

DRAFT TREE CODE
City of Burien
October 29, 2021

The following is the entirety of draft Zoning Code for Burien’s tree regulations. Note that underline denotes new words that would be added to the code. ~~Strikethrough~~ denotes words that would be removed from the existing code. Text in orange was added or amended after the Planning Commission’s October 27, 2021 discussion.

Chapter 19.10
Definitions

19.10.093 Critical root zone

Also called the Tree Protection Zone; an area around the tree that corresponds to the canopy's dripline or is equal to one-foot diameter for each inch of tree trunk diameter measured 4.5 feet above the ground, whichever is greater.

19. 10.157.5 Exceptional tree

-- Any tree designated as a Heritage Tree or a tree or group of trees that, because of its unique historical, ecological, or aesthetic value, constitutes an important community resource, and is determined as such by the Director according to standards and procedures promulgated by the Department of Community Development. An exceptional tree is any tree with a diameter greater than 36 inches or as identified in the Exceptional Tree Table, 19.25.165-1.

19.10.234 Grove

- A grove means a group of eight or more trees 12 inches in diameter or greater that form a continuous canopy.

19.10.238 Hazard tree

- A hazard tree is one that meets all the following criteria:

- 1) A tree with a combination of structural defects and/or disease which makes it subject to a high probability of failure;
- 2) Is in proximity to moderate to high frequency targets (persons or property that can be damaged by tree failure); and
- 3) The assessed tree has a high to extreme risk rating using the International Society of Arborists Tree Risk Assessment Qualification (TRAQ) method in its most current form
- 4) The hazard condition of the tree cannot be lessened with reasonable and proper arboricultural practices nor can the target be removed or restricted.

19.10.341 Measurement of tree diameter.

Diameter at breast height (dbh), which means the diameter of a tree trunk measured at 4.5 feet above average grade, is used in determining the diameter of existing trees. Where a tree has a branch(es) or swelling that interferes with the measurement at 4.5 feet above average grade or where a tree tapers below this point, the diameter is measured at the narrowest point below 4.5 feet. For trees located on a

slope, the 4.5 feet is measured from the average of the highest and lowest ground points or, on very steep slopes where this is not possible, the lowest practical point on the uphill side. Where a tree splits into several trunks close to ground level, the dbh for the tree is the square root of the sum of the dbh for each individual stem squared (example with 3 stems: dbh = square root [(stem1)2+(stem2)2+(stem3)2]).

19.10.406 Prohibited plant

Plants listed in the Prohibited Plants and Trees List . Prohibited plants are prohibited in new land development landscape[ing] plans-or as required landscaping on private property.

19.10.407 Prohibited plants and trees list

A list prepared by King County containing weeds and trees listed as ‘non-regulated’ and ‘weeds of concern’ or deemed as not suitable to be used for new landscape or as required replacement trees. Though not regulated by the state and county, these weed and tree species listed by King County as ‘non-regulated’ and ‘weeds of concern’ impact and degrade native plant and animal habitat in open spaces and parks.

19.10.408 Prohibited tree

– [Black locust (*Robinia pseudoacacia*), Cottonwood (*Populus trichocarpa*), Native alder (*Alnus glutinosa*), Native willows (*Salix sp.*), Lombardy poplar (*Populus nigra 'Italica'*), Arborvitae (*Thuja*), and European ash (*Fraxinus excelsior*)] Trees listed in the Prohibited Plants and Trees List . Prohibited trees are prohibited in new land development landscape[ing] plans required by BMC 19.25 or as required replacement trees on private [and public] property. [An existing prohibited tree shall be included on tree retention plans and counted as a significant tree if meeting the definition in BMC [19.10.493](#).] [Ord. 648 § 1, 2017]

19.10.432 Qualified tree professional

- A qualified tree professional is:

An individual with relevant education and training in arboriculture or urban forestry, having the International Society of Arboriculture (ISA) Tree Risk Assessment Qualification and one of the following credentials:

1. ISA certified arborist;
2. ISA certified arborist municipal specialist;
3. ISA board certified master arborist;
4. American Society of Consulting Arborists (ASCA) registered consulting arborist;
5. Society of American Foresters (SAF) certified forester for forest management plans.

A qualified arborist must also be able to prescribe appropriate measures for the preservation of trees during land development. Any provision in this title referring to using an arborist or tree professional or qualified professional shall be interpreted to require using a qualified arborist.

19.10.493 Significant tree

- An existing, healthy tree which, when measured [~~four~~] 4.5-feet above grade, has a minimum diameter of six (6) inches. [~~A Heritage tree shall be considered to be a significant tree.~~]

19.10.545.2 Tree pruning

The intentional removal of a tree's branches in order to reduce the live canopy of the tree by no more than twenty five percent (25%) during any consecutive twelve (12) months. Trimming more than twenty five percent (25%) of a tree's canopy during any consecutive twelve (12) months shall be considered tree removal. Another common name for the practice is limbing up.

19.10.545.3 Tree risk assessment

A report prepared by a qualified tree professional that considers crown size, structure, disease, past maintenance practice, potential damage to existing or future targets, risk mitigation options, and, when development is proposed, the likelihood of survival after construction. To undertake a tree risk assessment when no development is proposed, a qualified tree professional that is Tree Risk Assessment qualified shall prepare the assessment. To undertake tree risk assessment as part of a development application, a qualified tree professional shall have a minimum of 3 years' experience in tree risk assessment and shall have worked directly with the protection of trees during construction.

19.10.545.4 Tree topping

- The act of removing whole tops of trees, or large branches and/or trunks from the tops of trees, and leaving stubs or lateral branches that result in the disfigurement of the canopy. Tree topping is considered to be tree removal. Other common names for the practice include hat-racking, lopping, heading, rounding over, and tipping.

19.10.547.5 Undeveloped lot

- A lot on which no improvements, no infrastructure, no facilities, no legally established land use, and no grading or site development exist.

19.10.605 Wildlife snag

- A wildlife snag is a standing, dead or dying tree, often missing a top or most of the smaller branches that are left upright to decompose naturally. They support critical habitats for birds, mammals, insects, bacteria, and fungi.

Chapter 19.25
Tree Retention and Landscaping

Editor's Note: Hyperlinks and cross-references within the draft code will be updated.

- 19.25.010 User Guide**
- 19.25.020 Purpose.**
- 19.25.030 Applicability, permitting, exemptions and review authority.**
- 19.25.040 Landscaping Categories.**
- 19.25.050 Landscaping – Types and description.**
- 19.25.060 Landscaping – Street frontages.**
- 19.25.070 Landscaping – Surface parking areas.**
- 19.25.080 Landscaping – General requirements.**
- 19.25.090 Landscaping – Alternative options.**
- 19.25.100 Landscaping – Irrigation.**
- 19.25.110 Landscaping – Installation.**
- 19.25.120 Significant and exceptional trees – Retention required.**
- 19.25.125 Significant and exceptional trees – Minimum Tree Density.**
- 19.25.130 Significant and exceptional trees – Retention plan.**
- 19.25.140 Significant and exceptional trees – Incentives for retention.**
- 19.25.150 Significant and exceptional trees – Protection.**
- 19.25.160 Significant and exceptional trees – Replacement.**
- 19.25.165 Exceptional trees.**
- 19.25.170 Maintenance.**
- 19.25.180 Bonds/security.**
- 19.25.190 Inspection.**
- 19.25.200 Inspection - Procedures.**
- 19.25.210 Stop work orders.**
- 19.25.220 Enforcement and penalties.**

19.25.010 User Guide.

Chapter [19.15](#) of this Code containing the use zone charts assigns a [landscaping](#) category to each [use](#) in each zone. This category is either "A", "B", "C", "D", "E", or "F". This Chapter contains the specific requirements that pertain to each category. This Chapter also establishes certain minimum requirements for all [uses](#) and minimum requirements for [landscaping](#) of parking lots and retention of existing trees.

