b>Maximum number of significant trees* allowed to be removed in five (5) years</b>
<b>Lots up to 7,200 sq. ft.</b>	<b>1</b>	<b>2</b>
<b>Lots 7,201 to 12,000 sq. ft.</b>	<b>3</b>	<b>6</b>
<b>Lots 12,001 to 20,000 sq. ft.</b>	<b>4</b>	<b>8</b>
<b>Lots 20,001 sq. ft. or greater</b>	<b>6</b>	<b>12</b>

**Table 19.25.160 1 Tree Removal Schedule**

**19.25.160 170 Significant trees – Replacement.**

When the required number of significant trees pursuant to BMC 19.25.120 cannot be retained, the required number of significant trees that are removed shall be replaced with: [Ord. 484 § 1, 2008]

- 1. Transplanted significant trees; or

<sup>9</sup>“Use the largest caliper significant tree to be removed for basis of replacement ratio”.

2. New trees measuring three-inch caliper or more, at a replacement rate of one and one-half (1.5) inches diameter for every one inch diameter of the largest caliper<sup>9</sup> removed significant tree; or

3. New trees measuring less than three-inch caliper at a replacement rate of two inches diameter for every one inch diameter of the largest caliper<sup>9</sup> removed significant tree on a space available basis in conjunction with the site plan. [Ord. 293 § 1, 2000]

4. No tree defined as a prohibited tree in BMC 19.10.142 shall be planted<sup>10</sup>.

**19.25.180 Off-site mitigation and fees paid in lieu**<sup>11</sup>.

When an applicant cannot provide for the minimum required replacement trees in 19.25.170 on site, off-site mitigation or a fee-in-lieu payment into the city's urban forestry account may be approved by the director.

(1) When off-site mitigation is utilized, the remaining balance of required trees must be planted at an off-site location approved by the Director. When the receiving site is city-owned property, the public works and/or parks department must also approve the tree planting. Acceptable off-site locations, in order of priority, are as follows:

(a) Publicly owned land in the City of Burien including but not limited to: environmentally sensitive areas; regional stormwater facilities; or wildlife corridors. Similar lands owned by nonprofit entities that are reserved in open space may also qualify.

(b) Publicly owned parks or recreational facilities within the city of Burien.

(c) Other mitigation or restoration sites managed by other public entities or private conservation groups.

(d) Public school sites within the City of Burien.

<sup>10</sup>*Prohibits planting trees defined as prohibited.*

<sup>11</sup>*Establishes alternatives to on site replacement trees.*

(e) Other sites proposed by the applicant, when it is documented that higher priority sites are not available or viable.

(2) Where a tree replacement fee is utilized, a tree replacement fee paid into the city's urban forestry account may be approved by the Director. The fee shall be established based on the number of trees being satisfied as follows:

(a) Each tree shall be replaced in number as required in 19.25.170.2 and 3. The fee for each replacement tree shall cover the cost of a tree, installation (labor and equipment), maintenance for two years, and fund administrative costs. The Director has the administrative authority to establish the fee and shall periodically review the amount to ensure it accurate based on current market conditions.<sup>12</sup>

(b) An urban forestry account shall be established by the city for fees collected. Tree replacement fee receipts shall be earmarked specifically for this account and shall be expended only for the planting of new trees in city-owned parks, open spaces, or rights-of-way.

**19.25.170 190 Maintenance.**

1. All landscaping and significant trees shall be maintained for the life of the project.
2. All landscape materials and significant trees shall be pruned and trimmed as necessary to maintain a healthy growing condition or to prevent primary limb failure;
3. With the exception of dead, diseased or damaged trees specifically retained to provide wildlife habitat, other dead, diseased, damaged or stolen plantings shall be replaced within three months or during the next planting season if the loss does not occur in a planting season; and
4. Landscape areas shall be kept free of trash. [Ord. 293 § 1, 2000]

<sup>12</sup>Staff has not calculated the cost yet, but once done the total will be a uniform fee charged for all deposits. Staff will consult other jurisdictions, arborists and other landscape professionals for a fair market fee amount.

<sup>13</sup>The Commission has not discussed penalties. Please refer to Attachment 2 for other jurisdictions' enforcement procedures and fines. Staff recommends that any fines be deposited to the city's urban forestry account, if established.

**19.25.180 ~~190~~ Bonds/security.**

Performance bonds or other appropriate security (including letters of credit and set-aside letters) shall be required for a period of two years after the planting or transplanting of vegetation to insure proper installation, establishment and maintenance. [Ord. 293 § 1, 2000]

**19.25.200 Enforcement<sup>13</sup>**

**OTHER JURISDICTIONS' FEE IN LIEU PROGRAMS, OFF-SITE PLANTING, AND ENFORCEMENT REGULATIONS**

CITY	FEES IN LIEU	OFF-SITE PLANTING	ENFORCEMENT	MISCELLANEOUS INFORMATION
Burien	None	None	If in a critical area requires mitigation plan, bonding and 5 year monitoring. Same holds true for subdivisions and plats. If this is not complied with then Code Enforcement will issue an enforcement letter which if ignored a citation for a civil infraction is issued with a \$125 fine, doubled if that is ignored.	Incentives - Significant tree may be credited as 2 trees if 1 or more of 6 criteria are met i.e. an unusual species or is 18 inches in diameter and serves as a wildlife habitat. Revocation, suspension or modification of the permit by the approval authority (Hearings Examiner, City Council or Community Development Director) is an option.
Federal Way	1 tree replacement fee =cost of 1 tree, installation (labor & equipment), 2-yr maintenance, & fund administration. Fees are deposited into the Urban Forestry Account which is specifically earmarked for planting of new trees in city-owned parks, open spaces, or rights-of-way.	The remaining balance of required tree units must be planted at off-site location approved by the Director. If it is a public site the public works and/or parks departments must also approve. Order of priority: Publicly owned parks & rec facilities, stormwater facilities, wildlife corridors, public schools. Similar lands owned by nonprofit entities that are reserved in open space also qualify. or if the higher priority sites are not available the applicant may propose a site.	Fines are charged -1) Removal of tree(s) approved to be removed, but prior to final tree retention plan approval - \$100 per tree 2) Removal or damage of tree(s) that are or would be shown to be retained on an approved tree plan or any other violation of approved tree retention plan - \$1,000 per tree or marketable value of each tree. 3) Removal of tree(s) without applying for or obtaining required city approval - \$1,000 per tree or marketable value of each tree	
Olympia	Penalties, sales of trees & wood off City properties, donations and grants, sale of seedlings by the city are deposited to the City Tree Account. The funds are used for acquiring & maintaining wooded areas, planting & maintaining trees, ID & maintenance of landmark trees, propagation of seedling trees, urban forestry education, other purposed by Council.	If project area is too small for required # of trees then those trees can be planted off site at a location approved by the City. When both on-site & off-site are unavailable pay into the account the amount = to the current market rate of the replacement trees	Anyone who knowingly violates any term or provision is deemed to have committed a misdemeanor, and if found guilty, is subject to a fine not to exceed \$1,000, and/or to imprisonment not to exceed 90 days or both. Each day is a separate offense. In the event of a continuing violation or failure to comply, the 2nd and subsequent days are constituted as a gross misdemeanor punishable by a fine not to exceed \$5,000 and/or imprisonment not to exceed 365 days or both. Continuing violation means the same type of violation which is committed within a year of the initial violation. These penalties are deposited to the City Tree Account. 2. As an additional concurrent penalty, is a Class I civil infraction Each day is a separate infraction & a monetary penalty of \$250 is charged, not including statutory assessments. G. Public Nuisance. Violation of a permit declared to be a public nuisance and may be abated through proceeding for injunctive or similar relief in Superior Court or other court of competent jurisdiction.	Administered by a Urban Forester who is a City employee
Seattle	None	Street trees	\$500 fine for removing or pruning a street tree without a permit	To save "exceptional" trees, Seattle offers "recovery of development potential" for trees that infringe on the proposed development area, by reduction of parking spaces, increasing building height from 3 stories to 4, allowing encroachment into front and rear setbacks and adjustments to other development standards through a streamlined design review. The "Trees for Neighborhoods" program offers up to 4 free trees per household (8 lifetime limit), with a water bag & mulch for each tree, planting & care training, permit assistance and ongoing care reminders.
Beau Arts Village	Fines levied under this code shall be deposited into a tree mitigation account and shall be used by the town for acquiring, maintaining, and preserving wooded areas, and for the planting and maintaining of trees within the town. [Ord. 361 § 16, 2008]		A violation is a civil infraction with fines. (1) Any person removing or intentionally destroying a significant tree that would have otherwise been approved for removal had the proper procedures been followed is fined \$1,000 per tree. (2) removing or intentionally destroying a significant tree that would have otherwise been prohibited from removal is fined \$10,000 per tree. (3) removing or intentionally destroying a landmark tree without a permit is fined \$25,000 per tree. (4) removing or intentionally destroying a mitigation tree without a permit is required to submit a mitigation plan per BAVMC 16.25.120.	Contract with an arborist to be "Town Arborist". The Town Arborist, when called to do so, supervises and administers the code, reviews and approves/disapprove all tree permits.
Lake Forest Park	All fees, fines, and other money allocated by the City Council are paid into a city tree account held in the general fund. The city uses the funds for 1. Acquiring, maintaining, and preserving forested areas within the city; 2. Planting and maintaining trees within the city; or 3. Other purposes relating to trees as determined by the city council.	The administrator may waive the on-site tree replacement requirement; provided, the applicant pays an amount determined by a qualified tree professional into the city tree account that is equivalent to the total cost for purchase and installation of each replacement tree and three years of maintenance for each replacement tree.	Tree replacement or tree replacement costs paid into the city tree account; triple permit fees; suspension of all work; fines up to \$5,000 per tree illegally removed may be imposed by the administrator.	The City's "Qualified tree professional" is an individual who is a certified professional with academic and field experience that makes them a recognized expert in urban forestry and tree protection during development. To encourage higher level of tree retention the Director may authorize adjustments to other site development standards on a case by case basis. 1. Reductions or variations of the area or width of required open space, tree tract requirement, and/or landscaping; 2. Variations in parking lot design and/or access requirements; or 3. Reduction in the width of certain easements.
Renton	Fee in Lieu: When the Administrator determines that it is infeasible to replace trees on the site, payment into the City's Urban Forestry Program fund may be approved in an amount of money approximating the current market value of the replacement trees and the labor to install them. The City shall determine the value of replacement trees.	None	Restoration of land, replacement of trees and all permits stopped until compliance with mitigation plan and penalties are paid. Each tree removed is a separate violation & each day is a separate violation. 1st citation \$100, 2nd \$200, 3rd \$300 4th violation is a gross misdemeanor.	