19.25.020 Purpose.

The purpose of this Chapter is to provide minimum standards for tree retention and [landscaping](#) to foster a healthy and attractive community; to maintain a positive community image; to improve the aesthetic quality of the built environment; to enhance quality of life; to protect and enhance property values; to promote retention and protection of existing vegetation; to reduce the impacts of development on drainage systems and natural habitats; to absorb wind and noise; to enhance air quality; to increase compatibility between different land [uses](#); to conserve valuable water resources; and to increase privacy for and within [residential zones](#) by:

1. Providing visual relief from large expanses of parking areas and reduction of perceived [building](#) scale;

~~[2. Providing physical separation between residential and nonresidential areas;]~~

2. Providing visual screens and barriers as a transition between differing land uses;

~~43.~~ Retaining existing vegetation and significant trees by incorporating them into the site design; ~~[and]~~

4. Promoting water-efficient landscaping through the use of appropriate native or climate-adapted trees, which, once established, typically require less water than non-native species;

5. Promoting 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 may require the removal of certain trees, shrubs, and ground cover;

6. Protecting trees during construction activities from damage to tree roots, trunks, and branches;

7. Preventing the introduction of invasive, nonnative species in landscaping that may damage surrounding trees over time;

8. Absorbing greenhouse gases and slow climate change;

9. Providing wildlife habitat;

10. Maintaining and increasing tree canopy within the City;

11. Reducing city infrastructure costs for stormwater management;

12. Reducing rising temperatures throughout the city; and

~~9]~~12. Providing increased areas of permeable surfaces to allow for:

A. Infiltration of surface water into groundwater resources;

B. Reduction in the quantity of stormwater discharge; and

C. Improvement in the quality of stormwater discharge.

19.25.030 Applicability, exemptions, permitting, and review authority.

1. This Chapter applies to all new development and to existing development with non-conforming landscaping that is required to comply based on BMC 19.55.035. In the event of a conflict or overlap between landscaping standards in this Code, the most stringent requirements shall apply, as determined by the Director. [Ord. 293 § 1, 2000]

2. The following activities and uses are exempt from this Chapter:

A. City-owned lands, including parks and City-owned rights-of way, which are regulated by BMC 12.38.

B. Removal of nonsignificant trees~~[, unless located in a critical area].~~

C. Removal of trees by the City, emergency responders, or public and private utilities in situations involving danger to life or property, substantial fire hazards, or interruption of utility services.

D. Removal of trees by the property owner in emergency situations involving immediate danger to life or property, substantial fire hazards, or interruption of utility services. It is the responsibility of the property owner or tenant to document the reason for the emergency removal. Documentation may include photos that clearly show the hazard or a report from a qualified tree professional that documents the hazard; and

E. Trees located in critical areas, which are regulated by BMC 19.40

3. A tree permit is required for all tree removals except those exempted by this section.

A. Minor tree removal permit. All proposals not subject to 19.25.030(3)(B), shall be required to obtain a minor tree removal permit. Minor tree removal permits shall be reviewed administratively.

Applications shall be submitted with a complete application form as prescribed by the Director and with all required fees. All applications for minor tree permits shall include the following:

- i. A written statement of the reason for the removal;
- ii. A site plan showing the location of all trees on the site and clearly designating which tree(s) will be removed and which tree(s) will be retained. The site plan shall also show all structures, driveways, and other impervious surfaces on the site;
- iii. A statement that there are no critical areas on site and an acknowledgment that tree removal will not exceed the amount allowed pursuant to the minimum tree density in BMC 19.25.125.
- iv. The city may request additional information as needed to allow adequate review of the proposal.
- v. The Director shall approve, approve with terms, conditions, or specifications, or deny the minor tree removal permit application.
- vi. Minor tree removal permits expire sixty days from issuance.

B. Major tree removal permit. All proposals which are not exempt from the provisions of this chapter, remove more than the minimum tree density, require a land use or construction permit, or which remove exceptional trees shall be required to obtain a major tree permit. When a major tree permit is associated with a land use or construction permit, the tree permit application shall be submitted at the same time as the associated permit. Major tree removal permits shall be reviewed as a Type 1 application.

- i. Applications shall be submitted with a complete application form as prescribed by the Director and with all required fees. All applications shall be accompanied by a replacement plan pursuant to BMC 19.25.160.

ii. Major tree permits expire 180 (one hundred and eighty) days from the date of issuance or the expiration date of the associated land use or construction permit.

C. Forest management plan. The purpose of a forest management plan is to manage a forested property over an extended period of time to avoid piecemeal actions that can lead to degradation of the forest. A forest management plan allows for tree removal, pruning, and overall vegetative management of a site. A forest management plan must be written by a qualified tree professional. The plan will identify current forest conditions and considerations for management over a time period of ten years.

i. A forest management plan shall include the following:

(a) A description of the purpose of the plan including the landowner's objectives and goals;

(b). A property description;

(c). A description of the forest health including wildfire risk and invasive species

(d). A forest inventory including a map of all trees, a list of significant trees;

(e). Photos of trees;

(f). A wildlife habitat inventory;

(g). Forest management recommendations; and

(h). A signature of the qualified tree professional

ii. After the initial submittal and approval of the plan, a tree permit shall be submitted before any subsequent tree management actions to ensure compliance with the forest management plan. Subsequent permits do not require reports written by a qualified tree professional unless the requested actions are not in alignment with the approved forest management plan.

4. The Director may adopt preservation and protection guidelines to further the purposes of this Chapter. The guidelines may include:

A. Phasing of tree removal and replanting;

B. Any other tree preservation, protection, and planting standards and procedures the Director deems necessary.

5. The Director may require independent review of any land use application that involves tree removal and land clearing at the City's discretion. An evaluation by an independent qualified professional regarding the applicant's analysis on the effectiveness of any proposed removal, retention, or replacement measures shall include recommendations as appropriate. This review shall be paid for by the applicant, and the City shall select the third-party review professional.

19.25.040 Landscaping Categories.

1. The use zone charts in BMC [19.15](#) establish a [landscaping](#) category for each [use](#) in each zone. Table 19.25.040-1 indicates the requirements that must be met for each landscape category. If different landscape categories apply to a [site](#), the category that provides for the most [landscaping](#) shall apply.

Table 19.25.040-1 Landscaping Requirement Categories

Landscape Category	Along Property Line Abutting a Public <u>Right-of-Way</u> (Except a Freeway or <u>Alley</u>)	Along Property Line Abutting a Freeway*	Along All Other Property Lines (Except Along an <u>Alley</u>)	Along Building Facade Greater Than 35' High or 50' Wide	Surface Parking Area Landscaping Required? (see BMC 19.25.070)
A	None	None	None	None	No
B	10' wide Type III	10' wide Type II	None, except in a transition area (see BMC 19.17.015)	5' wide Type IV	Yes
C	10' wide Type III	10' wide Type II	None, except in a transition area (see BMC 19.17.015)	5' wide Type IV	Yes
D	15' wide Type I	10' wide Type I	10' wide Type II, except when abutting an I zone, then none	5' wide Type IV	Yes
E	See BMC 19.47 and 19.49 for <u>landscaping</u> requirements in the DC and SPA-1 zones. The only sections of BMC 19.25 that apply to the DC and SPA-1 zones are: BMC 19.25.080 , 19.25.100 , 19.25.110 , 19.25.170 and 19.25.180 .				
F**	25' wide, Type II (along 8th Ave. So. or Des Moines Memorial Dr.); otherwise, 15' wide, Type III	None	50' wide Type I (along northern perimeter of the AI zone); otherwise, 10' wide Type III	5' wide Type IV	Yes

* Landscaping abutting a freeway shall be installed within the freeway right-of-way, if permitted by the Washington State Department of Transportation (WSDOT). If such approval is not granted, the landscaping shall be installed on the site.

** The required landscaping width can be reduced up to 50% through the use of a landscape berm. Minimum berm width shall be equal to the amount of landscaping width reduction. Minimum berm height shall be 1 foot for each 3 feet of berm width or portion thereof.

The required [landscaping](#) width can be reduced up to 75% through the use of a solid wall and [landscaping](#). The wall shall use materials (such as wood or concrete) in the same architectural style of the [building](#) on the property. The minimum wall [height](#) shall be 8 feet. Required [landscaping](#) shall be on the outside of the wall.

2. Additional [landscaping](#) may be required in the use-zone charts in BMC [19.15](#) and transition standards in BMC [19.17.015](#).

3. Properties abutting Des Moines Memorial Drive are also subject to BMC [19.25.060\(2\)](#)

19.25.050 Landscaping – Types and description.

The four types of [landscaping](#) are described and applied as follows:

1. Type I [Landscaping](#).

A. Type I [landscaping](#) is a "full screen" that functions as a visual barrier.

B. Type I [landscaping](#) shall consist of:

- i. A mix of primarily [evergreen](#) trees and shrubs placed to form a continuous screen;
- ii. At least 70 percent [evergreen](#) trees;
- iii. [Evergreen](#) trees spaced no more than 25 feet on center;
- iv. [Deciduous](#) trees spaced no more than 30 feet on center;
- v. [Evergreen](#) shrubs spaced no more than four feet apart; and
- vi. [Groundcover](#) pursuant to BMC [19.25.070](#);

2. Type II [Landscaping](#).

A. Type II [landscaping](#) is a "filtered screen" that functions as a visual separator.

B. Type II [landscaping](#) shall consist of:

- i. A mix of [evergreen](#) and [deciduous](#) trees and shrubs spaced to create a filtered screen;
- ii. At least 50 percent [deciduous](#) trees and at least 30 percent [evergreen](#) trees;
- iii. [Evergreen](#) trees spaced no more than 25 feet on center;
- iv. [Deciduous](#) trees spaced no more than 30 feet on center;
- v. Shrubs spaced no more than five feet apart; and
- vi. [Groundcover](#) pursuant to BMC [19.25.070](#);

3. Type III [Landscaping](#).

A. Type III [landscaping](#) is a "see-through screen" that functions as a partial visual separator to soften the appearance of parking areas and [building](#) elevations.

B. Type III [landscaping](#) shall consist of:

- i. A mix of [evergreen](#) and [deciduous](#) trees spaced to create a continuous canopy;
- ii. At least 70 percent [deciduous](#) trees;
- iii. [Evergreen](#) trees spaced no more than 25 feet on center;

- iv. [Deciduous](#) trees spaced no more than 30 feet on center;
- v. Shrubs, that do not exceed a height of four feet, spaced no more than four feet apart; and
- vi. [Groundcover](#) pursuant to BMC [19.25.070](#);

C. Type III landscaping areas may contain *bioretention facilities* where feasible in accordance with BMC Title [13.10](#). Where a *bioretention facility* is proposed to meet all or part of the Type III landscaping area:

- i. The *bioretention facility* shall be landscaped in accordance with BMC Title [13.10](#); and
- ii. The total Type III landscaping areas on the site shall be planted with at least 90% of the total number of required trees as calculated above.

4. Type IV [Landscaping](#).

A. Type IV [landscaping](#) is "parking area [landscaping](#)" and "[building facade landscaping](#)" that provides shade and visual relief while maintaining clear sightlines within parking areas;

B. Type IV [landscaping](#) shall consist of:

- i. Canopy-type [deciduous](#) trees spaced no more than 30 feet on center, or [evergreen](#) trees spaced no more than 25 feet on-center. At least 70 percent of the trees shall be [deciduous](#).
- ii. Shrubs that do not exceed a height of four feet;
- iii. Plantings contained in planting islands or strips having an area of at least 75 square feet and with a narrow dimension of no less than four feet;
- iv. [Groundcover](#) pursuant to BMC [19.25.090](#).
- v. Canopy trees shall be placed far enough away from parking lot lights to account for future canopy growth. Canopies at mature growth shall be shown on a site plan to demonstrate compliance with this provision.

C. Type IV landscaping areas may contain *bioretention facilities* where feasible in accordance with BMC Title [13.10](#). Where a *bioretention facility* is proposed to meet all or part of the Type IV landscaping area:

- i. The *bioretention facility* shall be landscaped in accordance with BMC Title [13.10](#); and
- ii. The total Type IV landscaping areas on the site shall be planted with 100% of the total number of required trees as calculated above.

19.25.060 Landscaping – Street frontages.

Perimeter [landscaping](#) along [street frontages](#) shall be provided as follows:

1. For single detached subdivisions:

- A. Trees shall be planted at the rate of one tree for every:
 - i. Fifty feet of [frontage](#) along a neighborhood collector [street](#); and
 - ii. Forty feet of [frontage](#) along an [arterial street](#).

B. The trees shall be:

- i. Located within the right-of-way if permitted by the custodial state or local agency;
- ii. No more than 20 feet from the right-of-way line when located within a lot;
- iii. Maintained by the adjacent landowner unless part of a city maintenance program; and
- iv. A species approved by the City.

C. The trees may be spaced at irregular intervals [~~in order~~] to accommodate sight distance requirements for driveways and intersections.

D. Mature and healthy native trees retained within the right-of-way or no more than 20 feet from the right-of-way line within a lot may substitute for the required street trees at a one-to-one ratio and may be spaced at irregular intervals.

2. For properties abutting Des Moines Memorial Drive:

A. When work along the right-of-way by the adjacent property owner or their representative requires the removal of existing elm trees (Ulmus sp.), the applicant shall consult with Burien Public Works Department to determine where replacement elm trees shall be planted consistent with the Des Moines Memorial Drive Corridor Management Plan. If the replacement elm trees cannot be planted within the right of way due to limited right of way width, utility conflicts, etc., the elm trees shall be planted on private property adjacent to the public right-of-way.

B. When work within a property adjacent to Des Moines Memorial Drive requires new trees to be planted to meet minimum tree density pursuant to BMC 19.25.120(3)(B) or to plant replacement trees pursuant to BMC 19.25.160(1), the applicant shall plant elm trees on their property when the right of way adjacent to the site does not contain the elm trees required by the Des Moines Memorial Drive Corridor Management Plan, and the elm trees cannot be planted within the right of way due to limited right of way width, utility conflicts, etc. The applicant shall consult with Burien Public Works Department to determine where the elm trees shall be planted.

C. Species of trees to be planted and location of plantings shall be determined by the Burien Public Works Director in accordance with the Des Moines Memorial Drive Corridor Management Plan.

D. Replacement trees shall be 2.5 inches in diameter at six inches in height above natural grade.

E. Any elm trees planted on private property pursuant to this code provision shall be credited toward the lots' minimum tree density and replacement tree calculation.

19.25.070 Landscaping – Surface parking areas.

1. Where feasible, in accordance with BMC Title 13, perimeter and interior landscaping areas shall contain *bioretention facilities* to manage on-site stormwater runoff. A conceptual illustration is shown in

Figure 19.25.070-1.

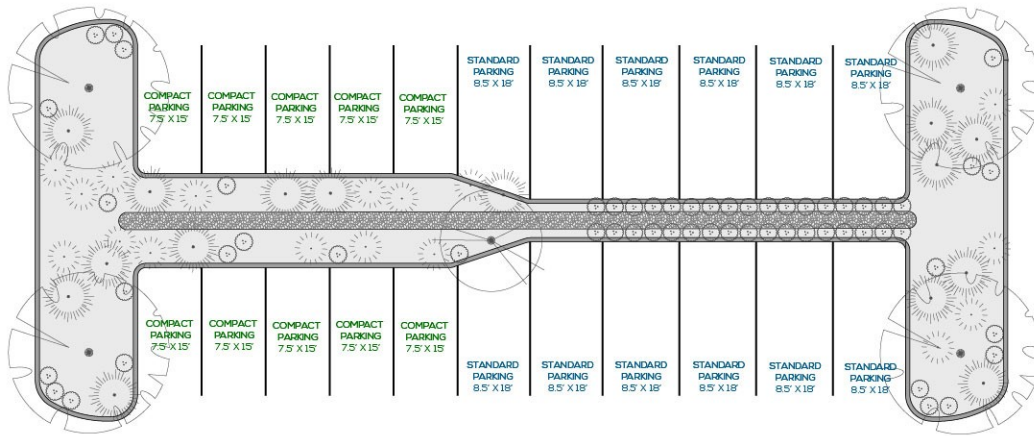


Figure 19.25.070-1

2. Perimeter Landscaping. A minimum five foot [5'] wide Type IV landscape strip shall be provided on private property along the perimeter of a parking area. The width of the landscape strip shall be increased to seven feet [7'] if vehicle overhangs into the landscape strip are allowed. Where bioretention is used, the facility shall be landscaped in accordance with BMC Title 13.

3. Interior Landscaping. The following requirements apply to any surface parking area with [10]ten or more parking stalls. The interior landscape requirement is in addition to the perimeter landscape area required in BMC 19.25.070.2, and the landscaping required by BMC 19.25.040.

- A. Uses requiring landscape category B shall provide interior planting areas at the rate of 20 square feet per parking stall;
- B. Uses requiring landscape category C, D or F shall provide interior planting areas at a rate of:
 - i. Twenty square feet per parking stall when 10 to 30 parking stalls are provided; and
 - ii. Twenty-five square feet per parking stall when 31 or more parking stalls are provided;
- C. Each interior planting area shall contain at least 75 square feet, with a narrow dimension of no less than four feet (six feet if vehicles are allowed to overhang into the landscaped area);
- D. Evergreen or canopy-type deciduous trees shall be provided and distributed throughout the parking area at a rate of:
 - i. One tree for every 10 parking stalls for a use requiring landscape category C, D or F; or
 - ii. One tree for every five parking stalls for a use requiring landscape category B.
- E. Groundcover shall be provided pursuant to BMC 19.25.080.
- F. Landscaping islands shall be provided at the ends of each row of parking, except ends of rows that abut required perimeter landscaping.

G. The maximum distance between any parking stall and required interior parking area [landscaping](#) shall be no more than 65 feet.

H. Where bioretention is used to meet the interior landscaping requirement, the facility shall be landscaped in accordance with BMC Title [13](#), and the total interior landscaping areas on the site shall achieve at least 90% of the total number of trees required as calculated in 19.25.070(3)(D).

19.25.080 Landscaping – General requirements.

1. A [landscaping](#) [~~and irrigation~~] plan shall be submitted for review and approval by the [Director](#). Written requirements for the [landscaping](#) [~~and irrigation~~] plan shall be established by the [Director](#).

The [landscaping](#) [~~and irrigation~~] plan shall be prepared by a Washington State registered Landscape Architect, Washington Certified Nurseryman/Landscaper, or other qualified landscape designer as authorized by the [Director](#). [~~The irrigation plan may be prepared by a certified irrigation designer.~~] The landscaping plan shall indicate that all landscaped areas shall be provided with an automatic irrigation system consisting of waterlines and sprinklers consistent with 19.25.100.