**“Purpose” of Tree Retention & Protection  
Other Jurisdictions**

**City of Olympia**

**16.60.010 Purpose**

Whereas rapid growth, the spread of development, and increasing demands upon natural resources have the effect of encroaching upon, despoiling or eliminating many of the trees and other forms of vegetation and natural resources and processes associated therewith which, if preserved and maintained in an undisturbed and natural condition, constitute important physical, aesthetic, recreation and economic assets to existing and future residents of the city; and whereas the city council finds (1) that trees and woodland growth protect public health through the absorption of air pollutants and contamination, through the reduction of excessive noise and mental and physical damage related to noise pollution, through their cooling effect in the summer months and insulating effects in winter, through their positive impact on global climate change; (2) that trees and woodlands provide for public safety through the prevention of soil erosion, siltation and flooding; (3) that trees and woodlands are essential to the general welfare of the city by maintaining the natural beauty and the irreplaceable heritage for existing and future city residents; and (4) that Olympia can promote urban forestry practices which will preserve or enhance trees on public and private lands as they transition from natural areas into an urban environment. Therefore, the purposes of this chapter are:

- A. To provide for the protection, preservation, replacement, proper maintenance and use of trees and woodlands located in this city in order to preserve and enhance the city’s physical and aesthetic character by preventing untimely and indiscriminate removal or destruction of trees;
- B. To protect trees and woodlands of this city for their economic support of local property values and to preserve and enhance the Pacific Northwest’s natural beauty;
- C. To minimize the adverse impacts of land disturbing activities on surface drainage, soil erosion, air quality, sedimentation and pollution of natural waterways, in order to minimize the public and private costs for stormwater control and treatment, utility maintenance and removal of pollution from our natural waterways;
- D. To promote site planning, construction practices and horticultural practices that are consistent with the reasonable use of property;
- E. To provide for the paramount public concern for these natural resources in the interest of a healthier and safer place in which to live and to promote the general welfare of the residents of this city;
- F. To implement the goals and objectives of the Washington State Environmental Policy Act; and
- G. To implement the goals and objectives of the city’s comprehensive plan.