2. New [landscaping](#) materials shall include species native to the Pacific Northwest or nonnative, non-invasive species that have adapted to the climatic conditions of the coastal region of the Pacific Northwest in the following minimum amounts:

A. Seventy-five percent of [groundcover](#) and shrubs, and

B. Fifty percent of trees;

3. At least 60 percent of new [landscaping](#) materials shall consist of drought-tolerant species, except where [site](#) conditions within the required landscape areas assure adequate moisture for growth;

4. With the approval of the Director, species and spacing requirements may be relaxed when existing native vegetation augments new plantings to meet the standards of this Chapter;

5. [Deciduous](#) trees shall have a caliper of at least 1.75 inches at the time of planting. The caliper may be averaged, but no individual tree shall have a caliper of less than 1.5 inches;

6. [Evergreen](#) trees shall be at least six feet in height measured from treetop to the [root flare](#) [~~ground~~] at the time of planting;

7. When the width of any landscape strip is 20 feet or greater, the required trees shall be staggered in two or more rows;

8. Unless recommended by a [~~Certified Arborist~~] qualified tree professional, no tree defined as a prohibited tree in BMC [19.10.408](#) shall be planted.

9. Shrubs shall be:

A. Two-gallon size at time of planting in Type II, III and IV [landscaping](#),

B. At least 24 inches in height at the time of planting for Type I [landscaping](#), and

C. Maintained at a height not exceeding four feet when located in Type III or IV [landscaping](#);

10. [Groundcovers](#) shall be planted and spaced to result in total coverage of the required landscape area within three years as follows:

A. Four-inch pots at 18 inches on center, or

B. One-gallon or greater sized containers at 24 inches on center;

11. Turfgrass may be used as groundcover only in Type III and IV landscape areas provided that the grass area:

- A. Constitutes no more than 30 percent of such landscape areas; and
- B. Is at least five feet wide at the smallest dimension;

12. Turfgrass and groundcover areas shall contain at least two inches of composted organic material at finish grade;

13. All fences shall be placed on the inward side of any required perimeter landscaping;

14. Berms shall not exceed a slope of two horizontal feet to one vertical foot (2:1);

15. Existing soils shall be augmented as follows:

A. For sites subject to drainage review in accordance with BMC Title 13, soil amendments shall follow the standards for restoring the soil moisture-holding capacity of BMC Title 13, or

B. For sites not subject to drainage review in accordance with BMC Title 13, amend existing soils with a two-inch layer of fully composted organic material rototilled a minimum of six inches deep. Rototilling is prohibited within the Critical Root Zone to preserve tree roots. Only hand tools may be used and tree roots shall be avoided;

16. Landscape areas shall be covered with mulch to minimize evaporation as follows:

A. For sites subject to drainage review in accordance with BMC Title 13, mulching shall follow the standards for restoring the soil moisture-holding capacity of BMC Title 13, or

B. For sites not subject to drainage review in accordance with BMC Title 13, a minimum two-inch layer of mulch shall consist of materials such as yard waste, sawdust, and/or manure that is fully composted;

17. Drought-tolerant and non-drought-tolerant species shall be grouped separately and be served by separate irrigation systems, zones or controls;

18. When underplanting existing trees, use that smallest plant available to limit root disturbance. For example, plant a 1 gallon or 4-inch plant rather than a 5 gallon plant.

19. New landscaping shall not incorporate any plants identified on the King County Noxious Weed list, or weeds listed by King County as 'non-regulated' and 'weeds of concern'. Existing noxious weeds identified as Class A, B or C shall be identified on the landscape plan and shall be removed.

20. An existing, prohibited tree shall be included on tree retention plans and counted as a significant tree if meeting the definition in BMC 19.10.493.

21. The prohibited weeds and trees listed by King County as 'non-regulated' and 'weeds of concern' on the prohibited plants and trees list are recommended for removal from private property. The weeds and trees are prohibited in new land development landscape plans or as required replacement trees on private property.

~~18~~ 22. Permanent cast-in-place concrete curbs or structural barriers shall be provided to protect landscape areas from damage by vehicles.

19.25.090 Landscaping – Alternative options.

The following alternative landscape options may be allowed only if they accomplish equal or better levels of screening and are subject to Director approval:

1. The width of perimeter [landscaping](#) required by BMC [19.25.040](#) or BMC [19.25.070](#) may be reduced up to 25 percent along any portion where:

A. A development retains an additional ~~ten~~ [10] percent of [significant trees](#) or an additional ~~[10] ten~~ [significant trees](#) per acre on-[site](#) (above the requirements of BMC [19.25.120](#)(3) and (4)), whichever is greater; or

B. Berms at least three feet in height or architectural barriers at least six feet in height (consistent with the style and materials of the building(s) on-[site](#)) are incorporated into the landscape design; and

C. The landscape materials that would have been planted in the perimeter landscape area are planted along the [street](#) facing [facade](#) of the [building\(s\)](#) on the [site](#). These landscape materials are in addition to the required [building facade landscaping](#) in BMC [19.25.040](#).

2. The [landscaping](#) requirements of BMC [19.25.040](#) or BMC [19.25.070](#) may be modified when:

A. Existing conditions on or adjacent to the [site](#), such as significant topographic differences, vegetation, [structures](#), or utilities, would render application of this Chapter ineffective or result in scenic view obstruction; or

B. The landscape materials are incorporated elsewhere on-[site](#), and the modification would result in comparable or superior [landscaping](#) than would result from compliance with the required standard.

19.25.100 Landscaping – Irrigation.

All plantings shall receive sufficient water to ensure survival as follows:

1. Except for areas of undisturbed, existing vegetation or low areas with existing high soil moisture conditions, all landscape areas shall have automatic temporary or permanent irrigation systems as described in this section. The [applicant](#) may request, and the [Director](#) may approve, a manual irrigation plan and schedule in lieu of automatic irrigation.

2. Temporary irrigation systems may be removed after 24 months or two growing seasons, whichever occurs first, provided that the plantings are established. Temporary irrigation systems are allowed for:

A. Areas of undisturbed existing vegetation that are being enhanced with additional plantings;

B. Areas where existing [site](#) conditions assure adequate soil moisture for growth, only as required to sustain new plantings;

C. Landscape areas consisting of drought-tolerant vegetation.

3. Permanent irrigation systems are required within all other required landscape areas, provided such systems shall be designed by a certified water use auditor and with:

A. Moisture or precipitation sensors;

B. Automatic timers set for operation during periods of minimum evaporation, and that assure adequate moisture levels;

C. Head-to-head spacing, if sprinkler heads are proposed;

D. Pressure-regulating devices;

E. Backflow prevention devices; and

F. Separate irrigation zones for:

- i. Turf and planting beds; and
- ii. Other drought-tolerant species.

19.25.110 Landscaping – Installation.

1. Landscaping shall be installed prior to the issuance of a certificate of occupancy for the project or project phase.
2. The time limit for compliance may be extended to allow installation of landscaping during the next appropriate planting season, provided that a bond or other financial guarantee pursuant to BMC 19.25.180 is submitted prior to issuance of a certificate of occupancy.

19.25.120 Significant and exceptional trees – Retention required.

Significant trees and exceptional trees shall be retained as follows, ~~except those located within critical areas and their buffers which are regulated by BMC 19.40 and except for those on publicly owned property and public streets right-of-way:~~

1. All significant trees and exceptional trees on an undeveloped lot shall be retained. Tree removal or land clearing on an undeveloped lot for the purpose of future development is prohibited unless a land use permit is approved by the City.
2. Hedges made of Leyland cypress, arborvitae, laurel, or holly are not considered to be significant trees and may be trimmed or removed. Hedges made of laurel, holly, or other invasive species must be removed pursuant to BMC 19.25.080(18) if located on a lot adjacent to a Burien park.
3. ~~[Landscape category A: Thirty percent (30%) of the significant trees located on the site, excluding critical areas or their buffers.]~~ Tree removal on properties zoned multifamily or single family is subject to the minimum tree density limits in 19.25.125. At least 10% of existing significant trees will be retained on a site with the following exceptions that may result in less than 10% tree retention.
 - A. On a lot of less than 10,000 square feet, except for a new lot created through a subdivision, all significant trees located within the buildable area of the lot (outside of setbacks) may be removed if needed to accommodate a proposed structure, except for Exceptional trees which shall only be removed in accordance with BMC 19.25.165(3)(b).
 - B. On a lot of less than 5,000 square feet, all significant trees within the buildable area of the lot, and within setbacks adjacent to the buildable area of a lot if the root zone of a tree will be impacted, may be removed if needed to accommodate a proposed structure, except for Exceptional trees.
 - C. Removed trees may not require replacement pursuant to 19.25.125 or 19.25.160.

~~[3]~~ 4. Landscape category B: Ten percent of the significant trees located on the site shall be retained, excluding critical areas or their buffers. Any project subject to the minimum tree density in Table 19.25.125-1 due to the development type and zoning shall be subject to either the minimum tree density in 19.25.125 or ten percent retention standard, whichever results in greater retention and/or replacement of trees.

~~[4]~~ 5. Landscape categories C, D and F: Five percent of the significant trees located on the site shall be retained, excluding critical areas or their buffers. Any project subject to the minimum tree density in Table 19.25.130-1 due to the development type shall be subject to either the minimum tree density in 19.25.130 or five percent retention standard, whichever results in greater retention and/or replacement of trees.

[5]6. 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. Replaced trees should be a similar mix of deciduous and coniferous trees as those that are removed;

[6]7. 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]8. Except as provided in BMC 19.25.120.9, significant trees to be retained shall not include significant trees that, according to a ~~written evaluation~~ tree risk assessment prepared by a [Certified Arborist] qualified tree professional, are:

- A. Damaged or diseased; or
- B. Safety hazards due to potential root, trunk or primary limb failure, or exposure of mature trees that have grown in a closed, forested situation.

[8]9. 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~~] hazardous tree. [Ord. 293 § 1, 2000]

10. Removal of hazard trees does not count toward significant or exceptional tree retention (19.25.120) calculations or minimum tree density requirements (19.25.130), if the hazard is supported by a report prepared by a qualified tree professional and approved by Burien.

11[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.

12. Any tree that is topped, unless recommended by a qualified tree professional for the health of a tree, is considered to be removed and is subject to tree replacement and code enforcement provisions for illegal removal.

13. Any tree where more than 25% of the tree canopy is pruned, unless recommended by a qualified tree professional for the health of a tree, is considered to be removed and is subject to tree replacement and code enforcement provisions for illegal removal.

19.25.125 Significant and exceptional trees – Minimum tree density.

1. A minimum tree density shall be maintained on each residentially zoned lot as specified in the table below. The tree density may consist of existing significant trees, replacement trees, trees required pursuant to BMC 19.25.120, or a combination. If the number of trees required includes a fraction of a tree, any amount equal to or greater than one-half (1/2) shall be rounded up in Table 19.25.120-1. Here are examples: If a single-family lot is 8,000 square feet, the minimum tree density would be 3 trees (8,000 /5,000 x 2= 3.2 rounded down to 3). If a single family lot is 9,000 square feet, the minimum tree density would be 4 trees (9,000/5,000 x 3=3.6 rounded up to 4)

Table 19.25.125-1 Minimum Tree Density

<u>Type of Residential Development</u>	<u>Minimum Tree Density Per Lot Size</u>
<u>Multi-family development (attached dwellings including townhouse apartments and cottage housing)</u>	<u>Three (3) significant trees for every five thousand (5,000) sq. ft.</u>

<u>Type of Residential Development</u>	<u>Minimum Tree Density Per Lot Size</u>
<u>Single-family development (detached dwellings, ADUs and DADUs) and townhouses on individual lots on lots smaller than 20,000 square feet</u>	<u>Two (2) significant trees for every five thousand (5,000) sq. ft.</u>
<u>Single-family development (detached dwellings, ADUs and DADUs) on lots of 20,000 square feet and smaller than 1 acre</u>	<u>Five (5) significant trees for every five thousand (5,000) sq. ft.</u>
<u>Single-family development (detached dwellings, ADUs and DADUs) on lots of 1 acre and smaller than 3 acres</u>	<u>Seven (7) significant trees for every five thousand (5,000) sq. ft.</u>
<u>Single-family development (detached dwellings, ADUs and DADUs) on lots 3 acres and larger</u>	<u>Ten (10) significant trees for every five thousand (5,000) sq. ft.</u>

* One acre equals 43,560 square feet

2. A lot, that, in its current condition, that does not meet the minimum tree density shall be brought into conformance with minimum tree density when the following thresholds are met:

- A. Construction of a new structure that is 500 square feet or larger; or
- B. Construction of an addition to an existing structure where the addition is 500 square feet or larger; or
- C. When any plat or short plat is developed, each lot shall meet the minimum tree density.

3. The following process shall be used for calculating the minimum tree density for a lot or lots that are being subdivided for the purpose of determining tree replacement. The minimum tree density calculation used shall be for the size of lots that will be created by the subdivision process. The minimum tree density shall be calculated using the square footage of the entire plat or short plat.

As an example, a 1-acre lot (43,560 square feet) subdivided into lots of 7,200 square feet each, would require a minimum tree density of 17 trees. (43,560/5,000 x 2 = 17.424). If 14 trees were retained on site, tree replacement for the difference between minimum tree density and those retained of 3 trees (17 – 14 = 3) would be required pursuant to BMC 19.25.170.

4. Each residential lot created by a subdivision or short plat shall have retained or newly planted trees that satisfy the lot's minimum tree density requirement. Any significant tree or replacement tree that is in excess of the of the individual lot's minimum tree density can contribute to the total number of trees that are required to be retained or replaced for the land use permit, as long as each lot's minimum tree density requirement is satisfied.

5. Trees located within a within a critical area on a lot shall count towards that lots' minimum tree density.

19.25.130 Significant and exceptional trees – Retention plan.

The applicant shall submit a tree retention plan prepared by a qualified tree professional, 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.

For tree retention reviews associated with a development proposal a qualified tree professional must have, in addition to the credentials as stated in 19.10.432 , a minimum of three years' experience working directly with the protection of trees during construction and have experience with the likelihood of tree survival after construction.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]~~DBH, critical root zone 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;

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

C. Any tree designated as a Heritage tree or an Exceptional tree.

2. A development plan identifying the significant trees and the critical root zones of those significant trees that are proposed to be retained, transplanted, or restored and the location of the proposed development and site improvements, including but not limited to new structures, additions to existing structures, appurtenances, accessory structures, utilities, and driveways.

19.25.140 Significant and exceptional trees – Incentives for retention.

Each significant tree that is retained may be credited as two trees for complying with the ~~[retention]~~ tree replacement requirements of BMC 19.25.120.2, 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 in diameter for deciduous trees;

2. The tree is located in a ~~grouping of at least five trees with canopies that touch or overlap~~ grove;

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 habitats, including wildlife snags containing cavities or other obvious signs of bird or animal feeding or habitation.

19.25.150 Significant and exceptional trees – Protection.

To provide the best protection for significant trees and wildlife:

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]~~Critical Root Zone of the significant tree, shall be protected during construction with a temporary five-foot-high chain link or plastic net fence and include warning signs, such as "Tree Protection Area – Keep Out." The fencing shall

be installed prior to issuance of development permits for the site and removed once the project is complete;

3. Each retained tree within and adjacent to (within 15-feet) the clearing limits of a project shall be posted with the fine associated with removal as provided in Table 19.25.250-1.

~~4.~~ No impervious surfaces, fill, excavation, or storage of construction materials or equipment shall be permitted within the area defined by such fencing;

~~4.~~5. 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.~~6. 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 4.5~~four~~ feet above the ground; and

~~6.~~7. Alternative protection methods may be used if determined by the Director to provide equal or greater tree protection.

19.25.160 Significant and exceptional 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]~~

~~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 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 removed significant tree on a space available basis in conjunction with the site plan. [Ord. 648 § 1, 2017; Ord. 293 § 1, 2000]]~~

1. The applicant shall submit a replacement plan prepared by a qualified tree professional that shall demonstrate that tree installation will meet the minimum standards of this section.

2. Any required tree to be removed as part of a development permit that would result in a site having less than the required minimum tree density pursuant to Table 19.25.130-1 shall be replaced at the following ratio in Table 19.25.160-1:

Table 19.25.160-1 Tree Replacement Ratio

<u>Diameter of the removed tree (dbh)</u>	<u>Number of replacement trees required</u>
<u>Less than 6 inches (young trees planted as replacements or to meet minimum tree density)</u>	<u>1</u>
<u>6 inches to 10 inches</u>	<u>2</u>
<u>More than 10 inches up to 24 inches</u>	<u>4</u>

<u>More than 24 inches up to 36 inches</u>	<u>5</u>
<u>More than 36 inches and any eExceptional trees</u>	<u>7</u>

A. Measurement of Tree Diameter. Diameter at breast height (dbh), which means the diameter of a tree trunk measured at 4.5 feet above average grade, is used in determining the diameter of existing trees. Where a tree has a branch(es) or swelling that interferes with the measurement at 4.5 feet above average grade or where a tree tapers below this point, the diameter is measured at the narrowest point below 4.5 feet. For trees located on a slope, the 4.5 feet is measured from the average of the highest and lowest ground points or, on very steep slopes where this is not possible, the lowest practical point on the uphill side. Where a tree splits into several trunks close to ground level, the dbh for the tree

B. To apply the replacement ratios from Table 19.25.160-1, the largest trees removed shall be the first to be counted for replacement, beginning with exceptional trees and the largest removed tree, counting down toward the smallest removed trees, until the required number of replacement trees are reached.