## **City of Lake Forest Park**

### 16.14.010 Findings.

The city council makes the following findings:

A. The trees of Lake Forest Park, a reminder of the city's namesake, offer historic, aesthetic, ecological, economic, health, safety and welfare values to the community. Trees in the city of Lake Forest Park:

1. Improve the value of properties;
2. Reduce runoff via canopy interception, uptake of water from the soil and evapotranspiration back into the atmosphere;
3. Reduce runoff which results in less soil erosion and stormwater which aids in protecting surface waters from sedimentation and pollution;
4. Reduce the risk of flooding and infrastructure costs;
5. Improve air quality by removing dust and particulates from the air, and remove carbon dioxide while creating oxygen;
6. Provide cooling shade for homes, buildings, and asphalt/concrete surfaces, reducing heating and cooling costs for residences and other buildings;
7. Provide screening between different land uses or other objectionable views while buffering traffic and other noise;
8. Provide food and habitat for a variety of wildlife;
9. Provide visual relief from hard lines of concrete structures and other buildings;
10. Increase consumer patronage for commercial properties and boost occupancy rates for well-treed shopping areas;
11. Store carbon;
12. Contribute to human health improvement by lowering levels of fear of residents, and less violent and aggressive behavior by its citizens;
13. Encourage better neighbor relations and better coping skills for its residents; and
14. Provide a valuable asset to the community as a whole.

B. Removal of trees from urban areas such as Lake Forest Park has resulted in the loss to the public of these and many more beneficial functions of trees. (Ord. 1015 § 2, 2010)

### 16.14.020 Purpose and intent.

The purpose and intent of this chapter is to:

A. Implement certain strategies for the management and protection of Lake Forest Park's urban forest resources described in those goals and policies of the Lake Forest Park community forest management plan that were accepted by the city council;

B. Preserve and enhance the tree canopy of Lake Forest Park by encouraging the protection of existing trees and stands of trees, and the replanting of new trees to replace those lost to old age, storms, development and other maladies;

C. Mitigate the economic, environmental, and aesthetic consequences of tree loss through protection and tree planting on public and private lands;

D. Provide guidelines to protect trees from adverse impacts during construction;

E. Encourage project designs that utilize existing trees in the landscape, or allow replacement of select native tree species to maintain the forested feel of Lake Forest Park;

F. To protect private property rights and allow property owners to make reasonable use of their property while protecting suitable and appropriate trees for that site; and

G. Maintain and protect the public health, safety, and general welfare. (Ord. 1015 § 2, 2010)

## **City of Renton**

### **A. PURPOSE:**

This Section provides regulations for the clearing of land and the protection and preservation of trees, shrubs, and ground cover plants. The purposes of these regulations are to:

1. Preserve and enhance the City's physical and aesthetic character by minimizing indiscriminate removal or destruction of trees, shrubs and ground cover;

2. Implement and further the goals and policies of the City's Comprehensive Plan for the environment, open space, wildlife habitat, vegetation, resources, surface drainage, watersheds, and economics;

3. Promote land development practices that result in minimal adverse disturbance to existing vegetation and soils within the City while at the same time recognizing that certain factors such as condition (e.g., disease, danger of falling, etc.), proximity to existing and proposed structures and improvements, interference with utility services, protection of scenic views, and the realization of a reasonable enjoyment of property may require the removal of certain trees and ground cover;

4. Minimize surface water and groundwater runoff and diversion, and aid in the stabilization of soil, and minimize erosion and sedimentation, and minimize the need for additional storm drainage facilities caused by the destabilization of soils;
5. Retain clusters of trees for the abatement of noise and for wind protection, and reduce air pollution by producing pure oxygen from carbon dioxide;
6. Protect trees during construction activities from damage to tree roots, trunks, and branches; and
7. Recognize that trees increase real estate values.