~~C. Replacement Tree Maintenance and Quality. Replacement trees shall be State Department of Agriculture Nursery Grade No. 1 or better and must be consistent with the approved tree plan. Replacement trees must be fertilized, mulched and protected pursuant to best management practices.~~

~~D. Tree and Vegetation Protection. Fifty (50) percent of replacement trees must be evergreens for the replacement of evergreen trees or deciduous if a deciduous trees are removed.~~

3. Replacement shall not be required when:

A. A qualified tree professional certifies that the tree is hazardous, dead, defective, diseased, injured or in a declining condition with no reasonable assurance of regaining health and the tree is a wildlife snag that was retained pursuant to BMC 19.25.160(5)(D)(i).

B. The tree is proposed to be relocated to another suitable planting site as determined by the Director

4. Replacement trees shall be planted on the site from which significant trees are removed unless the Director accepts one or more of the alternatives set forth in 19.25.160(5). On-site replacement shall, at the minimum, meet the minimum tree density requirement of Table 19.25.125-1. Tree replacement exceeding the minimum tree density requirement is encouraged.

5. When complete on-site replacement cannot be achieved or is considered not practical, the Director may approve a fee in-lieu for each replacement tree required by subsection 1 of this section but not planted on site.

A. The city council by resolution shall establish a fee-in-lieu amount for replacement trees. The fee-in-lieu amount shall cover the cost of a tree, installation (labor and equipment), maintenance for two years, and fund administration. The fee-in-lieu shall be adjusted by the Consumer Price Index (CPI) for the Seattle-Tacoma area annually.

B. The applicant shall pay the fee-in-lieu amounts to the City upon completion of a site inspection and confirmation of the total number of trees removed and replaced on-site.

C. Fee-in-lieu monies may be used for the City's urban forestry initiatives to achieve the objectives of the Green Burien Partnership Urban Forest Stewardship Plan, including but not limited to forestry education, restoration activities, the purchase of land for the purpose of reforestation or preservation, the planting of individual trees, funding a tree give-away program, funding a City tree inventory, and/or for enforcement of this Chapter. Fee-in lieu monies may also be used for off-site replacement plantings at city-owned parks, public rights-of-way, Highline School District properties within the city limits, and neighborhoods identified in the Green Burien Partnership Urban Forest Stewardship Plan in need of tree equity as determined by the Director. All trees to be replaced off-site shall meet the replacement standards of this section.

D. Where appropriate, the Director may consider other measures designed to mitigate the loss of trees by restoring all or parts of the landscape and its associated benefits. Measures may include, but are not limited to:

i. Creation of wildlife snags from trees that would otherwise be removed. Any tree turned into a wildlife snag rather than removed is credited as a saved tree. No more than 10% of trees on a site can use this credit.

ii. Restoration of stream corridors with native plants, when not otherwise required by BMC 19.40 or by BMC 19.25.080(18), when recommended in an approved critical areas report or otherwise meeting the requirements of BMC Section 19.40 , Critical Areas. The report shall include an assessment of the habitat and other environmental values (erosion prevention due to vegetative coverage, nesting and feeding opportunities, shading of waterways, etc.) of the restoration improvements to determine tree replacement offset.

6. Replacement trees shall:

A. Be planted to reestablish or enhance protected trees or tree stands where they previously existed.

B. Be planted within sensitive areas or buffers when recommended in an approved critical areas report or otherwise meeting the requirements of BMC Section 19.40.

C. Be planted in locations appropriate to the species' growth habit and horticultural requirements.

D. Be located away from areas where damage is likely to occur, including utility easements.

E. Be located to provide screening of the development from adjacent properties, where appropriate.

F. Be planted in areas that connect or are adjacent to sensitive areas or other open spaces, where appropriate.

G. Be integrated into the landscape plans, if required under BMC 19.25.030, for development; and

H. Be selected with consideration of the trees' maturation and maintenance requirements, especially for those to be planted next to or under overhead utility power lines.

7. Minimum sizes and requirements for replacement trees shall be as follows:

A. Deciduous – 1.75 inches in diameter at six inches in height above root flare at the time of planting.

B. Evergreen – six feet in height measured from treetop to the root flare at the time of planting.

C. Healthy and visibly free of disease or pests.

C. Replacement trees shall be State Department of Agriculture Nursery Grade No. 1 or better, healthy and visibly free of disease and pests, and must be consistent with the approved tree plan. Replacement trees must be fertilized, mulched and protected pursuant to best management practices.

ED. Trees shall be native or climate-adapted.

EE. The location and type of on-site replacement trees shall be determined by a qualified tree professional using "Right tree, Right place" principles.

GF. Where the site allows, large and medium tree types should be planted as replacement trees. Large and medium size replacement trees shall count as multiple replacement trees using the dbh as provided in Table 19.25.160-1 (i.e. a replacement tree that has a dbh of 24 - 36 inches counts as 3 replacement trees).

HG. Fifty (50) percent of replacement trees must be coniferous for the replacement of coniferous trees or deciduous if a deciduous trees are removed. At least 30% of replacement trees shall be coniferous trees.

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

JI. Unless replacement trees are being used as part of an approved enhancement project in a critical area or buffer, they shall not consist of the prohibited trees as defined in BMC 19.10.408.

8. Street trees shall count as replacement trees but shall not be applied to any lots' minimum tree density count.

9. Installation of required replacement trees shall comply with the approved plan which shall be submitted with the development site plan.

10. All required tree replacement and other required mitigation shall be completed prior to issuance of the certificate of occupancy, if applicable, unless the Director determines that seasonal or weather conditions at the time of installation would jeopardize tree survival and the applicant has submitted an alternate planting schedule for approval. The Director shall require a performance assurance in case the applicant fails to perform the tasks in the mutually agreed-upon time period specified. A performance bond is not required if replacement trees are planted before the certificate of occupancy is issued.

19.25.165 Exceptional trees

An exceptional tree is a tree that:

1. Is designated as a heritage tree by the City of Burien; or

2. Is rare or exceptional by virtue of its size, species, condition, age, and/or contribution as part of a grove of trees as determined by the methods discussed below and confirmed by the Director.

A. Size Thresholds. A tree with a diameter at breast height (dbh) that is equal to or greater than the threshold diameters listed in Table 19.25.165-1 is considered exceptional unless they fail to meet the risk criteria in 19.25.165(C) the Director finds that the tree or trees should be removed based on a tree risk assessment produced by a qualified tree professional. For all species not listed in Table 19.25.165-1, the threshold diameter is greater than 36 inches or greater."

B. Tree Grove.-Trees that are part of a grove shall be considered exceptional unless the Director finds that the tree or trees should be removed based on a tree risk assessment produced by a qualified tree professional. ~~shall also be considered exceptional unless they fail to meet the risk criteria discussed in 19.25.165(C)~~ Trees that are less than 12 inches in diameter that are part of a grove's continuous canopy cannot be removed if their removal may damage the health of the grove. Street trees shall not be included in determining whether a group of trees is a grove. Red alders, black cottonwoods, and bitter cherries shall not be considered exceptional trees except as part of a grove.

3. Removal of exceptional trees. Removal shall not occur before issuance of a tree permit pursuant to BMC 19.25.030(3).

A. Undeveloped lot. On an undeveloped lot, exceptional trees shall not be removed unless they are determined to be hazardous based on a tree risk assessment produced by a qualified tree professional and pose a threat to life, a nearby structure, or utility.

B. Developed lot. On a developed lot that is not undergoing development, exceptional trees shall not be removed unless they are determined to be hazardous based on a tree risk assessment produced by a qualified tree professional.

C. Developing lot.

i. On a lot undergoing development, exceptional trees shall not be removed unless they are determined to be hazardous based on a tree risk assessment produced by a qualified tree professional.

ii. On a lot undergoing development, exceptional trees may be removed if retention will limit the constructable building coverage to less than 85% of the maximum building coverage area allowed pursuant to BMC 19.15.

iii. If an exceptional tree intrudes within a potential building footprint by either the trunk, roots, or tree canopy, the following exceptions departures may be granted to prevent removal or potential damage to the tree.

(a).For a single-family residence, building coverage may be increased by 20% or a reduction of the front yard setback by up to 10' may be granted. Additionally, in the RS-A zone, lot coverage may be increased by 20%.

(b).For all other uses, an additional 10' of height may be granted.

(c).If an exception departure is granted using (a) and (b) above, the exception departure shall be no greater than the development potential lost in tree protection areas. As an example, if 400 square feet of potential building area is used for tree protection area, 400 square feet of setback area may be used for building area. As a further example, if the exception of additional height is used, and 400 square feet of potential building area is used for tree protection area, no more than 400 square feet may be built within the area of additional height.

(d).If an exception departure is provided pursuant to (a) or (b) above, the tree shall be protected for the life of the project pursuant to 19.25.120, and a covenant running with the land shall be recorded, ensuring the protection of the exceptional tree.

(e).If an exception departure is provided pursuant to (a) or (b) above, a maintenance bond for 150% of the value of the tree shall be posted for a five year survival period after the conclusion of development. The bond must be posted before the certificate of occupancy is issued.

D. Trees that are less than 12 inches in diameter that are part of a grove's continuous canopy cannot be removed if their removal may damage the health of the grove.

Table 19.25.165-1 Exceptional Tree Table with Threshold Diameters

Editor's Note: This table is being reviewed by the City of Burien's consultant arborist.

Species	Threshold Diameter
Native Species	
<u>Red ALDER – Alnus rubra</u>	<u>Not Exceptional except in grove</u>
<u>Sitka ALDER- Alnus sinuata</u>	<u>6 in</u>
<u>Oregon ASH – Fraxinus latifolia</u>	<u>24 in</u>
<u>Quaking ASPEN – Populus tremuloides</u>	<u>12 in</u>
<u>Paper BIRCH – Betula papyrifera</u>	<u>20 in</u>
<u>CASCARA – Rhamnus purshiana</u>	<u>8 in</u>
<u>Western Red CEDAR – Thuja plicata</u>	<u>30 in</u>
<u>Bitter CHERRY – Prunus emarginata var. mollis</u>	<u>Not Exceptional except in grove</u>
<u>Black COTTONWOOD – Populus balsamifera ssp. trichocarpa (P. trichocarpa)</u>	<u>Not Exceptional except in grove</u>
<u>Pacific CRABAPPLE – Malus fusca</u>	<u>12 in</u>
<u>Pacific DOGWOOD – Cornus nuttalli</u>	<u>6 in</u>
<u>Douglas FIR – Pseudotsuga menziesii</u>	<u>30 in</u>
<u>Grand FIR – Abies grandis</u>	<u>24 in</u>
<u>Black HAWTHORN – Crataegus douglasii</u>	<u>6 in</u>
<u>Western HEMLOCK – Tsuga heterophylla</u>	<u>24 in</u>
<u>MADRONA – Arbutus menziesii</u>	<u>6 in</u>
<u>Bigleaf MAPLE - Acer macrophyllum</u>	<u>30 in</u>
<u>Dwarf or Rocky Mountain MAPLE – Acer glabrum var. Douglasii</u>	<u>6 in</u>
<u>Vine MAPLE – Acer circinatum</u>	<u>8 in</u>
<u>Oregon White of Garry OAK – Quercus garryana</u>	<u>6 in</u>
<u>Lodgepole PINE – Pinus contorta</u>	<u>6 in</u>
<u>Shore PINE – Pinus contorta ‘contorta’</u>	<u>12 in</u>
<u>Western White PINE – Pinus monticola</u>	<u>24 in</u>
<u>Western SERVICEBERRY – Amelanchier alnifolia</u>	<u>6 in</u>
<u>Sitka SPRUCE – Picea sitchensis</u>	<u>6 in</u>
<u>WILLOW (All native species) – Salix sp. (Geyeriana ver meleina, eriocephala ssp. mackenzieana, Hookeriana, Piperi, Scouleriana, sitchensis)</u>	<u>8 in</u>
<u>Pacific YEW – Taxus brevifolia</u>	<u>6 in</u>
Non-native Species	
<u>Orchard (Common) APPLE – Malus sp.</u>	<u>20 in</u>
<u>European ASH – Fraxinus excelsior</u>	<u>22 in</u>
<u>Green ASH – Fraxinus pennsylvanica</u>	<u>30 in</u>
<u>Raywood ASH – Fraxinus oxycarpa</u>	<u>24 in</u>
<u>European BEECH – Fagus sylvatica</u>	<u>30 in</u>
<u>European White BICRH – Betula pendula</u>	<u>24 in</u>
<u>Atlas CEDAR – Cedrus atlantica</u>	<u>30 in</u>
<u>Deodor CEDAR – Cedrus deodora</u>	<u>30 in</u>

Incense CEDAR – <i>Calocedrus decurrens</i>	<u>30 in</u>
Flowering CHERRY – <i>Prunus sp. (serrulate, sargentii, subhirtella, yedoensis)</i>	<u>23 in</u>
Lawson CYPRESS – <i>Chamaecyparis lawsoniana</i>	<u>30 in</u>
Kousa DOGWOOD – <i>Cornus kousa</i>	<u>12 in</u>
Eastern DOGWOOD – <i>Cornus florida</i>	<u>12 in</u>
American ELM – <i>Ulmus americana</i>	<u>30 in</u>
English ELM – <i>Ulmus procera</i>	<u>30 in</u>
GINGKO – <i>Ginkgo biloba</i>	<u>24 in</u>
Common HAWTHORN <i>Crataegus laevigata</i>	<u>16 in</u>
Washington HAWTHORN – <i>Crataegus phaenopyrum</i>	<u>9 in</u>
European HORNBEAM – <i>Carpinus betulus</i>	<u>16 in</u>
Common HORSE CHESTNUT – <i>Aesculus hippocastanum</i>	<u>30 in</u>
Red HORSE CHESTNUT – <i>Aesculus x carnea</i>	<u>30 in</u>
KATSURA – <i>Cercidiphyllum japonicum</i>	<u>30 in</u>
Littleleaf LINDEN – <i>Tilia cordata</i>	<u>30 in</u>
Honey LOCUST – <i>Gleditsia triacanthos</i>	<u>20 in</u>
Southern MAGNOLIA – <i>Magnolia grandiflora</i>	<u>16 in</u>
Paperbark MAPLE – <i>Acer griseum</i>	<u>12 in</u>
Japanese MAPLE – <i>Acer palmatum</i>	<u>12 in</u>
Norway MAPLE – <i>Acer platanoides</i>	<u>30 in</u>
Red MAPLE – <i>Acer rubrum</i>	<u>25 in</u>
Sugar MAPLE – <i>Acer saccharum</i>	<u>30 in</u>
Sycamore MAPLE – <i>Acer pseudoplatanus</i>	<u>24 in</u>
MONKEY PUZZLE TREE – <i>Araucaria araucana</i>	<u>22 in</u>
MOUNTAIN ASH – <i>Sorbus aucuparia</i>	<u>29 in</u>
Pin OAK – <i>Quercus palustris</i>	<u>30 in</u>
Red OAK – <i>Quercus rubra</i>	<u>30 in</u>
Callery PEAR – <i>Pyrus calleryana</i>	<u>13 in</u>
Austrian Black PINE – <i>Pinus nigra</i>	<u>24 in</u>
Ponderosa PINE – <i>Pinus ponderosa</i>	<u>30 in</u>
Scot's PINE – <i>Pinus sylvestris</i>	<u>24 in</u>
London PLANE – <i>Platanus acerifolia</i>	<u>30 in</u>
Flowering PLUM – <i>Prunus cerasifera</i>	<u>21 in</u>
Coastal REDWOOD – <i>Sequoia sempervirens</i>	<u>30 in</u>
Giant SEQUOIA – <i>Sequoiadendron giganteum</i>	<u>30 in</u>
Japanese SNOWBELL – <i>Styrax japonica</i>	<u>12 in</u>
American SWEETGUM – <i>Liquidambar styraciflua</i>	<u>27 in</u>
TULIP TREE – <i>Liriodendron tulipifera</i>	<u>30 in</u>
WILLOW – (All non-native species)	<u>24 in</u>
Any tree not listed in this table	<u>36 in</u>
Heritage tree	Any size

19.25.170 Maintenance.

1. All landscaping and significant trees and exceptional trees shall be maintained for the life of the project. For the purpose of this Chapter, the life of the project means the time period that exists between the permitting of a development and the substantial redevelopment of the site at a later time that reaches a threshold that requires compliance with updated regulations.
2. All landscape materials [~~and~~], significant trees, and exceptional 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. Removal of a wildlife snag containing cavities or other obvious signs of bird or animal habitation is considered to be tree removal and is subject to tree replacement and code enforcement provisions for illegal removal unless determined to be hazardous by a qualified tree professional; and
4. Landscape areas shall be kept free of trash.
5. Trees or portions of trees that obstruct or hinder the use of any public right-of-way or designated trail, particularly eight feet or less above a pedestrian walkway or sidewalk and fourteen feet or less above a paved public street, shall be removed. Portions of a tree shall be removed unless Burien determines that it is necessary to remove the entire tree.
6. Burien may remove trees or portions of trees which obstruct or hinder the use of the public right-of-way, city-owned property, or a designated trail without providing notice to the adjacent property owner; however, contact with the adjacent property owner shall be attempted as provided in 19.25.200 Inspection procedures.
7. Topping or excessive pruning shall not occur pursuant to BMC 19.25.120(10) and (11), unless recommended by a certified tree professional in order to protect life and property.
8. Hedges made of arborvitae, laurel, or holly are not considered to be significant trees and may be trimmed or removed.

19.25.180 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.

19.25.190 Inspection.

1. The Director shall have access to any site for which an active permit has been applied or issued to perform an on-site review and to ensure compliance with the terms of the permit. Inspections shall be completed prior to the removal of any trees. Upon completion of planting, a final tree inspection shall be completed to ensure proper installation. Upon completion of the two-year survival period, an inspection shall be completed to ensure the survival of planted trees.
2. Whenever there is cause to believe that a violation of this Chapter has been or is being committed for which no active permit has been issued, the Director is authorized to inspect the site pursuant to BMC 19.25.200.

19.25.200 Inspection - Procedures.

Prior to making any inspections, the Director shall present identification credentials, state the reason for the inspection and request entry.

1. If the property or any building or structure on the property is unoccupied, the Director shall first make a reasonable effort to locate the owner or other individual(s) having charge or control of the property or portions of the property and request entry.

2. If, after reasonable effort, the Director is unable to locate the owner or other individual(s) having charge or control of the property and has reason to believe the condition of the trees creates an imminent hazard to individuals or property, the Director or designee may enter the property.

19.25.210 Stop work orders.

The Director may issue a stop work order for failure to comply with any of the terms of a tree removal permit or any activity conducted in violation of this Chapter or in a dangerous or otherwise unsafe manner, as determined by the Director. The stop work order shall be in writing and served on the person(s) engaged in the activity or cause of the activity. The effect of such a stop work order shall be for the persons issued to immediately terminate such work or activity until the Director authorizes such work or activity to proceed.

19.25.220 Enforcement and penalties.

Upon determination that there has been a violation of any provision of this Chapter, the City of Burien may pursue code enforcement and penalties in accordance with the provisions of Chapter 1.15 BMC Code Enforcement and this subsection. Where there is a conflict, this subsection shall prevail.

1. General Requirements. This section applies to all trees on private property. Enforcement shall be conducted in accordance with procedures set forth in this Chapter. Special enforcement provisions related to tree retention and restoration are set forth in this section.

2. Authority. It shall be the duty of the applicable department Director to administer the provisions of this section.

3. Civil Penalty Fines for Tree Removal.

A. It is unlawful to remove or damage trees in violation of the tree regulations in this Chapter. Tree removal shall include the removal of a tree, through either direct or indirect actions, including but not limited to: (A) clearing, damaging, girdling, or poisoning, in each case, resulting in an unhealthy or dead tree; (B) topping, (C) pruning that results in removal of more than twenty-five percent of the live crown; or (D) damage to roots or trunk that is likely to destroy the tree's structural integrity.

B. Any person who aids or abets in the violation shall be considered to have committed a violation for purposes of fines.

C. Types of Violations. Violations of this Code include, but are not limited to, the following:

i. Removal or damage to tree(s), prior to final tree retention plan approval or issuance of a city tree removal permit;

ii. Removal or damage to tree(s) that are shown, or would be shown, to be retained on an approved tree retention plan or any other violation of an approved tree retention plan;

iii. Removal or damage to tree(s) without applying for or obtaining a required city tree removal permit; or

iv. Removal or damage to tree(s) in violation of the terms and conditions of an issued city permit, which will require compliance with American National Standards Institute (ANSI) A300 pruning standards.

D. Civil penalty fines are as assessed in accordance with Table 19.25.220-1, based on the diameter at breast height (DBH) of the unlawfully removed or damaged tree trunk. If the DBH of an unlawfully removed or damaged tree cannot be established, the diameter of the remaining stump top shall be used in lieu of DBH. In cases where the stump has been removed, the City will approximate the size of the removed tree(s) based on available evidence. If there is inadequate evidence, the City shall assess a minimum ten thousand dollar civil penalty fine per unlawfully removed tree. Fines may be assessed against the responsible party in addition to the cost(s) of restoration. The Director may elect not to seek fines if s/he determines that the circumstances do not warrant the imposition of fines in addition to the cost(s) of restoration.

Table 19.25.220-1 Fines

Unlawfully Removed or Damaged Tree DBH or Stump Diameter	Fines per Tree	Fines per Tree when Protected Through Easement, Tracts or Similar Document¹
<u>less than 6 inches</u>	<u>\$300 for replacement trees or trees planted to meet minimum tree density</u>	<u>\$1,000</u>
<u>6 inches to 10 inches</u>	<u>\$1,000</u>	<u>\$1,500</u>
<u>Larger than 10 and up to 14 inches</u>	<u>\$2,000</u>	<u>\$3,000</u>
<u>Larger than 14 and up to 18 inches</u>	<u>\$4,000</u>	<u>\$6,000</u>
<u>Larger than 18 and up to 22 inches</u>	<u>\$6,000</u>	<u>\$9,000</u>
<u>Larger than 22 and up to 26 inches</u>	<u>\$8,000</u>	<u>\$12,000</u>
<u>Larger than 26 and up to 30 inches</u>	<u>\$16,000</u>	<u>\$24,000</u>
<u>Larger than 30 inches and Exceptional trees where an exception pursuant to BMC 19.25.170(3) has not been granted</u>	<u>\$20,000</u>	<u>\$30,000</u>
<u>Exceptional trees granted an exception pursuant to BMC 19.25.170(3)</u>	<u>\$50,000</u>	<u>\$70,000</u>
<u>Tree stump has been eliminated</u>	<u>\$10,000²</u>	<u>\$15,000²</u>

Footnote:

1. Tree(s) protected through easements, tracts, or similar mechanisms (such as grove easements, Native Growth Protection Easements, or Native Growth Retention Area.
2. Minimum fine amount; fine will be based on an assessment of the actual size of the tree when evidence allows.

E. The fine per tree penalty for repeat violations shall be determined by multiplying the fine per tree amount in Table 19.25.220-1 by the number of violations. For example, the fine per tree amount for second-time violations is multiplied by two, and the fine per tree amount for third-time violations is multiplied by three, and so on. A repeat violation is where a violation occurs at a later date than a current or previous violation.

F. If an arborist must be used to determine the tree type, the responsible party is responsible for paying the arborist fees.

4. Tree and Site Restoration.

A. Restoration Plan. Violators of Chapter 19.25 BMC or of a permit issued thereunder shall be responsible for restoring unlawfully damaged areas. The goal of the restoration plan shall be a site condition that, to the greatest extent practical, equals the site condition that would have existed in the absence of the violation.

i. The restoration plan shall depict repairs of any environmental and property damage and restoration of the site.

ii. Tree violations that occur in critical areas and their buffers, on properties and within shoreline jurisdiction are also subject to any restoration plan requirements in Chapters 19.40 and 20.30 BMC, respectively.

iii. Restoration plans on private property shall be approved by the Director.

B. Restoration Plan Standards. The restoration plan shall be in accordance to the following standards:

i. The number of trees required to be planted shall be equal to the number of illegally removed trees according to Table 19.25.160-1.

ii. The minimum size for a tree shall be for restoration shall be in accordance with BMC 19.25.160 (6)

iii. The restoration plan shall include a maintenance plan and an agreement or security to ensure survival and maintenance of restoration trees for a minimum five-year period.

C. In the event the violators cannot restore the unlawfully removed or damaged trees, the violators shall pay a fee in lieu of restoration to the city forestry account. The fee in lieu shall be as set forth in the fee schedule.

6. Hearing on Violation, Failure to Restore or Failure to Pay Fines: The City shall enforce this Code via issuance of a notice of civil violation to the violator(s) according to the procedures set forth in BMC 1.15. Violator(s) may administratively appeal the notice of civil violation, in which case a hearing on the notice of civil violation shall be held in accordance with BMC 1.15.140 through 1.15.180, and the hearing examiner shall determine whether violation(s) occurred and, if so, the hearing examiner may impose any appropriate fine(s) for such violation(s), as well as require restoration or fee(s) in lieu of restoration.

**Chapter 19.40
Critical Areas**

19.40.170 Mitigation requirements.

1. The applicant shall avoid all impacts that degrade the functions and values of critical areas and buffers. Unless otherwise provided in this Chapter, if impacts to critical areas or buffers are

unavoidable, all adverse impacts resulting from the proposed alteration, construction, development, or activity shall be mitigated, at the applicant's expense, using the best available science in accordance with an approved critical area study.

2. Mitigation sequencing. Applicants shall demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas. When an alteration to a critical area is proposed, applicants shall follow the sequential order of preference below. Mitigation for individual actions may include a combination of these measures.

- A. Avoiding the impact altogether by not taking a certain action or parts of an action;
- B. Minimizing the impact by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;
- C. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
- D. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
- E. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or
- F. Monitoring the impact area or the required mitigation area and taking remedial action when necessary.

3. When mitigation is required, the applicant shall submit for approval by the City a mitigation plan as part of the critical areas study (BMC 19.40.120). The mitigation plan:

- A. shall be prepared by a qualified professional;
- B. shall demonstrate that the proposed mitigation will adequately offset all adverse impacts to critical areas that may result from the proposed alteration, construction, development, or activity; and
- C. shall include a monitoring, maintenance, and contingency plan, including measurable performance standards that evaluate whether or not the mitigation project has fulfilled the requirements of this Chapter.

4. Mitigation shall not be implemented until after the City approval of a critical area study that includes a mitigation plan, and mitigation shall be in accordance with the provisions of the approved critical areas study.

5. Unpermitted impacts to significant trees within critical areas shall be mitigated according to [Chapter 19.25 BMC, Tree Retention and Landscaping]this subsection.